# Open Government Partnership: Mid-Term Review

Development Portfolio Management Group

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USC University of Southern California

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# Acronyms and Abbreviations

| | |
|---|---|
| ATI | Access to Information |
| CSE | Civil Society Engagement |
| CSO | Civil Society Organization |
| DfiD | U.K. Department for International Development |
| DPMG | Development Portfolio Management Group |
| EITI | Extractive Industries Transparency Initiative |
| EU | European Union |
| FOIA | Freedom of Information Act |
| GI | Global Integrity |
| GONGO | Government organized non-governmental organization |
| IDRC | International Development Research Centre |
| IEP | Independent Experts Panel |
| IRM | Independent Review Mechanism |
| MSG | Multi-stakeholder group |
| MSI | Multi-stakeholder initiative |
| MTR | Mid-Term Review |
| NAP | National Action Plan |
| NGO | Non-governmental Organization |
| OECD | Organization for Economic Co-operation and Development |
| OGP | Open Government Partnership |
| PDM | Permanent Dialogue Mechanism |
| PoC | Point of Contact |
| RoG | Rules of the Game |
| SC | Steering Committee |
| SU | Support Unit |
| ToC | Theory of Change |
| ToR | Terms of Reference |
| TP | Technical Paper |
| U.K. | United Kingdom |
| U.S. | United States |
| UNDP | United Nations Development Programme |
| WG | Working Group |
| WGI | World Governance Indicators |

# Executive Summary

This report reviews the performance of the Open Government Partnership (OGP) in light of its principles, objectives, and current strategy. This is a mid-term review in the sense that it primarily assesses OGP's implementation of the Four-Year Strategy adopted in 2014 – now in a process of adjustment (the Strategic Refresh). But our purview is necessarily a bit wider than this. OGP has expressed an interest in having its thinking challenged and in understanding to what extent its model suits its aspirations. Thus, in addition to reviewing OGP's performance in terms of inputs, outputs, and outcomes as described in the Strategy, we also analyze some of its key design features.

OGP is a multi-stakeholder initiative (MSI). As compared to its peers, OGP is distinct in its broad mission of supporting initiatives to increase openness in government, broadly defined, across the globe, as well as its insistence on equal partnership between government and civil society. As a result, OGP is positioned differently from other MSIs that deal with governance—most of which tend to have a tighter focus. OGP also has a potentially important role to play as a partner to the development agencies, but its operative logic follows that of the MSIs and not development implementers. Last, OGP is in some sense a tool, or perhaps a force, that external actors (chiefly governments and international bodies) attempt to turn in directions that suit their interests. In short, OGP is *multivalent*. This poses a particular challenge to those trying to understand it, work with it, and plan its future.

The timing of this Review and the Strategic Refresh is significant in light of three factors. The first is a sense of drift and fatigue that has seeped into a number of MSIs, especially the more established ones. The second is the worrying global trend of populist and reactionary ferment. Governments need to build legitimacy by taking credible steps to address people's worries. They need to deliver, and in a democratic setting, this calls for an open, accountable, participatory approach. The third factor making a reassessment timely relates to OGP's critical financing needs. Having expanded rapidly in its first five years, OGP is not sustainable on its constrained budget.

This report evaluates several key features of OGP: (i) the Theory of Change (ToC); (ii) the interactions that OGP facilitates at key nodes of influence including high- and mid-level officials, civil society organizations (CSOs), and the OGP accountability mechanism – the Independent Review Mechanism (IRM); (iii) OGP's "Rules of the Game," in particular those that play a leading role in shaping the interactions and outcomes – the Eligibility Criteria, Co-Creation Guidelines, and Response Policy, and Peer Learning and Exchange mechanisms; and (iv) the legal, organizational, and financial structure of OGP.

The Review was produced by a four-person team including social science, legal, international development, and logistical expertise. The team used a mixed-methods approach. We reviewed OGP documents and external literature. We conducted semi-structured interviews with stakeholders in government and civil society, those working at international and domestic levels, and people having different functions and modes of involvement with OGP. We coupled this qualitative research with empirical inquiry. Data from both IRM and external sources were used to assess progress and impact. Last, the team designed and administered a survey to OGP stakeholders in a purposive sample of 15 countries spanning regions, income levels, and OGP cohorts.

*Findings and conclusions:*

OGP's **Theory of Change** outlines desired changes based upon observed (or assumed) linkages and behavior. It is important to distinguish between such a Theory, on the one hand, from OGP's operating model, on the other. The first should be grounded in positive analysis of observed factors in a polity's move from less to more open government. The second, by contrast, constitutes a practical framework and agenda for jump-starting such a move, and for encouraging its progress. Both the ToC and the operating model serve OGP's overall normative ends, but in different ways.

The Theory of Change suffers from some key problems. Among them is the assumption that the basic problem common to poorly-governed societies is a lack of openness and shared norms, and a tendency to assume that hoped-for changes (such as forms of greater cooperation between civil society and government, and growing high-level political support) will necessarily result from OGP activities. Overall, however, the ToC has considerable promise as a statement of goals and as a roadmap. It is at this point incomplete, but we suggest ways in which that can be addressed.

The Theory also tries to say too much. OGP's value and vision are not reducible to a linear flow in which Inputs are fed in and processed into governmental effectiveness or specific reforms. OGP should be, and to some extent is, looking for both near-term and longer-term outcomes. In the long run, it is about establishing openness as the default assumption across governments and countries, and helping societies sustain that vision of openness. Understandably, OGP emphasizes near-term benefits related to openness, such as adoption of reforms, the support and protection of reformers, and improvements in functions and services. This is where it can affect people's lives and garner support for continued action.

A more complete ToC should be based on OGP's knowledge and experience base—notably, the IRM process and activities of the Support Unit. The goal here would be to identify basic types of societies and situations, along with the key groups and linkages to energize in order to advance open government. That sort of thinking should emphasize not only broad goals but also the incentives, motivations, and specific social/political connections necessary to move in positive directions. We can think of the ToC as a map identifying essential players in the development of open government, and pointing both to desired linkages among them and gaps between them that must be filled over time. Understanding open government challenges, and setting priorities for accomplishing them, will be aided by taking into account various countries' "starting points." These points are defined not only by economic development, but as important, by the state of civil society, social divisions, levels of trust, types of regimes, quality of institutions and their capacities, and so forth.

OGP aims to exert influence through the **interactions of high- and mid-level government officials as well as civil society leaders**. The Theory of Change holds that, if these key actors are playing their roles effectively, this should improve dialogue and relationships among stakeholders.

Through its work, OGP has earned respect and has strengthened the international effort and normative framework for openness in government. At the level of its operations and progress metrics, both internationally and in OGP countries, the experience has been more mixed.

OGP has been highly successful in securing public commitments from heads of state and other high-level political officials. But, as the results show, commitments are sometimes disingenuous or fail to take account of the obstacles to achieving them. Ingredients of success include international peer pressure and the alignment of OGP commitments with pre-existing reform

proposals or movements. But the high-level events mounted to secure commitments pose a trade-off particularly with respect to staff time in the OGP Support Unit.

The link in the chain of OGP influence from high-level political commitment to effective action at the working level of government appears the most uncertain. Success at mid-level requires genuine high-level leadership, assignment of the OGP leadership to the right ministry and level of seniority, and the appropriate order or directive. Success has been achieved at times, but not as often as hoped – and it is not clear in most cases that OGP has in fact brought about this result.

The co-creation process has in many ways been a success – research indicates that co-creation, and OGP's support to that process, has a positive value that tends to increase over time. The process is perceived as open and participatory by stakeholders. It has also generated some controversy about whether the CSOs representing the citizenry in OGP processes are sufficiently broad-based, legitimate, and capable.

Accountability for results in this process is supplied chiefly by means of IRM assessments of the ambition and completion of NAP commitments. IRM reports are widely considered credible, and a number of countries react strongly to a negative report – and tend to complain. The impact of IRM reports depends on countries' sensitivity to peer pressure, and is strengthened by external factors such as the reaction of the international community.

Is OGP having an impact through this chain of interactions? The evidence does not indicate that it is having the intended impact (but does not prove it is not). Many stakeholders perceive the increases in citizen involvement and knowledge resulting from OGP process as having brought some changes to government policy and administration. On the other hand, country-level indicators of openness do not point to clear-cut openness effects from OGP activities and commitments.

The **Rules of the Game** (RoG) channel the energies of the various players into productive action and interaction. The Eligibility Criteria provide for a wide, but not wide open, tent. Currently, those criteria do not change with time or progress. Now, the prevailing view is that OGP should have one set of expectations for countries at the point of entry and a different set of expectations for the duration of a country's participation. Further, at the participation stage, the prevailing view is that having differentiated progress indicators for countries that come from differing starting points would comport with participant governments' understanding of how OGP's suasive force works – it sets a transparent international benchmark for countries' self-improvement.

The Co-Creation Guidelines provide participating countries with a road map for complying with the citizen engagement criterion. Countries commit to using an existing or new forum to enable regular multi-stakeholder consultation, and report on their consultation efforts. For some countries, engaging with civil society is commonplace. For others, a commitment to do so is revolutionary. This difference in starting points has meant that some countries remain in good standing despite having made little effort to deepen their engagement with civil society in co-creation. Other relevant components of the RoG here are Peer Learning and the Working Groups, both of which are critical and much appreciated, but not optimally designed or resourced.

The **legal and organizational** dimension of OGP presents several questions and opportunities. The transition to independent legal status as a nonprofit has significant implications for OGP from a legal, administrative and financial management perspective. The Steering Committee has seen some arguments about its make-up and procedures. Among the issues are the proposal of systematically including legislative representatives, among others, and the criticism that co-chairs

have too much power to shift priorities. The Support Unit appears to do a great deal with small resources, and is continually being asked to do more. The Country Support Team in particular is under-staffed and needs to expand and deepen its country knowledge to cover the large number of countries that now comprise OGP.

There are significant synergies between OGP's objectives and the objectives of its multilateral partners to promote better governance. Working together, OGP, the multilaterals, and civil society can be a strong leveraging tool on many governments. This leveraging tool is not working as it should, and the obvious synergies are not being exploited.

OGP faces the challenge of matching means to ends. It needs more funding to continue to operate and to deepen and expand every aspect of its activities. The success of current plans for raising additional funding is critical to OGP's continued strength.

*Recommendations:*

a. Theory of Change

Strengthening the Theory of Change requires the design and deployment of a number of new-model measures, and more detailed analysis of causal connections. We recommend as follows:

- Devise a phased, or multi-track, ToC, that accommodates widely divergent realities of societies at differing levels of economic and civil-society development. The idea is *not* to compromise OGP's long-term goals or global reach, nor is it simply to categorize countries by levels of economic development. Instead, it is to give clearer guidance as to sequencing important changes in (for example) civil society, law enforcement and maintenance of order, provisions for civil liberties, basic reforms of administrative structures and processes, and the like, and help reach agreement on meaningful but achievable goals for change in the short to middle term. At present, some countries facing major challenges on all fronts may end up doing little or nothing, by choice or by default; redefining the agenda to emphasize some specific, attainable changes early on may help those countries set priorities in manageable ways.

- As part of a revised Theory, outline a series of interim thresholds or criteria, reflecting the realities of different sorts of societies, by which OGP can judge a country's progress toward broader goals. Thus, the revised theory could build upon what we know about societies in a few common states of governance and stages of socio-economic development and shape goals, strategies, and implementation approaches corresponding to those realities. It would then give clear guidance on the sequencing of important changes in key areas including civil society; law enforcement and maintenance of order; provisions for civil liberties; and basic reforms of administrative structures and processes. The revisions should enable the Theory to reflect and to take into account the practical challenges presented by the diverse situations and characteristics of OGP participating countries.

- Incorporate the lessons and tactics that OGP has learned from experience into a more fully-specified ToC and into new measures shedding light on the presence and activities of specific kinds of groups and leaders in civil society.

- Assess progress on early priorities. For example, if strengthening civil society is one of them, assess the levels of mutual and political trust in a society; the sorts of inequities in policy and social provision among segments of society; and the state of civil liberties. Such

dimensions can be assessed both quantitatively and, qualitatively by OGP staff and in-country observers. A number of key social and policy issues may, depending upon the specific setting, offer opportunities to strengthen civil society/government engagement, and provide credible evidence that closer civil society-government engagement offers real benefits to citizens and to agencies that perform well. Among those issues might be security and even-handed law enforcement, civil liberties, health services, housing, education, and public utility provision. Nowhere should *all* of those issues be made early priorities: it is far better to have demonstrable success in one area, or two, than to fail in five or six.

- Examine desired processes of change in differing developmental, political, and civil-society contexts as a way of giving the ToC more content and nuance. Based on this, make timelines and expectations regarding the pace of positive change more flexible

- Subject the notion of virtuous cycles to a close empirical examination, using historical evidence from established well-governed societies as well as contemporary evidence from OGP participating countries. This sort of assessment should critically examine the ways desired linkages within civil society, and between it and government, as well as high-level political commitment, have developed (or failed to developed) in contrasting sorts of settings.

- Specify the core ideas of high-level political commitment, and the incentives and motivations that seem likely to encourage and sustain it, in more detail.

- Measure participation in decision making by key sectors of civil society – farmers, women, small business operators, civil liberties groups, the press. These can be at least qualitatively assessed, country by country, for strategic categories of participating states.

- Assessing and enhancing the openness and strength of legislative and judicial institutions will be a high priority in terms of enlivening the key linkages of the Theory of Change. As we emphasize below (in connection with Fukuyama's conceptualization of governance in terms not only of the limits of power, but also of the way it is used), openness and strength of those institutions are not contradictory considerations. Rather, legislatures must be open to the views of citizens and groups and respond to them in constructive ways. Judiciaries must be accessible and receptive to cases brought by all segments of society. At the same time, those institutions must be able to address those issues, expectations and grievances with a necessary degree of autonomy and professionalism, and must be able to assert and defend their actions even when they encounter objections from other parts of government, and from society as a whole. Aiding legislatures and parliaments in these ways is no quick or simple process. It will take time for even clearly positive developments to become recognized in society and elsewhere in government. Without those open and strong legislative and judicial bodies, however, the civil society-government interactions envisioned in the Theory of Change may only be *pro forma* activities or futile, one-sided encounters between the weak and the powerful.

b. Chain of interactions and influence

OGP as a *high-level commitment* mechanism engages in a game of strategy and messaging with its stakeholders. Its ultimate value lies in long-term shifts in norms and institutions along the axis of openness. In this area, we recommend as follows:

- Deepen and strengthen the techniques for distinguishing genuine from *pro forma* commitments. Improve the scrutiny of proposed commitments, including those that focus on existing or ongoing reforms and those that target substantive "low-hanging fruit." OGP should use enhanced analytical techniques to assess such issues as political economy, heavy substantive clustering in certain areas, and the existence of accompanying accountability reforms.

- Encourage longer-term reform commitments by lengthening the two-year NAP timeframe or providing other inducements. One option is moving to a three- to five-year cycle that incorporates annual reporting and intermediate targets. OGP should also consider cumulative benchmarks and measurement over the life of several cycles, with special IRM reports and longitudinal studies targeted at longer-term achievements.

- Address the trade-offs of costly high-level events against other valuable activity such as country support, peer learning, and analysis.

*Mid-level officials* working with civil society translate high-level commitment into ambition and action. OGP has had mixed success here. One critique is that the intensity of NAP processes might actually reduce the ability of pro-reform actors to navigate political challenges, or crowd out potentially more productive efforts. We recommend as follows:

- Increase OGP's presence in participating countries and regions. Having a more robust regional presence—as in Latin America—would make more frequent involvement feasible. Increased presence should include deployment of people with technical experience and understanding of the context.

- Adjust OGP's rhetoric and terminology to defuse resistance to co-creation and reform, and reduce opportunities for the unwilling to denounce OGP as a Western intervention. Related to this, the overall optic of OGP should be more nuanced. A reasoned discussion of openness should acknowledge its limits and its need to accommodate other values such as autonomy and impartiality.

- Break out of the "silo." Centers of power in relevant parts of government need to be identified and brought into in-country leadership, from cabinet to line ministries. Independent oversight agencies, legislatures, in some cases the judiciary, should be actively solicited for their views and participation. OGP should also push for more integration into the national budget process.

- Broaden OGP ownership across government in a way that addresses the need for continuity through political transitions. A permanent presence could take the form of an established long-term dialogue mechanism, a unit or series of units responsible for OGP initiatives, or perhaps OGP officers (civil servants) placed in line ministries or agencies.

*Civil society* dynamics, incentives, and concerns are at the forefront of OGP efforts, and its knowledge base here is well developed. We recommend as follows:

- Recognize and support greater civil society initiative in NAP processes. This should be stated more clearly as part of the overall normative framework and expectations for NAP processes.

- Consider adopting standards for CSO transparency and participation in OGP. The questions of legitimacy around CSO engagement in several countries seem to call for

some response. Standards that have been developed by specialist organizations dealing with NGO governance and transparency can provide guidance.

- Help address the CSO financing gap. The demands of OGP have placed significant burdens on CSOs' human and financial resources. Part of the augmented funding that OGP seeks to arrange should be channeled in this direction.

*Accountability for progress, outcomes, and impact* comes at mid- and end-points of the NAP process. IRM and its studies are highly regarded, but some difficulty appears on the level of communication, understanding, and expectations. We recommend as follows:

- Adjust the time frame of IRM reviews to match the longer-term approach suggested above. Research tools should also include more longitudinal studies about changes in practices, service delivery, perceptions, and norms related to openness reforms.

- Improve the communication of IRM results. OGP has been formulating new guidance on IRM report formatting and language, report launches, press releases, and other means of communicating results including, social media. These important steps should happen soon in a systematic way, to help defuse resistance and misunderstanding.

- Calibrate expectations of impact in the near term. Empirical analysis does not yield clear evidence of impact from OGP activities or commitments. This underlines the need to adjust the timeframe of NAP processes, and to redefine expectations of what OGP is indeed offering and can be expected to deliver.

c. Rules of the Game

Regarding the *Eligibility Criteria*, differentiating between entry-level and ongoing expectations would require designing progress benchmarks that take account of the fact that participating countries join OGP at very different starting points OGP must also decide what measures to pursue if a country fails to meet progress expectations. We recommend as follows:

- Consider a multi-tiered, multi-speed approach with graduated progress benchmarks. This mirrors the idea, discussed above, of a phased or multi-track Theory of Change, with differentiated metrics. One tier could be made up of richer, more powerful countries that are quite advanced in terms of openness. A second tier could comprise middle to lower income countries that are highly-motivated and quite sensitive to global opinion. A last category might include the poorer and less stable OGP countries.

- Devise a formal policy of interventions to address participant countries' prolonged failures to progress and/or backtracking. The interventions could include Steering Committee member outreach, in-country workshops, targeted peer-to-peer exchange, and a "name and shame" procedure.

- Consider adopting a requirement of periodic membership renewal or sunset. OGP's rules would need to be changed so that membership in good standing lapses after a period of years, perhaps three or five. Each country would, depending on the approach, need to apply for renewal of OGP standing ("membership") or submit to a process of re-validation.

*Co-Creation:* Here, the conceptualization of the citizen engagement criterion will need to be clarified in tune with OGPs' refinement of its Theory of Change. We recommend as follows:

- Reconsider the idea of starring co-creation processes. It is not clear that the proposed starring process advances OGP's interests, since it risks becoming too prescriptive and antagonizing several key OGP countries.

- Consider ways of expanding the concept of citizen engagement to include the engagement of a wide range of citizen collectives beyond CSOs. This may require OGP to set up some basic parameters on backing and independence – a potential boost to credibility but also a cost in terms of time devoted to procedure.

Experience with the use of the *Response Policy* suggests adjustments to be considered. We recommend as follows:

- Consider limiting who can submit a letter of concern under the Response Policy and tightening the kinds of situations that will trigger the policy.

- Engage an outside team of experts to be convened as needed to do the investigatory and deliberative work required for application of the policy.

*Peer Learning* and exchange opportunities are highly valued. The Working Groups are OGP's mechanism for arranging such learning opportunities, but several of them are producing sub-optimal results. We recommend as follows:

- Address the lack of incentives for government and civil society to invest in peer learning in order for it to be sustainable as a pillar of OGP.

- Expand funding for peer learning, improve the organization of the peer learning platform, and develop targeted peer exchange programs.

- Consider anchoring the leadership of the Working Groups in the Support Unit so that they work within the umbrella of OGP's priorities and are less subject to being driven by the priorities of the entities that serve as Co-Chairs.

d. Legal, organizational, and financial structure

OGP is now faced with a number of important challenges and transformations in this area. We recommend as follows:

- OGP needs to devise its own *operating policies and procedures* as it transforms into a new, independent legal entity.

- The *Steering Committee* should consider moving ahead with the following items: (i) reserving a certain number of seats for legislators; (ii) clarifying the interaction of the SC and the Criteria and Standards Sub-Committee; and (iii) either restricting the authority of the SC co-chairs to change OGP's priorities or having the co-chair position rotate less frequently.

- OGP needs to provide a larger role for its *Multilateral Partners*, and particularly their reform-minded staff. Two key areas to target are; (i) coordinating the NAPs with countries' SDGs plans and the multilaterals' country assistance programs; and (ii) improving the relationship between the multilaterals and the Working Groups.

- OGP has a critical need for expanded funding. OGP should ask donors to contribute additional financing direct to OGP to be used at the discretion of OGP's Executive Director

with oversight from the GL. If donors wish or need to provide such additional financing to OGP through a multi-donor trust fund, OGP should work with donors to design a fund that gives OGP maximum discretion and control to decide how to use the fund's resources to advance OGP's objectives.

# I.  Introduction

The Development Portfolio Management Group (DPMG) of the University of Southern California has been contracted by the Open Government Partnership (OGP) to carry out a Mid-Term Review of OGP activities. The Mid-Term Review terms of reference (ToR) are presented in Annex 1. The DPMG team included Patrick Meagher (team leader), Sophie Smyth, Michael Johnston, and Tarra Kohli with overall quality assurance and guidance from Xavier Legrain.

In this report, we review the performance of the Open Government Partnership in light of its principles, objectives, and current strategy. This is a mid-term review (MTR) in the sense that it primarily assesses OGP's implementation of the Four-Year Strategy adopted in 2014 – now in a process of adjustment dubbed the Strategic Refresh. But our purview is necessarily a bit wider than this. OGP has expressed an interest in having its thinking challenged and in understanding to what extent its model suits its aspirations. Those ultimate goals are expressed in the Open Government Declaration of 2011 and in other major declarations and agreements since then. Thus, in addition to reviewing OGP's performance in terms of inputs, outputs, and outcomes as described in the Strategy, we also analyze some of its key design features.

The elements of interest here are the "Theory of Change" (ToC), the "Rules of the Game" (RoG), and the processes or interactions whereby players at different levels are expected to influence each other in the direction of more open government. In short, it is anticipated that the Rules frame interactions that drive change according to the Theory. Our report (the Mid-Term Report or MTR) will address each of these elements in more depth, with the aim of understanding them more fully, assessing the evidence of their operation, and suggesting ways in which the design might be made more adequate to the ambitions of OGP and its many stakeholders. We frame our analysis with the questions of impact and attribution in mind, but cannot give definitive answers for reasons that will be discussed below.

OGP is a multi-stakeholder initiative (MSI). In our analysis, we draw for illumination on some features and precedents from MSIs other than OGP (see **Box 1** below).

MSIs come in a number of shapes and flavors. The focus of OGP on spurring domestic initiatives to increase openness in government—along with its insistence on equal partnership between government and civil society—gives it both a unique identity and host of special challenges. Moreover, OGP is positioned differently from other MSIs that deal with governance. Others tend to have a tighter focus, for example on natural resource transactions, fiscal transparency, or government contracting. With its high profile and broad agenda, OGP is in some ways better positioned to be a "wholesale" MSI, partnering with more specialized initiatives, although continuing in certain areas of strength at the "retail" level.

This analogy to the marketplace is not meant to be flippant. OGP is an amalgam of elements that have been seen in other configurations elsewhere, from central banks to regional blocs like the European Union, self-regulatory organizations, standard-setting bodies, even the papacy. What OGP is emphatically not—and in this it resembles its sister MSIs and some of the historical precedents—is an international development project. OGP has a potentially important role to play as a partner to the development agencies, but its operative logic is distinct.

**Box 1:** MSIs - OGP and EITI

As a multi-stakeholder initiative, OGP bears comparison to others of its kind. There are a range of these and their numbers have grown in the last several years. The Extractive Industries Transparency Initiative (EITI) is one of the best known and longest established – this and the similarity of its objectives to OGP makes it a natural comparator. EITI has also faced a number of the same challenges.

MSIs such as OGP and EITI use voluntary standards to enhance information disclosure and participation in the public sector. They facilitate deliberation, consensus building, and compliance with reform commitments. This, it is hoped, produces a virtuous cycle of participation, information disclosure, and accountability. Some theorists explain the move to MSIs as an attempt to discipline an increasingly globalized market or to spread better governance practices by establishing new modes of "networked governance" involving a range of state and non-state actors. Monitoring and evaluation work in this area tends to focus on the breadth of an MSI's achievements across countries, rather than the depth of impact in individual countries. Available metrics often fail to answer vital questions such as whether increasing information and participation help the citizenry to demand better policies and administration, and to what extent this helps bring improvements in governance practices and beneficial impacts on the societal conditions of concern (MSIs: 11-18).

The arrangements under EITI are quite similar to those of OGP, with a couple of key differences. Like OGP, it is a voluntary initiative in which countries act collectively to improve transparency. It is supported by an international secretariat. Reform commitments are identified, agreed, and monitored at the national level by a multi-stakeholder group (MSG) similar to the OGP co-creation mechanism – but with the addition of a national secretariat. Periodic reports are submitted to an Independent Administrator, which plays a role comparable to that of the IRM in the OGP setting. In the EITI case, the Administrator is appointed by the national MSG. EITI guidance notes provide standards and instructions for all phases of EITI participation, including application for candidacy, structuring MSGs, creating work plans, and reporting (https://eiti.org/guidance).

Some of the differences are quite important. The establishment of an ongoing (permanent) MSG is required under EITI, and is intended to include representatives of government, parliament, civil society, the private sector, labor unions, and others. Under OGP, it is recommended but not required that the co-creation or dialogue mechanism should be permanent, and the membership is more narrowly described as including government and civil society. Governments must meet the EITI Standard, a more rigorous set of specific conditions than the OGP Eligibility Criteria, in order to be considered compliant (prior to that, countries are termed candidates). Countries report annually to the Administrator and undergo compliance Validation every three years – this last presenting a contrast with OGP, where there is no required review of compliance with eligibility criteria. In addition, there is no formal equivalent to OGP's Response Policy.

A recent outside review found that EITI countries are indeed producing more useful information not only on extractive industry payments to national governments, but also on licenses, political affiliations of company owners, and local revenues, among other things. Like OGP, EITI is seen as opening new spaces for dialogue and negotiation between government and civil society – but greater disclosure has yet to lead to accountability reforms or improved efficiency in the distribution of national resources.

EITI, like OGP and other MSIs, has been through a period of soul-searching about the definition of its goals and success criteria, and arguments over whether it has had any real impact. An evaluation of EITI in 2011 led in the following year to a re-definition of its Theory of Change. In one respect, EITI's reconsideration of its approach was almost a mirror-image opposite of OGP's. In response to the concern that EITI was too narrowly focused, it was determined that EITI should broaden outward from natural resource revenues to other related areas. One formulation of this is that countries begin by focusing on extractives payments, then broaden out as they learn over time. In contrast, the OGP Strategic Refresh addresses the concern that its mission is too high-level and insufficiently tangible by calling for more of a focus on specific, impactful commitments dealing with, for example, local public services. There is continued discussion in EITI circles, as in OGP, about a lack of measurable impact, and in particular a failure thus far to couple any increases in transparency with improvements in accountability. The breadth and credibility of civic participation in the multi-stakeholder forums is also a shared concern (MSIs 23-29).

So, why the MTR and why now? In substantive terms, the need for it seems less than obvious since OGP is—far more clearly than most others—an organization that learns. It generates and values learning, even if it cannot itself make as much use of that learning as it would like. OGP knows a lot about itself. This poses a steep challenge to any external consultants wishing to deliver new insights. However, OGP has committed to undergo an independent external review at this time. The fact that it coincides with a change in leadership and the Strategic Refresh underlines the importance of the timing. (To see how this moment fits in the history of OGP, see **Box 2** below).

**Box 2:** History of OGP

- September 2011, New York – OGP launched with the endorsement of the Open Government Declaration by the governments of Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, and the United States.
- April 2012, Brasilia, Brazil – First high-level annual meeting.
  - Within first six months of operation, OGP went from 8 action plans and 46 participating countries to 50 action plans and 54 participating countries.
- September 2012 – U.K. takes over co-chairmanship.
- April 2013 – OGP Steering Committee agreed on a new two-year strategy with three strategic priorities: 1) Enable country-level success; 2) Ensure accountability for results; and 3) Build the infrastructure to deliver.
- October 2013 – Indonesia and Rakesh Rajani (Twaweza) take over co-chairmanship
- October/November 2013 – OGP London Summit
- 2013 – IRM fully functioning; 62 countries formally participating in OGP.
- October 2014 – Mexico and Suneeta Kaimal (Natural Resource Governance Institute) take over co-chairmanship
- 2014 – 65 participating countries, OGP commitments database created, new response policy.
- 2014 – New comprehensive four-year strategy for OGP with four overarching objectives: 1) building high-level political commitment, 2) empowering government reformers, 3) strengthening civil society engagement, and 4) promoting accountability for results
- October 2015 – OGP Global Summit in Mexico
- October 2015 – South Africa and Alejandro Gonzalez (GESOC) take over co-chairmanship
- 2015 – 69 participating countries.
- September 2016 – France and Manish Bapna (World Resources Institute) take over co-chairmanship
- December 2016 – Paris Summit, Strategic Refresh
- 2016 – 70 participating countries

Three other factors suggest that the timing is apt for both the Refresh and the MTR. The first is a sense of drift and fatigue that has seeped into a number of MSIs, especially the more established ones. A lack of demonstrable impact has led to both the tightening of performance and cost-effectiveness criteria, on the one hand, and arguments over workable definitions of success on the other hand. This coincides in part with a shift, in OGP and some others, from an early phase of building energy and membership to a more mature phase in which demands for impact and sustainability become paramount.[1] A parallel trend has affected a closely-related field: development aid for governance reform. The last decade or so has seen a growth of literature and discussion of failures in this area, much of it having to do with a lack of fit with political and social dynamics in recipient countries, and with unproductive investments in replicating institutional forms taken from more developed nations. OGP and other MSIs are designed in part

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[1] Brockmyer, Brandon and Jonathan Fox, "Assessing the Evidence: The Effectiveness and Impact of Public Governance-Oriented Multi-Stakeholder Initiatives, Transparency and Accountability Initiative, 2016, pp. 7-8, 51, 58.

to avert such problems, and yet rely on the development donors to fund much of the work of stakeholders on the ground.

The second factor making a reassessment more urgent is the worrying global trend of populist and reactionary ferment. Governments across the globe face a crisis of legitimacy. Increasingly, one sees a downward spiral of distrust in government, where divisiveness and paranoia feed on anger about incompetent, unaccountable, closed government. This is in some sense a political re-assessment of—and often an angry backlash against—globalization, with its pressures to embrace transnational standards and norms. Governments need to build legitimacy by taking credible steps to address people's worries. They need to deliver, and in a democratic setting this calls for an open, accountable, participatory approach. OGP and its kind may not be the magic bullet; but their agenda is growing in importance just at the moment when responses to that agenda are increasingly volatile. The surprising outcomes of recent votes in the United Kingdom (U.K) and the United States (U.S.) indicate that both government and civic elites ignore such trends at their peril.

The third factor making a reassessment timely relates to the question of OGP's financing needs. OGP has expanded rapidly in the first five years of its existence and has existed throughout on a shoestring budget in a manner that is not sustainable. In order to help OGP to deliver transformative impact, and to equip it to follow through on the goals of the Strategic Refresh, the Steering Committee has been pursuing the possibility of raising additional financial resources for OGP, through the creation of a possible multi-donor trust fund, or other financing mechanism.  By helping to deepen the donor community's understanding of OGP's operations and needs, the MTR can play an important role in the resource mobilization process.

### A. Overview

The report unfolds as follows. The next chapter discusses the OGP Theory of Change (ToC), considering its validity in light of social science perspectives on political and institutional change, and pointing toward a possible alternative ToC. Chapter III analyzes the interactions at the key nodes of influence targeted by OGP. These center on the actions of high- and mid-level officials, civil society organizations (CSOs), and the OGP accountability mechanisms, notably the Independent Review Mechanism (IRM). That part concludes with an analysis of the evidence concerning OGP impact in terms of transparency and related elements of governance quality – based on third-party data on comparative country-level indicators. Chapter IV deals with the Rules of the Game, in particular those that play a leading role in shaping the interactions and outcomes. The emphasis here is on the Eligibility Criteria, Co-Creation Guidelines, and Response Policy. Chapter V provides an analysis of the legal, organizational, and financial structure of OGP. Chapter VI concludes with a recap and recommendations.

### B. Approach and limitations

A word is in order here about the methodology and limitations of this review. A four-person team including social science, legal, international development, and logistical expertise carried out the MTR. The approach can be broadly described as mixed-methods. The team reviewed reams of OGP documents and external literature. IRM papers and externally-written case studies were particularly useful. Interview questionnaires were developed and semi-structured discussions were carried out with stakeholders in government and civil society, those working at international and domestic levels, and people having different functions and modes of involvement with OGP – whether in the Support Unit, Working Groups, Steering Committee, country level, or otherwise. The interviews were either in person or by telephone.

We coupled this qualitative research with empirical inquiry. As mentioned, data from both IRM and external sources were used to assess progress and impact. The team designed and administered an online survey to OGP stakeholders—using SurveyMonkey—in a purposive sample of 15 countries spanning regions, income levels, and OGP cohorts (see **Box 3** below).

<div align="center">

**Box 3:** Purposive Sample

| **Asia** | **Americas** | **Europe** | **Africa** |
|----------|--------------|------------|------------|
| Australia | Canada | Bulgaria | Liberia |
| Georgia | Peru | Netherlands | Tunisia |
| Indonesia | Uruguay | Greece | |
| | Mexico | Serbia | |
| | Honduras | Finland | |

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We should note some further useful interactions as well. The team observed, again either in person or by phone, the discussions between the Support Unit (SU) and the Steering Committee (SC) in connection with the Refresh. We also attended the discussions and training sessions at OGP in connection with the Local Government Pilot and the OGP meetings on the sidelines of the 2016 UN General Assembly session in September. On four occasions, the team provided its input to OGP on the Strategic Refresh, based on tentative findings from the ongoing research, either verbally or in writing (sometimes both).

The limitations of this study are many, as will be easily observed, but it is worth highlighting a few. First, when it comes to OGP, there is little possibility of finding a neutral and unbiased sample of interviewees or survey respondents. It seems that virtually anyone who is knowledgeable about OGP is involved in it – barring a few outside researchers and former OGP staff or participants. This proximity is evidently as much a spur to criticism as it is to praise, but the perspectives are in no real sense external. Finding a sample of people who can provide independent information on the results of OGP—other than researchers—would require empirical surveys of a scale and complexity beyond the resources of the MTR. Second, the review did not include field research. Thus, the team relied on interviews, surveys, and analysis of documents including case studies produced externally. Third, the team came to this review with some awareness of OGP and other MSIs, but were by no means steeped in the relevant literature and folkways. The activities, the components, the policies, and especially the literature of OGP—both internal and external— comprise a vast array that can be daunting to the uninitiated.

Finally, OGP stakeholders themselves are both a blessing and a curse. Many are highly knowledgeable about OGP and other matters, and so were exceedingly helpful to the team. But this also raises the question posed above as to whether one can say very much that is new to this audience. In addition, it is quite a busy group of people, and so getting responses was sometimes a challenge. This applies less to the Support Unit, Steering Committee, and Working Groups, who were generous with their time. The difficulty arose more with in-country stakeholders – the numbers of interviewees and survey respondents, though sufficient, was less than the team had hoped.

# II.   OGP's Theory of Change

The brief statement of a Theory of Change (ToC) that appears in the OGP *Four-Year Strategy* document is a work in progress. Our evaluation of it depends upon the purposes we believe it ought to serve.

What are the key elements of the ToC? OGP's *Four-Year Strategy: 2015-2018*[2] lays out the essence. Three "critical elements for catalyzing and sustaining progress on open government reforms" are identified:

- Building high-level political commitment

- Empowering government reformers

- Supporting effective engagement by civil society organizations

Those elements are incorporated into two-year action plans that "establish…a regular cycle of public consultation and planning, implementing open government commitments, and monitoring progress." (See **Box 4** and **Figure 1** below on the action plan process.) The goal is to establish "a virtuous cycle leading to ever more ambitious reforms, greater citizen engagement, and more faithful implementation of policies" consisting of four key steps. First is *including civil society in planning and implementation*, which is seen as enhancing the ambition and likelihood of completion of OGP commitments. Second, *the Independent Reporting Mechanism (IRM) is seen as establishing a learning process* that will improve "both process and content". Third, *changing norms and levels of acceptance of transparency* are envisioned over time as enhancing dialog and the effectiveness of civil society participation. Finally, completing the cycle, *citizens who see OGP as producing "meaningful reforms" in government are expected to step up their own engagement*, and to push their elected officials to produce further reforms and improvements in government.

> "The theory of change holds that if [high level political leaders, mid-level government officials, and civil society organizations] are playing their roles effectively, it should improve dialogue and relationships among its stakeholders, and change institutional processes and norms towards openness - ultimately leading to more ambitious open government reforms in the short term."
>
> – OGP Call for Proposal for its Mid-Term Review

A final note on terminology: at several points in the discussion that follows here, we use "openness" as a term of convenience referring to the various goals of the Open Government Partnership. We do not, however, treat that concept in simplistic or one-dimensional ways; indeed, at various points we emphasize the complexities of, and tradeoffs among, various notions of governance (see, for example, pp. 12-13 below) as well as the overall complexity of OGP's agenda. Similarly, in a later discussion we examine some statistical proxies for various aspects of good government, again using the umbrella term of "openness", but it is worth noting that they too cover a variety of goals and attributes: voice and accountability, the overall ease of doing business, and the prevalence of deliberative democracy. All such attributes and proxies are first approximations only, are understood as such, and should not be seen as implying a reductionist view of OGP goals within this Review.

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[2] http://www.opengovpartnership.org/sites/default/files/attachments/OGP%204-year%20Strategy%20FINAL%20ONLINE.pdf (Viewed 11 November 2016), pp. 13-14..

**Box 4:** OGP's National Action Plan Process

Once the formal process of joining OGP is underway, a government—in consultation with civil society organizations—must develop its first National Action Plan (NAP). A National Action Plan lists a set of commitments made by the government—for which it is held accountable—in the interest of transparency, accountability, participation, and technological innovation in terms of open government.[3] Consultation with civil society is a minimum requirement for drafting the NAP, but "co-creation" by a collaboration of civil society and government is recommended. Examples are given below. OGP has adopted a two-year NAP cycle such that a participating government has a new NAP every two years.[4] This cycle ensures *continuous implementation*, i.e. there is a NAP being implemented at all times in each participating country (see **Figure 1** below for the stages in the NAP cycle).

Once a NAP is accepted and its implementation has begun, there are a number of different mandated accountability mechanisms in place to ensure the government's adherence to principles of open government and more specifically to its commitments. Two self-assessments are required of governments; the first (or midterm) is due after the first year of implementation is completed and the second (end of term) is due three months after the NAP's two-year implementation period. In addition to government self-reporting, OGP relies on the Independent Reporting Mechanism to evaluate the progress of the NAP's implementation. Again, this takes place halfway through the implementation period and then again after implementation of that particular NAP is completed.

Each country's NAP overlaps with its previous and next NAP. Governments—in conjunction with civil society organizations—should begin drafting their next NAP six months in advance of the current one ending. The next NAP will already begin implementation before the end of term reports (both the self-assessment and the IRM report) are completed. During the creation and implementation of the first NAP, governments should establish permanent dialogue mechanisms that provide the platform and structure for multi-stakeholder forums in which civil society and citizens can engage with government. The OGP provides guidance notes to the point of contact on each of these steps.

*Example Commitments*
- Open expenditure reporting (Mexico)
- Reducing conflicts of interests – Post-Employment Regulations (Norway)
- Draft Law on Citizen Participation (Chile)
- Mandatory Reporting on Extractives (Canada)
- Review of the legal framework of personal data protection and ensuring conformity with article 24 of the constitution (Tunisia)
- Improve Quality of Openness in Education Services (Indonesia)

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[3] OGP recommends only 5 to 15 concrete commitments for each NAP. However, countries

[4] This was done in 2014. Countries are divided into two groups: even year countries begin implementation of their NAP in July of an even year while odd year countries begin implementation of their NAP in July of an odd year.

**Figure 1:** NAP Process
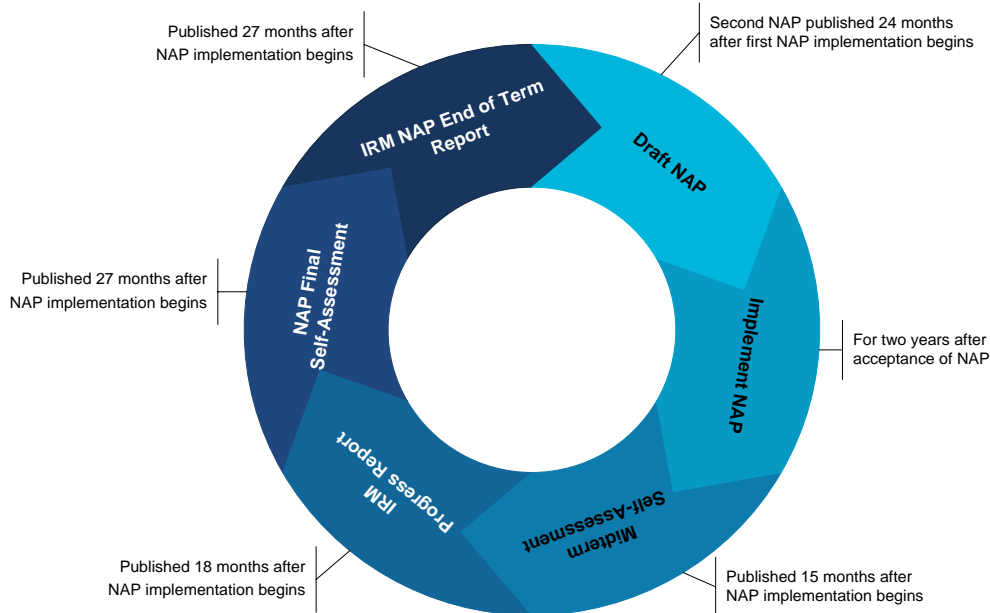


## A.  Assessing the Theory

The ToC is an outline of hoped-for changes based upon assumed linkages and behavior; as such it might usefully be seen as a metaphor for the overall OGP agenda. It is not a fully-elaborated theory of how change actually does occur, although it is not clear that a body such as OGP can or should be in the business of developing such theory.

It is important to distinguish between a Theory of Change, on the one hand, from OGP's operating model, on the other. The first should be grounded in positive analysis of observed factors in a polity's move from less to more open government. The second, by contrast, constitutes a practical framework and agenda for jump-starting such a move, and for encouraging its progress. Both the ToC and the operating model serve OGP's overall normative ends, but in different ways.

The Theory at present falls more into the category of a hopeful scenario. It does implicitly contain the basic ideas of such a theory – one embracing a particular outlook on liberal democracy, with its assumptions of comity, emerging consensus, and good-faith interactions that will strike some as too optimistic in many societies. Whether and how to adapt the ToC for participating countries that do not so clearly fit the ToC's projected scenarios are issues to be considered below.

While the ToC might not fit the situations of the least developed or more deeply-divided OGP countries,[5] we suggest that such contradictions do not invalidate the theory but rather point to opportunities for new and refined metrics, and for adaptations of the theory to address divergent realities. Following up on these opportunities would be useful in several ways. It should help us to focus on specific issues to be addressed and measured as general goals and ideas are translated into action, and to develop an enhanced body of evidence helping participants at many levels assess the impact of their plans and actions.

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[5] In contrast, as discussed in Part III below, developing countries in several cases conform more closely to the OGP operating model in practice than do richer countries. That is, they score better on performance metrics.

There are definite positive points to note regarding the ToC, even in its current very general form. First, OGP sees the transformations it seeks in systemic terms, as an endeavor for the middle to long run, and as involving real agency on the part of multiple players and levels of government. It does not fall back upon empty terms such as "political will," or exaggerate the likely effects of the sorts of targeted short-term projects. Likewise, it avoids the narrowly technocratic interpretations of "governance"—the state as "referee", or process-oriented efficiency as a panacea—that took root beginning in the mid-1980s. More than many such scenarios, it recognizes the importance of middle-level officials and groups, both for making and then institutionalizing change, rather than envisioning government and society in monolithic terms. And it does not operationally define success solely in terms of positive trends in GDP *per capita,* or the institution of elections.

*Gaps and assumptions*

What, then, are the key gaps and unexamined assumptions of the ToC? One is the overarching assumption that the basic problem common to poorly-governed societies is a lack of openness. While successful societies do tend to have open governments, they can have significant problems of their own, as we have seen in a number of democracies in recent years. Some of those problems reflect poor leadership, but others may stem from an excess of poorly-institutionalized openness leading to stalemate or varying degrees of institutional capture. (e.g. business colonizing the agencies supposedly regulating them, via "revolving-door" hiring, and influencing the legislators via campaign contributions).

In addition, poorly-governed countries suffer from a wide variety of difficulties. Among these are post-conflict situations, deep social divisions, poverty, dependence on extractive resources, low levels of interpersonal trust and/or trust in government, hostile or poorly-governed neighbors, flawed institutional frameworks, and malevolent or incompetent domestic leadership. Many poorly-governed societies *are* marked by less-than-open government, to be sure. But that might be both cause and/or effect of other difficulties: dominance by a family or *junta,* a tightly-organized monopoly political party, an ossified administrative structure are just a few possible sources of impaired openness. Remedies exist, but it must be remembered that dominant interests with little or no concern for openness may defend their positions vigorously, and that prematurely mobilizing weaker groups in society to challenge those entrenched interests can have tragic results.

There is also a subtle, but important, flaw in the apparent causal reasoning behind the theory. That is, we might observe that today's well-governed societies share an attribute – openness, a strong civil society, a free press, an independent judiciary, and so forth, and that those attributes are generally supported by a solid social consensus. *But it does not necessarily follow that those attributes are what brought good government, prosperity, or accountable democracy into being in the first place,* nor that it was consensus or rational decision-making that did so.[6] Rather, they are often *consequences* or *outcomes* of deeper, often contentious, processes that brought open, accountable governments into being. Trying to build better government by starting with its consequences may well be like trying to move an object by pushing on one end of a string.

Many of today's sustainable democracies, for example, lacked a free press, modern judiciary, and what we would call a "vibrant civil society" at the time they began to evolve. Some of them—the U.K. after the Crimean War, Sweden in the wake of military defeat—improved the quality of government in response to comprehensive failures. Australia, arguably, built an effective modern

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[6] A classic argument of this sort appears in Dankwart A. Rustow, "Transitions to Democracy: Toward a Dynamic Model." *Comparative Politics* 2:3 (1970), 337-363.

nation less on any commitment to openness for its own sake than because of a need to unite rather fractious states in the face of geographic and economic isolation.

Often those outcomes emerged in discontinuous ways out of conflict and contention.[7] Acemoglu and Robinson, in *Why Nations Fail,* outline the political difficulties involved in moving from "extractive" to more "inclusive" and accountable regimes.[8] *Magna Carta* was not a master plan for good governance but a list of grievances and demands drawn up by a small number of barons. It did lay down some important principles of good government, but the King agreed not because he thought they were fine ideas, but rather because he needed to raise and fund an army. Enforcing the stipulations of *Magna Carta* was no simple process; it was contentious, marked by many reversals, and was driven by a good deal of conflict. Similarly, France had a bloody revolution, the U.S. had a civil war, India had the agonies of Partition, the modern democracies of Japan and Germany were built on the ruins of wartime, Tunisia overthrew the Ben Ali/Trabelsi regime in a convulsive national uprising, and so forth. There is, of course, no magic in violent contention. And, even where contention leads to positive results, it may well be *via* a series of "useful stalemates" in which contending parties, weary of the costs and uncertainties of continuing conflict, negotiate settlements that survive because they are workable ways to move forward.

The point here is not that OGP's strategy and tactics are doomed – far from it. Still, there are large assumptions at work:

- that greater openness and a convergence of interests among elements of civil society and levels of government will naturally be driven by cooperation and consensus;

- that major players will stay within the rules; and

- that the macro results will tend toward broader participation, more innovation, and greater accountability.

In effect, the Theory requires that the societies in question function almost as liberal democracies already. Many key "micro-connections"—the specific interests, interactions, and incentives that will drive change and sustain its results—are assumed rather than identified and addressed.

More specific problems are worth noting as well. One is that the existence and vitality of civil society seem to be assumed, even in what might well be hostile climates. In many struggling societies civil society is weak, divided, and hobbled by recent conflicts and low levels of trust. At times, what might appear to be civil society organizations are in fact "GONGOs"[9] – not free-standing, bottom-up Non-Governmental Organizations (NGOs), but rather Government Organized Non-Governmental Organizations, established to give the impression of openness or as vehicles for even less savory agendas. At other times civil society seems to boil down to a familiar list of NGOs, based in and around national capitals and at times sustained more by international assistance than by grassroots social energy. "Engaging with civil society" cannot be allowed to mean "round up the usual suspects." OGP not only must avoid that possibility but also, with its long-term agenda and supporting bodies (the Steering Committee, Support Unit, etc.) is in a favorable position to do so.

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[7] For a more complete discussion, see: Johnston, Michael, *Corruption, Contention, and Reform: The Power of Deep Democratization.* Cambridge University Press, 2014.

[8] Acemoglu, Daron, and James A. Robinson. 2012. *Why Nations Fail.* New York: Random House/Crown Business.

[9] Moises Naím, "What is a GONGO? How Government-Sponsored Groups Masquerade as Civil Society". *Foreign Policy* 160 (2007), pp. 92-95.

Few if any of these critical points regarding the ToC will come as news to OGP. While overall indicators of openness, discussed later in this report, do not (yet) point to across-the-board improvements in openness as a result of OGP activities, neither do they indicate failure. If anything they line up with the arguments above, to the effect that refining and implementing the ToC will depend upon understanding and, in selective ways, intervening in processes that are highly specific and revolve around the participation and support of specific groups, interests, and leaders. Much of what OGP does on a month-to-month basis is aimed at those sorts of targets. Here we have in mind the emphasis on co-creation, the actual and potential contributions of the Support Unit, and upon enriching and diversifying connections with civil society. These activities and their outcomes are discussed in more detail in Chapter III of this report.

## B. Revising the Theory

Overall, then, the ToC has considerable promise, both as a statement of goals and as a roadmap for developing new measures and addressing detailed problems and opportunities. It is at this point *incomplete,* but that is a remediable situation and one that should be seen as an opportunity, not a crisis. What sorts of revisions and extensions are needed?

*Some missing pieces*

Three priorities need to be addressed at this point.

### 1) A more inclusive and nuanced concept of civil society.

A problem common to many strategies relying on civil society is the assumption that civil society's strength and value reside in formal organizations established to accomplish broad social goals. But where it is strong, civil society consists of, and does, much more – building trust, diffusing organizational skills, and reducing the sense of isolation, for example. Some organizations exist less to push for social goals than to defend specific interests or identities. Others, established to serve purposes having little to do with government or the public good, might over time build up trust and extended networks that can be put to a wide range of uses having little to do with the formal agendas of their organizations. Citizens who are members of a hiking club or the Tuesday Music Society might draw upon their social networks to recruit a clean-up crew for a local park – or, to raise a protest against an incompetent or abusive Mayor. Indeed, in some instances where civil society has contributed to positive changes, formal organizations have been weak to nearly nonexistent. Spain, Portugal, and Greece had few independent NGOs at the dawn of their democratic transitions, but they did have strong informal networks built on socializing and recreational activities among friends, neighbors, and extended families. Those networks arguably provided just barely enough trust and continuity to make civil society a positive force in democratic consolidation.

That point is important at a quite practical level, because while purposive efforts to strengthen civil society in the form of organized, issue-oriented groups are fraught with complexities, there may well be more forms of civil society activity in a country, and sources of strength at that level, than are initially apparent. Formal organizations built exclusively or mostly around the accomplishment of broad social or civic goals are vulnerable to *collective action problems.* Some—famously, Mancur Olson[10]—concluded that because of the costs—and, often, risks—involved in seeking common goals, and because any one individual might well benefit from a successful effort whether she or he gets involved or not, people will not organize or actively work for public or civic goals. Rather, they will leave the hard work to others – which usually means

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[10] Mancur Olson, *The Logic of Collective Action.* Cambridge, MA: Harvard University Press, 1965.

little or nothing will be accomplished. But in fact people *do* organize, and they engage in activities—say, standing in line in a cold rain waiting to vote—in which their own personal benefits are vanishingly small and the costs may be significant. Wilson accounted for that seeming paradox in a rather sensible way, identifying several kinds of incentives and rewards other than public purposes that can sustain participation in organizations.[11]

The point here is that any party to the Theory—and, we emphasize, this argument applies not only to civil society, but also to reform-oriented officials, political leaders, and potentially to some parts of the private sector as well—will require rewards and incentives of many sorts if their political energy is to be mobilized and channeled in sustained fashion. Because they usually seek major changes in the name of all that will normally benefit all—changes that may well encounter significant opposition or inertia—and because they frequently seek to mobilize divergent groups and interests that may have less in common than we might hope (or, than the Theory might assume), good-government organizations and coalitions are particularly vulnerable to collective action problems. Also, they may well be targeted for harassment or worse by hostile regimes.[12] If civil society groups are to play the roles envisioned for them in OGP's theory, careful thought will be needed about not only which segments need to play which roles in what types of settings, but also ways of engaging their energies and interests, along with those of broader and less formal social networks.

An analogous argument applies to officials: collaborative actions aimed at better government are essential, yet have attendant costs, risks, and uncertainties. Providing meaningful incentives and rewards—additional budgetary resources, perhaps, but even just recognition and encouragement from top levels, from civil society and the press, and from OGP itself—can help overcome those negative points. Similarly, political leaders at all levels who make better government a high priority are investing political capital and incurring risks that are all too often overlooked by reform advocates; support from civil society, segments of the private sector, and OGP and the international community can be critical. Providing such support on a sustained basis would also be a step toward more effective "collective action' in the broader and more inclusive sense with which OGP often uses the term.

Steps toward those goals must begin with the question of what incentives can be provided to sustain such connections. That is true for several aspects of the theory: important linkages, or micro-linkages (e.g. between innovators and middle-level officials, between middle- and upper-level officials, within civil society, and so forth), and the incentives and activities that might strengthen them, need to be considered more explicitly. We would not be surprised to find, as OGP works and seeks to build influence within specific societies, that that sort of thinking is going on already, particularly as part of the Strategic Refresh process.

   *2) A meaningful element of accountability.*

A fundamental assumption of open and responsive government is that officials, elected or appointed, hold public power in trust – that is, that the power and authority derive from the people and from established sources of legitimacy, and are not the property of the officials themselves. That power is conferred, ideally, by accepted political processes, and after a time is yielded back to the society, to be entrusted to others. Officials who hold that power are expected to use it in *accountable* ways: to abide by established limits on power and its use, to follow the general

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[11] James Q. Wilson, *Political Organizations.* New York: Basic Books, 1973.

[12] Michael Johnston and Sahr J. Kpundeh, "Building a Clean Machine: Anti-Corruption Coalitions and Sustainable Reforms." World Bank Institute Working Paper number 37208 (December, 2002).

direction of the mandates they have been given, to explain their actions or non-actions, and to respond in good-faith ways to new demands and expectations as they emerge.

The literature offers evidence that governance initiatives focusing solely on transparency, or even just on participation, fail to change the calculations of political leadership that is fundamentally unaccountable. There is little evidence, for example, that public sector governance is changed by programs designed to induce participation in communities, even when participation improves service delivery and development outcomes. In and of itself, participation may be a positive force for community building and for improving local conditions, but it does nothing to strengthen political leadership's accountability to the community for bringing about such improvement. It is primarily political pressure from constituents or competitors that drives institutional change – by instilling incumbent leaders with a credible fear of losing power and rewarding those who govern well. Institutional analysis of political changes through history suggests that transparency in combination with political engagement provides tipping points for change in the functioning of state institutions. It does so by shaping the incentives, political beliefs, and behavioral norms of both officials and of citizens (Khemani et al. 14-15, 157-188, 216).

Further, improving transparency without more accountability, is not a sure way to improve governance. Transparency appears to have some influence on political engagement, but is not determinative, and the ultimate impact on governance is unclear. Transparency interventions such as information campaigns about local service delivery are likely to have only transient effects if they do not improve political engagement. Often they are used most effectively by interests and groups that are already well-organized and possess significant political influence or access. They may end up shifting governance problems to other times and places outside the information circuit (Khemani et al. 14-15). Indeed, in highly corrupt countries, increases in transparency tend to breed resignation rather than indignation (Bauhr and Grimes 2014). In the near term especially, an abrupt change to transparency can force people into protective negotiating positions. In complex or unstable settings, this may complicate the attainment of the more immediate goal of building trust.[13]

A degree of accountability or responsiveness is built into the ToC, but mostly by implication. More explicit attention should be devoted, going forward, to explicit mechanisms and measures of accountability (in the latter instance, for example, tracking budgetary data and patterns of expenditure by comparison to promises made, and to the distribution of needs across societies' various regions and populations). Of particular concern is what we might call "selective openness", by which officials use mass media, patronage, and other appeals to mobilize constituencies friendly to their own interests, and then govern in ways responsive to those groups' demands while ignoring or abusing the rest of society.

> 3) *A recognition of autonomy and impartiality as critical to good government.*

Incorporating these values—in which many instances would involve reaffirming the importance of strong, high-capacity bureaucracies—would bring greater balance to OGP's approach to governance and thus a stronger claim to credibility on the official side of the civic-governmental dialogue. As Fukuyama points out,[14] restraining government power is important, but so too is how such power can and should be *used.* He argues that good governance is a function of the *autonomy*, and of the *technical capacity*, of the executive. Fukuyama has his critics, to be sure, but a full consideration of his argument, as well as of competing paradigms—Agnafors's six

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[13] *Event summary: Doing development when politics matters*, Overseas Development Institute, London, September 2016.

[14] Fukuyama, Francis. 2013. "What is Governance?" *Governance* 26: 3 (July), pp. 347–368.

principles of good government (see **Box 5** below), and Rothstein and Teorell's notion that the core of high-quality government is *impartiality*—would considerably enrich OGP's understanding of the problems it seeks to address.

For example, Fukuyama's emphasis is not primarily upon how power is restrained and shared – concerns quite rightly built into the Theory. For Fukuyama, this is just one side of the good-governance equation; more important is how power is *used*. Ultimately— and particularly, for an organization seeking positive change in people's lives—the question arises of the ends and values that openness should serve. Will openness mostly facilitate access and influence by organized interest groups, for example, or can it be extended to include the marginal

**Box 5:** Agnafors' Principles of Good Government

- "Minimal morality and a thicker, more detailed, public ethos"
- Good decision making and "reason giving"
- The "principle of beneficence" (i.e., that insofar as possible decisions should be aimed at enhancing the wellbeing of as many citizens as possible, while harming as few as possible)
- The rule of law
- Efficiency
- Stability.[1]

and dispossessed segments of societies (a question for countries at all levels of development)? If the latter, can openness as a concept, broadly defined, be augmented to include not just opening access to information and decision makers, but also active outreach and participatory decision-making (*e.g.,* participatory budgeting or "social audit" processes) endorsed by governments? Can those processes develop and provide sustaining demand for policies that are not just responsive and efficient but also fair and just? And can the latter be devised in participatory ways, rather than laid down by *fiat*?

Most observers would see virtue in all six of Agnafors' principles, but what should be the hierarchy or priority among them? If OGP is willing to adjust the expectations, timetable, and indicia of positive change for countries at different stages of social and political development, an evolving sequence of these principles might be appropriate:

- for struggling societies in early phases of positive change, stability and rule of law might be paramount considerations;

- later on, efficiency and good decision making and "reason giving" might assume more importance;

- for more advanced/fortunate societies, the principle of beneficence could move to the top of the list of goals and criteria.

Agnafors's first principle – minimal morality and enhanced public ethos – should be a goal throughout.

For Rothstein and Teorell,[15] impartiality—the principle that official actions "shall not take into consideration anything about the citizen/case that is not stipulated beforehand in the policy or the law"—is the essence of good government. That seemingly simple principle is deceptively powerful. It reinforces Fukuyama's concern about how power is used, and requires a measure of autonomy and technical capacity on the part of executive and other agencies. Similarly, it provides a rough-and-ready principle to guide efforts in pursuit of Agnafors's principles.

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[15] Rothstein, Bo and Jan Teorell. 2008. "What is Quality of Government: A Theory of Impartial Political Institutions." *Governance* 21:2 (April), pp.165-190.

Impartiality is a principle that can be widely understood and used to build support for both necessary, if painful, policy changes, and for better-government initiatives. This is particularly important in emerging democracies, divided or post-conflict societies, and countries facing major economic challenges and low levels of social and political trust. The principle of impartiality lends itself well, in many but not all policy sectors, to assessment using indicators of government performance. It also offers both opportunities and challenges in terms of inclusion of marginal segments of the population. For example, an even-handed education policy might well devote larger amounts of resources to impoverished groups and locations, yet be difficult to justify as fair (much less as strictly impartial) to others who might receive less.

A related concern is worth mentioning here, i.e. the increasingly chilly political climate OGP faces in numerous parts of the world. Recent events—anti-immigrant agitation, the Brexit vote, the rise of anti-system leaders and parties, and an overall deterioration in the quality and positive possibilities of democratic politics in countries at many levels of development—have occasioned some handwringing over whether liberal democracy has somehow outlived its usefulness, or has been turned sour by adverse economic and geopolitical circumstances, and by opportunistic and cynical leaders. Those long-term concerns are hard to assess at this point.

But specific challenges to the ToC are involved here: does it allow reform-minded officials, committed to OGP goals, sufficient *autonomy* to hold the line against anti-democratic forces that might exploit trends toward greater openness? While (quite properly) emphasizing open communication, participation, and public access to leaders and decision processes, have we paid enough attention to those officials' technical abilities and institutional capacity? Does the ToC risk becoming a prescription for governmental paralysis, or for hostile capture of institutions made accessible in the name of fairness and openness? Again, those concerns have no simple answer, but they should be on the table for any revision of the ToC.

## C. Looking ahead: Enhancing the Theory of Change

While the Theory is largely sound as far as it goes, we will need to adapt it in various ways to accommodate the widely varying realities of diverse societies across the globe. A refined and more complete Theory should be based on OGP's knowledge and experience base—notably, the IRM process and activities of the Support Unit—with a goal of filling in the gaps of the Theory by, among other things, *identifying key groups and linkages to energize* in order to advance the larger vision of openness. That sort of thinking should emphasize not only broad goals but *also the incentives, motivations, and specific social/political connections* necessary to move in positive directions.

Some specific suggestions:

### 1) Conceptual Revisions

Consideration should be given to devising *a phased, or perhaps multi-track, Theory*. We recommend this step both in itself and as a framework for assigning priority to other revisions and strategic changes. The Theory must, above all else, be appropriate to the cases to which it will be applied. In its present form – that of laying out a desired scenario for eventual changes – those problems of applicability are not serious. But if the Theory is to guide more specific strategies and choices, and to define criteria and manageable thresholds against which progress can be assessed, then it must take into account the widely divergent realities of societies at differing levels of economic and civil-society development. By that we *do not* mean income levels alone but rather types and legitimacy of regimes, strength of civil society, technical and administrative capacity, social divisions and histories of domestic conflict, dependence on extractive industries,

and a range of other factors that make governance particularly challenging in transitional and reforming societies. Such an adaptation should not, and need not, compromise OGP's basic long-term goals. But it can give clearer guidance as to sequencing important changes in (for example) civil society, law enforcement and maintenance of order, provisions for civil liberties, basic reforms of administrative structures and processes, and the like, and help reach agreement on meaningful but achievable goals for change in the short to middle term. At present, some countries facing major challenges on all fronts may end up doing little or nothing, by choice or by default; redefining the agenda to emphasize some specific, attainable changes early on may help those countries set priorities in manageable ways.

Thus, a revised Theory should not only spell out appropriate and achievable goals for societies of different sorts, and/or in divergent circumstances, but should also identify important interim goals and agents for achieving them. What does building high-level commitment entail in a post-dictatorial society, or a deeply-divided one, *versus* others in which expectations of accountability are more widely shared? Clearly we wish to strengthen the position of reformers, but who are they likely to be in different situations, for whom do they speak, what issues motivate them, and who are their likely allies (and opponents)? Strengthening civil-society engagement is essential but, again, would seem to have different meanings and to confront quite different obstacles in recently-liberalized societies compared to those found in countries with established norms of participation and responsiveness.

The idea here is emphatically *not* to devise seventy different Theories for seventy countries. Indeed, to be useful the Theory must specify goals and mechanisms that are not already established facts. Rather, a phased or multi-track Theory should build upon what we know about societies in a few common states of governance and stages of socio-economic development and shape goals, strategies, and implementation approaches corresponding to those realities.

Such possible adjustments include the following, calibrated to the situations of different categories of societies:

Timelines and *expectations regarding the pace of positive change* may well need to become more flexible. Results and trends in established liberal democracies will differ from those elsewhere, particularly where societies are divided or countries are in post-conflict situations.

*Creative, low-cost ways of measuring and assessing progress on early priorities* will also be extremely useful. If strengthening civil society is one of them, what are the levels of mutual and political trust in a society? What sorts of inequities in policy and social provision exist among segments of society? What is the state of civil liberties? What can trends in capital flight, or in the security of property rights, tell us about the credibility and quality of key institutions? Such dimensions can be assessed, in some cases quantitatively and in others, qualitatively, by experienced OGP staff and in-country observers. A number of key social and policy issues may, depending upon the specific setting, offer opportunities to address inequities, strengthen civil society/government engagement, and provide credible evidence that closer civil society-government engagement offers real benefits to citizens and to agencies that perform well. Among those issues might be security and even-handed law enforcement, civil liberties, health services, housing, education, and public utility provision. Nowhere should *all* of those issues be made early priorities: it is far better to have demonstrable success in one area, or two, than to fail in five or six.

*A more detailed elaboration of desired processes of change in differing contexts* is desirable, within the scope of the existing Theory. What, in practice, do learning processes envisioned within the Theory refer to in countries at different stages of development and reform? Who needs to be

learning what, and how can we assess whether that is happening? Which norms are most important to track, and to change, and which groups and interests should bear prime responsibility for making those things happen? What incentives are needed to launch and sustain such changes? The Theory does, at present, recognize the general importance of such incentives but needs to guide more concrete approaches.

*The notion of virtuous cycles itself should be given a close empirical examination*, using historical evidence from established well-governed societies as well as contemporary evidence from OGP participating countries. If virtuous cycles actually did emerge in the former cases, how did they do so and what factors energized and sustained them? Where that has not happened, why not, and what might have been done differently? Are there early signs of such developments in some OGP countries (here, IRM data will be useful in selecting a few test cases)? Alternatively, might virtuous cycles of different sorts be emerging? If not, could other scenarios for positive change be defined and pursued by OGP?

*The core idea of high-level political commitment could be specified in more detail* – again, adapting it as necessary for the realities of differing types of participating countries. What does that idea mean, in practical terms, in (for example) a reforming dictatorship or a post-conflict society, versus what it means in a country with strong political parties, interest groups, and administrative systems? What, specifically, must high-level political commitment provide, and can we accurately assess its depth and credibility? Are there tradeoffs, again in contrasting settings, between building such high-level support and pushing for participation and openness – and if so, what are the implications of such tradeoffs for sequencing OGP activities and goals?

That core idea can and should be complemented by a sustained and detailed approach to building capacity, sustainability, and effectiveness among CSO's in OGP participating countries, and to engaging with informal social networks. Of particular importance will be broadening the range of those CSOs beyond the best-known, often national-capital-based and donor-supported organizations to include those in more peripheral regions and with diverse bases and agendas. The common denominators among them should be genuine "rootedness" in various segments of societies, real independence from the regime and political parties (*i.e.,* they should not be GONGOs), and promising leadership. Even those with stated agendas that do not map exactly onto OGP's Theory of Change should be cultivated and supported, provided they meet those three criteria. They should be able to draw upon informal social ties such as kinship and ethnicity, traditions of socializing, and other informal varieties of social capital. Those networks, with their potential for building trust (or, on the other hand, for nurturing distrust) of officials, political leaders, and agencies, and their utility for mobilizing citizens around shared concerns, are often under-emphasized in civil society strategies, in favor of organized NGOs with "civic" agendas. But informal networks are often much older than the formal organizations in question, and if the latter do not draw upon the strengths of lasting social networks they are more vulnerable to collective-action problems, "reform fatigue", and official resistance.

   2) *New measures and assessments*

A more complete and nuanced ToC, in practice, means the design and deployment of a number of new-model measures and a more detailed level of thought and assessment about causal connections that are, at present, mostly desired scenarios. Many of them will of necessity be qualitative, based on interviews, focus groups, and the like. Others may be gathered via sample surveys; those, most likely, would be done as needed in individual countries, rather than across large numbers of societies at once.

First, it will be useful to address some general points: What will IRM data and selective case studies tell us about the ToC after a four-year trial run? How can evidence thus assembled best be systematized and diffused through the OGP community in order to share knowledge and experience effectively?

Second, more specific focus points can be measured and assessed:

- Participation in decision making by key sectors of civil society – farmers, women, small business operators, civil liberties groups, the press

- Credibility of openness efforts in various policy sectors – education, law enforcement, taxation – as judged by relevant segments of civil society, interest groups, and expert observers

- Satisfaction with policy, and access opportunities, in those policy sectors

- Data on openness initiatives themselves:

    *E.g.* presence or absence of FOI processes; the extent to which they are used, and (typically) by what segments of society; data on the flow of more informal public inquiries about government (letters and emails received), and on responses to them as judged by citizens, journalists, and interest groups; data on public-outreach efforts on the part of service and regulatory agencies; and ratings of transparency as provided, again, by citizens, journalists, and activists.

    In some instances, there may well be official resistance to gathering such evidence, and to that end creative incentives (OGP recognition for exemplary cooperation, for example) might be needed in order to obtain cooperation.

- Indicators and benchmarks of government performance:[16]

    How long does it take, and how many steps are involved, to get a license or register a business? Are invoices paid accurately and on time? Do tax assessments follow pre-set rules, or do they tend to be variable and negotiable? Benchmarking those sorts of performance data over time, and across comparable agencies and jurisdictions, can help establish workable standards – how fast is "fast", how many steps are too many or too few?

This last category of assessments can be low-cost, easily built into routine agency processes, and published in easily-understood form on a regular basis. Unlike perception-based governance indices, they are based on real data about actual performance, and can be interpreted in straightforward ways.[17] They can shed valuable light on the quality of services, the degree of openness, impartiality, and responsiveness shown (or being developed) by service agencies critical to the quality of life, and the performance of regulatory bodies that, on the one hand, might help ensure fair treatment of citizens or, on the other, abuse their power and discretion. Again, such proposals will likely encounter resistance; top-level support and a climate of material incentives[18] public recognition for performance will be of immense value.

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[16] This idea is discussed in somewhat more detail in Johnston, Michael. 2010. "Assessing Vulnerabilities to Corruption: Indicators and Benchmarks of Government Performance." *Public Integrity* 12:2 (Spring), pp. 125-142.

[17] For example, a government that reduces delays and errors in paying invoices, or that reduces the time needed to register a business, is improving its performance in ways that can be widely understood and that can send important signals to the private sector.

[18] A modest bump in budget allocations, or authorization for some additional personnel

Benchmarks should not be seen as targets, but as movable norms that can indicate improving performance (or the opposite) across a set of institutions.[19] Similarly, efficiency may be one of the goals of such benchmarking, but it cannot be the only goal: we can easily imagine an agency that implements biased or poorly-devised policies with consummate efficiency. Instead, it will be best to view benchmarking data in the context of a wide set of good-government criteria such as those discussed earlier in this section.

With respect to all of these priorities, assessing and enhancing the openness and strength of legislative and judicial institutions will be a high priority in terms of enlivening the key linkages of the Theory of Change. As emphasized in connection with Fukuyama's conceptualization of governance (one that involves not only the limits of power, but also the way it is used), openness and strength of those institutions are not contradictory considerations. Rather, legislatures must be open to the views of citizens and groups, and must respond to them in constructive ways. Judiciaries must be readily accessible and receptive to cases brought by all segments of society. At the same time, those institutions must be able to address those issues, expectations and grievances with a necessary degree of autonomy and professionalism. They must be able to assert and defend their legitimate actions in the face of objections from other parts of government, and from society as a whole. Aiding legislatures and parliaments in these ways is no quick or simple process, and it will take time for even clearly positive developments to become recognized in society and elsewhere in government. Without those open and strong legislative and judicial bodies, however, the civil society-government interactions envisioned in the Theory of Change may only be *pro forma* activities or futile, one-sided encounters between the weak and the powerful.

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[19] For example, we might calculate a benchmark out of the average difference between what a group of cities spend on fuel and an appropriate market price; as those local governments bring their prices paid more into line with that price, that average difference would fall, indicating better performance.

# III.    OGP's Chain of Interactions and Outcomes

The discussion of the Theory of Change in Chapter II suggests that the value of OGP is not, in fact, captured in the idea of a linear flow in which Inputs are fed in at the beginning and are processed into Reforms That Change People's Lives. At the same time, OGP is not simply a voice calling the world to Open Government and relying entirely on persuasive rhetoric and imagery. It aims both to change people's ideas and to influence reformers directly, in the interest of real institutional and policy improvements. In this perspective, while both conceptual and practical advances are important, the specific political gains and losses in a given country are less important overall than the desired normative shift in the culture of government. This is not to deny that normative change in part is driven (or constituted) by successes on the ground and in turn sets further reforms in train through its influence.

Thus, OGP should be looking for both near-term and longer-term outcomes as well as long-term impact. In the long run, OGP is about establishing openness as the default assumption across governments and countries. Understandably, OGP tends to emphasize near-term benefits such as adoption of reforms and improvements in functions and services. If these are not forthcoming, OGP might lose its support base for continued operation. It will be important for OGP to keep these two time-frames and the desired results within them in a kind of balance.

With this conceptual framework in mind, we address in this chapter the effectiveness of OGP in applying its techniques to targeted nodes of influence and accountability – primarily within OGP countries but also at the international level. OGP aims to exert influence through the actions of its partners among high- and mid-level government officials as well as civil society leaders. The Theory of Change holds that, *if these key actors are playing their roles effectively, this should improve dialogue and relationships among stakeholders*. This in turn creates *momentum for increasingly ambitious open government reforms, shifting institutional processes and norms toward openness*. The roles of these actors are described more fully below, but they mainly involve engaging in collaborative action planning, reform implementation, and advocacy. OGP exerts accountability chiefly by means of IRM assessments of the ambition and completion of NAP commitments. Accountability is also applied through the Rules of the Game, e.g. the OGP eligibility criteria, Response Policy, and related norms (see Chapter V). Impact measurement at the end of this cycle looks at patterns indicating changes that may have been influenced by OGP.

The OGP Articles of Governance provide a structure of rules and authorities to guide the overall process of joining OGP, making and completing commitments, and undergoing review and accountability. (The Rules of the Game are discussed more fully in Chapter IV.) OGP spurs, facilitates, guides, and assesses these processes by the use of its various tools. These include a range of events, trainings, publications, and guidelines. (These tools are described in **Box 6** below.)

**Box 6:** OGP's Activities and Products

**Civil society "listening post"** – The Civil Society Engagement (CSE) team of the OGP Support Unit serves as a "listening post" for civil society. The CSE team communicates to the rest of the OGP Support Unit and to the Steering Committee—specifically civil society members—the concerns and feedback they receive from civil society.

**Awards –** Each year OGP selects a theme around open government for its annual Open Government Awards. In 2015, this theme was on "how open government initiatives resulted in concrete improvements in the delivery of public services." In 2016, the theme is "Transparency." Initiatives that are submitted should stem from OGP membership, be implemented in partnership with government, and have an identifiable

beneficial impact on the citizenry. In 2015, Uruguay's "ATuServicio.uy" won for an initiative that provided citizens access to performance indicators of health care providers. The initiatives are judged by a panel of credible civil society leaders and government officials on five criteria on a five-point scale.

**Events –** OGP organizes and hosts regional workshops and annual global summits. Over 2,000 individuals participated in the 2015 Global Summit in Mexico. This year, the Global Summit will be hosted by France as it is currently serving as the lead chair on the OGP Steering Committee. The OGP Summit brings together 3000 representatives from the 70 member countries of OGP. OGP uses a "co-construction" process by soliciting proposals for workshops so that the summit reflects the needs of its participants. Many of the events and workshops are also streamed online for those who cannot attend the summit.

There are regular regional meetings. However, there is little inter-regional cross fertilization of knowledge. The regional meetings provide an occasion for peer learning.

**Open Government Guide –** The Open Government Guide (www.opengovguide.com) –published by the Transparency and Accountability Initiative (T/AI)—supports OGP's mission and serves as an online resource for civil servants, government officials, and civil society activists. The Guide is organized by cross-cutting topics with a range of focused topics. For each topic, there is background information, links to other resources, and suggested steps that stakeholders can take (see Figure X). The Open Government Guide is cited as one of the most useful tools for open government.
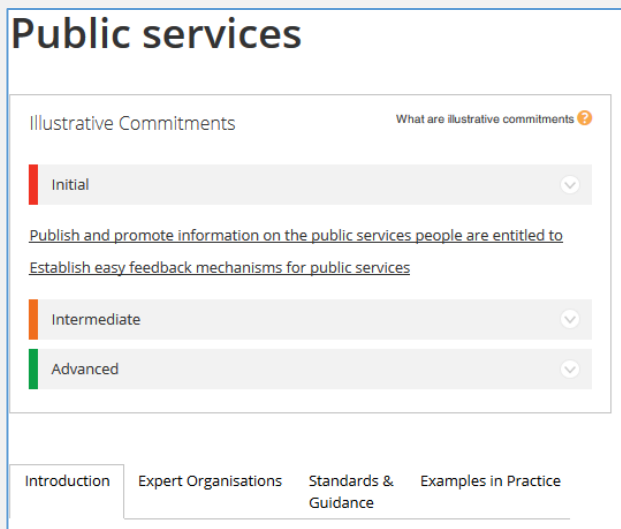


*Example of Topic from OpenGovGuide.com*

**OGP Communication (website, social media, newsletter) –** OGP practices what it preaches in terms of transparency and open data, by having a well-structured website that serves as a resource for governments and civil society organizations. The OGP Explorer makes available all IRM data and links to all the corresponding NAPs. OGP further enhances its online footprint through its blog and social media accounts. In 2015 alone, over 200 posts were published on the OGP blog and OGP hosted 23 webinars. In addition to its website, the OGP has a large online presence through social media including on Facebook, Twitter, Instagram, and YouTube. While all four are polished and kept updated, its Twitter account is the most active with several tweets every day. OGP also live tweets its events, such as the OGP High Level 5 Year Celebration.

OGP also publishes an online monthly newsletter to which individuals can subscribe. The newsletter includes videos, short profiles of members, and information on upcoming events. Beginning in 2016, OGP also publishes a monthly Gazette, which updates stakeholders on technical information and official decisions regarding the NAP and reporting.

In the MTR survey, respondents were asked whether certain categories of OGP processes and outputs were helpful in encouraging innovation in policymaking (there were 42 responses, with nearly equivalent numbers from government and CSOs). The percentage of respondents indicating in each case that the inputs were helpful are as follows:

| Input: activity or resource | Very helpful | Somewhat helpful |
|---|---|---|
| Peer Exchange (OGP Working Groups, PoC Camps, Webinars, Workshops) | 33% | 43% |
| Resources (OGP Guidance Notes, Case Studies, Open Gov Guide, OGP Explorer, IRM Reports) | 38% | 36% |
| Events (OGP Global Summit, Regional Meeting, Open Government Awards) | 40% | 36% |
| Communication (OGP Website, Newsletter, Blogs, Social Media | 24% | 60% |

### A. Securing high-level political commitment

Our questions here are these: Is OGP helping to secure high-level political commitment to open government reforms in OGP countries? What are the key factors that have encouraged leadership to push for ambitious reform commitments at the national level? Is OGP/open government understood as a means for improving government performance?

*Evidence of performance*

Purely in terms of attracting interest, support, and political commitments, OGP can claim success. A report by the Center for American Progress, notes that OGP:

> has the power to shape global norms. Begun at the highest political level with the involvement of heads of state, OGP has demonstrated its appeal by attracting a wide range of countries that represent a large share of the global population.[20]

The study goes on to say, however, that OGP will need to maintain high-level political attention in order to continue doing its work. And indeed, it does continue to attract such attention, as indicated as recently as the fifth anniversary gathering on the sidelines of UNGA in September 2016, as well as in surveys of statements by governments and heads of state in the international press (CAP 2016: 12-13). The OGP Progress Indicators, tracked by the Support Unit and IRM, provide data going back to 2013. Thus, top official participation in the Biannual Summits and UNGA is reported as follows:

- London 2013: 4 Heads of State, 31 OGP countries sent Ministers, Deputy Ministers, Under-Secretaries and Secretaries.

- UNGA 2014: 10 Heads of State + 30 Ministers.

- Mexico 2015: 3 Heads of State + Ministers from 41 countries.

Regional meetings from 2014 to 2016 are neither uniformly documented nor consistently successful by this measure – the outstanding one being Bali in 2014, which attracted one head of state and 11 ministers from 10 countries, followed by Ireland in 2014 and Uruguay in 2016 (6 and 7 ministers respectively). IRM also reports that officials at deputy minister or higher level have been present at national events, including IRM report launches, at an increasing rate between 2013 and 2016.

OGP has attracted many high-profile pledges at their international gatherings. OGP encourages member countries to commit to such steps by means of "action-forcing" events such as global summits and conferences. This is widely understood, by interviewees and in the OGP literature, as OGP's most powerful lever for eliciting high-level commitments to reform. Placing political leaders in the spotlight during major international gatherings has induced governments such as Brazil and the U.K. to deepen their commitment to OGP, even launching new open government reform efforts at their respective summits (Brockmyer et al. 2015: 53). This plays on national pride and competition with peer countries. Indeed, countries in many cases join OGP to begin with out of a perceived need to keep up with regional peers – as confirmed by our interviewees.

A high level of ambition at the public pledge stage, however, does not necessarily carry over into ambitious NAP reform commitments. IRM's ongoing analysis of data through 2014 shows modest ambition overall, with instances of backsliding. According to IRM (Draft IRM Technical Paper [TP]

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[20] Elgin-Cossart, Molly, Trevor Sutton, and Kathryn Sachs, "Let the Sunshine In: An Assessment of the Open Government Partnership," Center for American Progress, March 2016, p 12 (*hereafter* CAP 2016).

#2), less than 5% of all commitments in 2014 were **"starred."**[21] On the one hand, the average commitment (and action plan) improved in specificity, relevance, and completion over time (2012 to 2014).[22] (See **Box 7** below for more detail.) But some governments do appear to be scaling back their ambition in an attempt to complete commitments. IRM reports the overall distribution of stars for the 2012-14 period as fairly stable, but with a growing divergence between high performing OGP countries (a minority) and a larger population of more poorly performing OGP countries. OGP currently estimates overall that 17% of commitments are potentially transformative (Strategic Refresh memo, Oct. 2016) – not necessarily a poor result, but one that OGP wishes to improve.

**Box 7:** Positive Trends in Ambition and Completion

All four OGP country cohorts, from the original 2011 participating states through the 2014 group, have made significant commitments in their Action Plans. Overall, those commitments show modest ambition – and, importantly, a trend of increasing ambition. On OGP's zero-to-three scale for rating the impact of NAP commitments, the 2011 and 2013 cohorts both have a cumulative average of 1.49, but the 2012 group's average impact score is 1.74 and the 2014 cohort's mean is 1.85.

The commitments are to a large extent being carried out. OGP scores commitments in terms of completion on a one-to-five scale, with five representing completion – the 2011 cohort's overall mean completion score is 3.7. As we might expect, later cohorts, which have had less time to complete projects, score somewhat lower. The 2012 group's mean completion score is 3.39, 2013's is 3.47, and 2014's is 3.26. In the case of potentially "transformative" commitments (those scoring 3 on potential impact), of the 284 total commitments in that category, 57 (20.2%) have been completed and another 75 (26.5%) are rated as substantially complete.

Evidence from IRM suggests additional reasons why OGP participation often does not signify ambitious reform at the national level. In its first Technical Paper, IRM estimated the average proportion of new commitments in OGP action plans at 36%, with a significant number of countries below 30% and many ambitious action plans comprised mainly of pre-existing commitments. There were also problems of measurability, of attribution to OGP participation, and of relevance – this last evident, for example, in the conflation of open government with anti-corruption and especially e-government in the action plans (IRM Technical Paper [TP] #1:16-21).The second Technical Paper draft gives the average proportion of transparency commitments in OGP countries (2014) as 60%, as compared to 30% for public accountability.[23]

In short, by IRM's account, a combination of limited vision and political constraints tends to reduce the original ambitious reform vision. This leads to NAP commitments that are often weak, vague, recycled, or left unimplemented. The pattern suggests that some leaders have a stronger interest in gaining membership to OGP than in carrying out their commitments, while others may be confused by the rules (which have changed from time to time) or do not have the capacities at hand to carry out the commitments.[24] The same lack of follow-through shows in uneven performance on procedural rules such as setting timelines, providing advance notice, and raising

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[21] That is, these commitments were (1) specific and measurable, (2) clearly relevant to OGP, (3) marked as "transformative" and (4) saw "significant" or better progress toward completion.

[22] There was a drop in the overall average proportion of stars in this period. But this was wholly due to a change in the methodology for assessing the potential impact of a commitment – a component of the ambition metric became more stringent, requiring it to be "transformative."

[23] This includes a public-facing element and a clear trigger for review of government decisions (draft IRM Tech Report #2).

[24] OGP comments.

awareness within civil society. This suggests that engagement with OGP may at times be either a check-the-box exercise (CAP 2016: 22) or a chance to make attractive but unrealistic promises.

*Ambition or bluff*

Interviews confirm that early hopes of OGP prompting a "race to the top" are not being fulfilled. Many are concerned about the "open-washing" effect of joining OGP, which conveys some measure of legitimacy without any demonstrated commitment or any actual reform.

One tactic that is often criticized is for OGP countries to import into their NAPs *commitments already made for other purposes* – in effect, recycling old commitments or indeed selling the same good to two buyers. This could be regarded as a kind of cheating, but it is not necessarily so. OGP does not require all commitments to be new. Thus, it is not necessarily a sign of low ambition if an action pre-dated the action plan. For example, passing a draft law that has been considered by the legislature for several years would be "pre-existing," while carrying out a public consultation to amend an existing law could be considered "new" (IRM Procedures Manual).

A commitment under OGP is not a promise to an external funder or overseer, but a reform target placed on the domestic political agenda. As such, it may or may not have credibility. This could be a case where including it in the NAP creates a synergy – i.e. the pre-existing commitment could gain higher priority and support at the same time as it makes the NAP more likely to be fully implemented. Interviews and case studies (Global Integrity 2015) suggest that OGP has been more effective where there was already a reform movement. Adopting into the NAP a reform already targeted seems to provide leverage for the reform to succeed. Similarly, background conditions may call for a reform, but without supplying the momentum for it. Governments seeking to attract investment, gain access to bond markets, or join the EU or OECD appear more likely to make ambitious commitments and carry them out.[25]

A further dimension of ambition is *the substantive focus of the commitment*. There has been to date a heavy emphasis in OGP on Open Data and related transparency commitments that grab attention and lead to technological solutions without practical impact on accountability. Such commitments have often created positive impressions because of public fascination with information technology – and these commitments can be readily framed so as to dodge the real issues of open government. This tendency will need to be battled as OGP moves into a new phase with the Strategic Refresh – but see **Box 8** below.

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[25] *Id.* The Fiscal Openness Working Group reports that it has been able to engage emerging market investors, despite the general lack of interest by the private sector in OGP.

**Box 8:** Are Open Data Commitments Empty?

Despite Open Data being a breeding ground for empty commitments, IRM research indicates that Open Data reforms can have significant positive impact. This may be a result of very low baseline performance on open data for many OGP countries, or it may reflect the expectation that otherwise difficult reforms can sometimes be made easier if presented as technical fixes. Either way, OGP countries are making more open data commitments in their national action plans. For open data reforms to have positive governance impacts, reforms must do more than make data available. Open data systems need to be integrated more clearly into administrative domains, such as government expenditure tracking, that may lack data. IRM finds that many reforms run in parallel, and open data is often not used for public decision making or to hold officials to account. Commitments in a few countries aim to align supply and demand by reforming the regulatory framework and by setting up mechanisms to ensure greater demand – but this is a minority of cases. Fewer than a quarter of countries create public means to identify useful data (IRM, aligning supply and demand for better governance).

OGP, in the Strategic Refresh and other forums, is pressing for greater ambition, particularly in areas with high public impact. An aspect of this is linking OGP to real outcomes in priority areas such as basic services. But only a small proportion of commitments deal with service issues (e.g. 2.8% of commitments deal with health care). Anti-corruption commitments, an important but often painful area in which to make pledges, are also a relatively modest component of NAPs. According to 2015 OGP data, public integrity measures, as a proportion of total commitments, average approximately 12% across OGP countries (McDevitt and Marin, 2016). Access to Information (ATI) is another core area of open government – so important that minimum standards here form one of the four main sets of eligibility criteria for joining OGP. Commitments in this area, like several others, do not always mean precisely what they imply (see **Box 9** below).

**Box 9:** Access to Information (ATI) - The Face Value of Commitments

The majority of countries making ATI commitments in their action plans already have some kind of ATI regulation in place.[26] In the first round of NAPs, 54% of ATI commitments were improvements already identified by governments, whereas 46% of them were new. After 12 months, just over half of these commitments had been either implemented or were close to completion, and 28% had made limited progress. In some countries pursuing ATI reforms, funding for implementation posed an obstacle. This gap is sometimes filled by multilateral funding, but a more sustainable domestic solution would require improved coordination with the Finance Ministry, and a dedicated budget line (Herrero 2015: 4-14).

Further, the U.S. has made commitments in the ATI area in its 2013 and 2015 NAPs. However, the milestones for this area favor innovation and procedural reforms over changes to legal standards and substantive outcomes. The focus is on the user experience of FOIA portals and enhancing access to materials, rather than, for example, the legal standard of FOIA review, or the adequacy of current levels of disclosure under FOIA. One possible explanation is the structure of authority here. Responsibility for OGP within the U.S. government is divided between the State Department and the White House Office of Science and Technology Policy, neither of which has comprehensive expertise on the full range of issues in the action plan (CAP 2016: 35-6).

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[26] Since meeting OGP Eligibility Criteria in most cases means having in place ATI legislation.

An external study[27] finds that NAP commitments with greater potential impact are less likely to be completed – i.e., there is an "impact gap." Overall, countries are less likely to complete their more ambitious commitments, and more likely to complete their less ambitious ones. This runs counter to analysis by IRM in its first Technical Paper, but is based on more detailed, granular, data analysis. On a more hopeful note, factors such as the specificity of commitments, stable democratic institutions, relatively low corruption, and the involvement of a large civil society network have compensating positive effects.[28]

If completion of most commitments in depends on specificity and low ambition, then OGP is not working as expected. There may be too much focus on process, on meeting action plan targets, and not enough on meaningful reform. IRM reports emphasizing the completion of commitments may be acting as a disincentive for ambition. The short (2-year) timeframe of NAPs may be discouraging long-term reforms that are difficult and time-consuming to achieve (OGP Internal Synthesis Paper 2016). Given the difficulty of effecting change in many of the OGP countries, reform may require baby steps – or alternatively a longer timeframe.

*Motivations*

High-level political commitment cannot be created by a summit where it did not exist before. Reform commitments arise from a context, including pre-conditions such as political ferment or a strategic need such as foreign investment or accession to the EU or other international organization. Such a step as publicly designating a desired reform as an OGP commitment, according to several interviewees, raises the priority of a reform already on the political agenda. It also provides valuable "cover" for political leaders as well as administrators in pursuing a reform that may be unpopular or considered risky. On the other hand, politicians, parties, and governments sometimes find open government to be a painful topic, one with a preponderance of risks and disadvantages. This is especially true for governments on the defensive and struggling to regain credibility. One interviewee recounted an instance where it was suggested that the chief of state mention the government's OGP efforts in an annual address to the legislature. The suggestion was rejected – a decision understood as reflecting the government's aversion to creating more popular awareness and pressure on it to live up to its OGP commitments. (A related phenomenon is when the chief of state is so discredited that her/his leadership casts doubt on OGP and saps civic actors' motivation to participate. See section C below.)

The success of OGP across countries thus depends not only on the overall alignment of political forces but also on the interests and motivations of top leadership in joining OGP and making reform commitments. The literature proposes several possible motivations. Peer pressure seems to play an important role, encouraging leadership to join OGP in order not to be left behind or to be seen as underperforming. A compelling indicator of OGP's appeal lies in the reforms that governments have instituted merely to qualify. For example, Tunisia, Sierra Leone, and Malawi have all passed substantial legislation in an effort to meet the eligibility requirements. In addition, non-OGP countries have, at least in the past, emulated participating countries in seeking to join OGP – an indication that the norms supported within the partnership have some power outside it (CAP 2016: 12-26).

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[27] Berliner, Daniel, "Ambitions and Realities in OGP Commitments: Analysis of Commitment Completion Across Countries Using Hierarchical Models" in Advancing Open Government and Evaluating its Impact, Research papers by the winners of the OGP IDRC research grant (undated).

[28] But the level of consultation on the NAP and its implementation had no such impact.

The other main motivation for OGP membership and performance comes from the potential political gains, both internationally and domestically. Top leaders and governments are thought to earn a windfall of credibility from joining OGP. Internationally, the key policy objectives for which OGP membership can be leveraged include accession to international bodies (e.g. the EU or OECD) and access to capital markets and direct investment. Also, it is not uncommon for countries to revive their efforts to make and complete ambitious commitments in response to a negative IRM progress report – a political embarrassment domestically, and potentially a threat to international standing and prospective economic partnerships (e.g. Costa Rica, Tanzania). In addition, rising status in OGP can enhance a regime's domestic political capital, and ease reform – for example taking on a leadership role or hosting a summit (Mexico), or winning Open Gov Awards (the Philippines; Global Integrity [GI] 2016**:** 10-13, 32; Internal Synthesis Paper).

*Trade-offs*

OGP's investments in cultivating high-level political commitment can show a record of success. The list of commitments thus elicited is impressive, the results at the national level more modest but still promising. What have these investments cost? OGP's budget is comparatively small– the more significant costs are incurred elsewhere. These are in large part the opportunity costs imposed by the large expenditure of time, energy, and partner resources. One analysis of OGP suggests that it may have a crowding-out effect, displacing other potentially more valuable governance reform activities on which OGP country governments and CSOs might spend their time (GI 2016). This seems plausible in principle and gains some support from statements in the interviews and literature concerning the deployment and reprogramming of resources in favor of OGP activities. In this, OGP activities are like other policy choices: they have costs and trade-offs. Whether alternate uses of the cited resources would produce greater benefit is very difficult to say in the abstract.

A more concrete trade-off involves the uses of Support Unit personnel and other resources. The SU is under-staffed to carry out fully all of the functions assigned to it (see chapter V below). This leads to the question of whether the SU's intensive involvement in international summits and related events is cost-effective in light of alternatives. Interviewees, including SU staff, consistently say that the SU does not have the time to support regional- and country-level OGP activities optimally. Pending the decisions to be made about the Trust Fund, the hiring of additional staff, and related matters, the trade-offs here should perhaps be reconsidered. The time devoted to eliciting high-level commitment appears well spent, but needs to be matched by greater attention and support at the national level – as well as developing new methodologies to deliver such support at scale.

## B. Empowering mid-level government reformers

Our questions here are these: Are OGP inputs helping government reformers to develop and implement ambitious OGP commitments, and to support and learn from each other? Is OGP helping to institutionalize the open government agenda across different levels and branches of government?

As mentioned above, OGP has in the aggregate delivered modest outcomes in terms of ambition and completion (albeit with increases in ambition), and has determined that it needs to do better. Ambitious reform plans result when high-level commitment at the political level and genuine dialogue in the co-creation process are translated into transformative commitments. Those commitments must in turn be translated into detailed action plans. Success thus requires leadership and monitoring at the top, as well as follow-through at middle and lower ends of the administrative chain of command. Mid-level reformers in the state bureaucracy play a key role in

these processes. NAPs are approved by senior officials – in several countries by the cabinet. This may or may not filter down to the working level in the form of effective implementation. A number of factors influence the outcome, notably the breadth of ownership of the commitments at the national level, and the influence and organization of the implementers.

The link in the chain of OGP influence from high-level political commitment to effective action at the working level of government appears to be the most uncertain. On the one hand, the MTR survey found some support for the idea that this part of the OGP chain of influence was working.[29] A majority of respondents felt that reform-minded officials had become more influential as a result of OGP's presence in the country and the NAP process (62% said they were either somewhat or significantly more influential). Of these, significant numbers characterized senior national government officials (67%), mid-level national officials (77%), or subnational officials (49%) this way.

On the other hand, there are times when OGP risks becoming an empty exercise. For example, officials in more than one developing country government have reportedly sought to adopt a large number of commitments, believing they would automatically receive funding to implement them. The keenest interest here is in top-up allowances. Developed country officials interviewed stated that co-creation under OGP was time-consuming and unproductive, and prevented them from participating in peer learning events.

A recent review of case studies finds that the dynamic envisioned in OGP's design has not materialized, i.e. the ratcheting-up of reform expectations, the logic of a race to the top, and the translation of OGP experience to the rebalancing of power on a broader scale. Major investments of resources to secure commitments from chiefs of state and other top leadership have not significantly opened up space for mid-level reformers and civic partners to enact ambitious reforms. At most, there have been some "minor victories." Where there has been actual progress, this has been linked to an existing reform agenda or other prior conditions that favored dialogue and reform even in the absence of OGP. OGP initiatives tend to operate as parallel governance initiatives, providing benefits and opportunities to the actors directly involved, but having little connection to the actual domestic politics of reform. Learning to comply with the short-term NAP cycles may distract attention from long-term reforms by encouraging a focus on relatively minor commitments that can be met within two years (GI: 1-9, 26-27).

This critique is a serious one that has prompted reflection and discussion among key actors in OGP such as the SU and SC. It points to flaws in the current OGP Theory of Change, and appears to warrant some adjustment of expectations about the outcomes and benefit/cost of OGP processes. But it does not invalidate the OGP model – and indeed the criticism reflects the outsized expectations and the lack of clarity in the TOC (discussed in part II above) that OGP needs to address.

*OGP leadership in-country*

Successfully adopting and implementing a public sector reform requires, at a minimum, that it is treated as a high-priority responsibility by a government unit with the requisite authority, influence, and resources. The "right" ministry or agency needs to take charge. Or a cabinet-level group could be placed in charge – in Brazil, for example, a presidential decree established a ministerial-level committee charged with the design, implementation, and monitoring of the OGP national action

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[29] Note that the survey, as previously described, was conducted online and had a purposive sample of some 45 respondents across 15 countries. The results should be taken as indicative rather than definitive, and subject to the usual respondent biases of such a sample.

plan in consultation with CSOs (Brockmyer et al. 2015: 52). But, more often, OGP leadership in government is *ad hoc* or insufficiently senior (see **Box 10** below).

**Box 10:** Strong Leadership Not Wanted

In one case that appears fairly typical, OGP sought to have the NAP placed under the responsibility of a cabinet minister, since this was seen as the only realistic means of ensuring the plan's completion. In the event, the chief of state was reportedly ambivalent, and several ministries were "dead set" against having the commitments handled at cabinet level. As a result, the NAP agenda was handed over to a senior ministry official – not at cabinet level. That official's ministry had relevant subject matter authority but not the central positioning or political clout to carry the commitments through to completion. The Ministry of Finance, which would have been the "right" ministry to make things happen, especially with its call on resources and on global institutions such as the World Bank, was reportedly unaware of OGP for several years after the country became a participant.

According to IRM (IRM TP #1: 28), of the 35 countries then participating in OGP, eight did not have a clearly identified lead agency in charge of OGP, and four had assigned responsibility to the Ministry of Foreign Affairs (or its equivalent). Neither approach is likely to produce serious, effective implementation. From the perspective of civil society (as captured in OGP research), guidelines for consultations and for inter-ministerial coordination are not detailed enough – especially for countries new to OGP. Work under OGP is often "siloed" within one or two ministries, with Foreign Affairs playing a major role despite its limited domestic policy mandate (Capturing Civil Society Insights on OGP 2016). Another assessment suggests that the best OGP performers (in terms of ambition and completion of commitments) have clear lines of authority over OGP efforts as well as diverse arrangements involving multiple government units. The worst performers either lack these two features or house responsibility for OGP in the Foreign Affairs ministry – or both (CAP 2016: 7-8).

Even if the "right" agency is in charge, a formal directive or mandate is often required to ensure the requisite mobilization of effort and resources. Interviewees confirmed that reforms tended not to move forward unless the mid-level official spearheading the effort could point to a document or statement clearly defining a mandate. This is partly an inherent feature of the chain of command, and partly a matter of political "cover" – a formal directive not only enables senior officials to justify reforms to the public, but also allows bureaucrats to move open government reforms higher in the priority list within their ministries. IRM (IRM TP #1: 28) investigated whether OGP countries had issued an administrative order for implementation of NAP commitments. It found that 30 of 35 countries had defined a mandate in the NAP or related documents, including six countries that issued directives having the force of law. In the five countries where there was no mandate, this reportedly proved "crippling."

OGP internal documents also point out that, in a number of countries, OGP activities including travel to high-level events have not been supported by the state budget. This too reflects a weakness in the commitment to reform by top leadership, hence an increased likelihood that the adopted reform agenda will not effectively filter down into action at the working level. It does not help that action plans are not usually incorporated in national development plans, nor are in sync with government budget cycles. These are issues that OGP will need to address more clearly through the SU and its in-country contacts.[30]

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[30] "Feedback and Recommendations of OGP Support Unit and Independent Reporting Mechanism," OGP memo, June 2016 (Feedback Report).

*Broadening the base*

It is increasingly understood by OGP leaders and staff that there should be broad "ownership" of OGP across the executive, as well as in other branches of government. A wide civil society coalition is also seen as potentially an important contributor to success. On the one hand, having responsibility for OGP sit at the ministerial or cabinet level itself broadens the footprint of OGP in the government. On the other hand, embedding or "mainstreaming" working-level responsibility in the civil service at relevant points in national and regional/local government should encourage official cooperation across a broad front, as well as continuity through political changes. Better still, involving other branches of government, especially the legislature, is important for gaining support in the political articulation and enactment of reforms. OGP has identified these issues but not yet focused sustained effort here, due in part to resource constraints.[31] The first IRM Technical Papers showed that OGP was largely an executive branch initiative – in only two of the 35 countries, there was direct involvement in OGP by parliamentarians or legislative offices[32] (IRM TP #1: 28).

Ideally, OGP should have a presence in a few key public institutions such as an independent agency, the legislature, and relevant coordinating or line ministries. This arrangement helps bring the OGP process into closer alignment with the domestic political and policymaking cycles, while providing it greater resilience in the case of a change in government or other challenge. The handling of a political transition in Croatia is cited as an instance of this. It is also important in most cases to include in the OGP leadership representatives of public bodies whose structures and processes are the object of the proposed reforms – although this approach has not always been followed in OGP countries (Internal Synthesis Paper). In addition, having OGP rely too heavily on a single individual or institution poses risks to OGP's credibility and reputation if a change in power brings the program to a halt (GI 2016: 9). The opposite problem, of soliciting a proliferation of commitments from a host of government units (over-broadening), calls for a process of filtering, priority-setting, and coordination to give the NAP coherence.[33] In many societies, multiple policy initiatives relevant to OGP themes will be ongoing. The question then is which cluster of activity should be chosen for strategic focus and strengthening under the OGP banner.

Success in OGP, as in other MSIs, will depend on reform advocates incorporating plans and activities in the agenda of broader national accountability coalitions. This means expanding processes for civil society consultation and participation beyond political and economic centers, customizing NAPs so that they resonate with broad civic and social constituencies (e.g. focusing on basic services), and petitioning formal domestic accountability institutions to enforce relevant standards. This would bring a wider array of government reformers together in order to oversee the implementation of NAP commitments. To this end, OGP should work to generate interest and secure commitments from parliaments, supreme audit institutions, and a broad base of ministries (Brockmyer et al. 2015: 8, 62). This approach is already used by other MSIs such as the Extractive Industries Transparency Initiative (EITI). OGP is moving in this direction in its deliberations on how to approach legislatures in OGP countries (Improving the OGP Experience).

An interesting kind of broadening is reported to be taking place in South Africa. Apparently inspired at least in part by OGP, but working outside the OGP structure, cities are experimenting with approaches to open government in such areas as open contracting. These new initiatives

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[31] OGP comments.

[32] Five countries included commitments on the judicial branch, but it is unclear if the judiciary participated in the planning.

[33] OGP comments.

are informal and do not require specified processes. This kind of activity has the potential to be a new kind of spinoff of OGP, but the experience and learning are apparently not being followed or documented in such a way as to enrich OGP's overall knowledge base. Neither OGP in South Africa nor OGP globally has had the information or resources to monitor and follow up.

OGP is trying to increase its depth of outreach by means of its Subnational Pilot. This arose out of discussions about how OGP could have a more direct impact on the people at all levels, along with cumulative demands from subnational governments.[34] OGP wants to see if it can develop a space for reformers in subnational government and translate its platform to that level. The pilot, which runs until 2017, poses the challenge of scale – i.e. how to reach thousands of reformers down to the local level across the OGP countries.

### C. Engaging civil society actors to advocate for greater openness

Our questions here are as follows: Is OGP support equipping civil society actors to make their demands through the OGP platform? Is OGP's domestic policy mechanism adding value to government-civil society engagement processes in the country?

*Co-creation performance:*

We should first review the findings on the extent to which OGP countries are carrying out the co-creation process consistent with OGP standards. IRM's most recent review shows that 53% of NAP processes sought public input at the plan development stage and 39% at the implementation stage. [35] The MTR survey results are a bit more positive. NAP processes, as judged by 94% of respondents, have been at least somewhat open and inclusive—indeed, over forty per cent said such processes had been very open and inclusive—and the NAPs themselves were regarded as well-known and understood within both government (66%) and civil society (57%).

IRM also reviewed the nature of such public participation processes as did occur, analyzing countries' processes against the differing levels of public participation identified by the International Association for Public Participation's Spectrum of Public Influence.[36] IRM found that there was good news but also room for improvement. The majority of action planning processes (53%) asked for public input ("consult"), but there was not necessarily any sort of iterative dialogue or discussion ("involve or collaborate"). Another 12% did not ask for any input at all ("no consultation" and "inform"). At the plan implementation stage, the public participation that occurred was largely consultation.[37] Overall, a majority (not quite two-thirds) of OGP countries had open participation where any interested

> *"Partisan considerations were not taken into account when the Action Plan was being developed. National interest was considered as paramount."*
>
> - A MTR Survey Respondent's View on Stakeholder Input to the NAP

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[34] SC member comments.

[35] IRM's Second Open Government Partnership Technical Paper: 2012-2014, dated September _, 2016 (hereinafter "TP2") at 10.

[36] The IAP2 Spectrum defines five levels of public participation; inform, consult, involve, collaborate and empower. For a similar approach to analyzing the quality of public participation, see Monica Hlavac, *A Developmental Approach to the Legitimacy of Global Governance* (noting that participation connotes a continuum of ways in which those affected by an institution can participate).

[37] Id.

party could participate.[38] Also on the IAP2 Spectrum, MTR survey respondents felt that the NAP process enhanced civic-government partnership as compared to normal government processes (27% chose "involve" and 21% "collaborate" for the NAP, against 17% and 10% respectively for government generally).

Have co-creation processes prompted learning and improvement? Most countries have improved in completing the co-creation process from one action plan to the next, according to IRM (Draft IRM Tech Paper #2, data for 2012-14). IRM found that 26 of 30 countries that had been evaluated twice did the same or better in the second action plan than the first.[39] Nearly all evaluated countries had in-person consultations, but otherwise performed worse in the second action plan. All but one of the co-creation steps saw improvements, with "in-person dialogue" having the highest showing overall. The exception was the declining number of countries with "ongoing forums" or Permanent Dialogue Mechanisms (PDMs). Consultation during NAP implementation also dropped significantly during the period, and the use of online consultations declined. Again MTR survey respondents were more positive. Nearly half (48%) said that consultations between government and civil society on the quality and openness of government had become both more frequent and more productive as a result of OGP, and 95% felt that prior NAPs and reviews helped make the current NAP in some degree better.

OGP's Civil Society Engagement (CSE) Team reports (based on their surveys) that in some countries, civil society is seeing some of its recommendations appearing in the NAPs. Over 60% of respondents said (2015) that the current NAP addressed their priorities to a large (13%) or moderate (50%) extent.[40] At the same time, progress made in this area is hard-won and fragile. Co-creation takes a lot of time for both sides; civil society and government, to get used to and the process can fall apart at any time. Champions disappear (as happened in Croatia, among other countries) for various reasons. Elections may make it necessary to start all over again in those countries where there is no well-established cadre of civil servants that continues through changes in government. Even when co-creation occurs, the government may ignore what the co-creation process produced. In several such cases, civil society participants walked away. [41]

The OGP Progress Indicators (Strategic Q 3) confirm that the co-creation process, and the OGP support to that process, has a positive value that tends to increase over time. Thus, 29 of 33 countries tracked had improved on their compliance with the OGP process requirements for consultation during NAP development, as of 2016. The number of OGP countries having a forum for regular multi-stakeholder consultation on OGP implementation ranged between 44% and 67% of those tracked between 2014 and 2016. In 2015, 75% of respondents said that they had become more positive over the past year about the potential of OGP to deliver change. A range of OGP communication channels and products were actively used at substantial rates (24-69% of respondents) by CSOs. External third-party studies have generally agreed with these findings (Berliner, IDRC: 2).[42] (For examples of improvement, see **Box 11** below).

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[38] TP2 at 10-11.

[39] In its first Technical Paper, IRM reported that just under 75% of governments had face-to-face meetings with any stakeholders, and at least five governments had no consultation of any form (IRM Tech Report #1: 26) .

[40] OGP Progress Indicators (Strategic Q 3).

[41] OGP Rules of the Game Draft Review (September 2016).

[42] Another study cautioned that OGP countries often "struggle" to ensure that their NAP processes are sufficiently consultative (CAP – OGP Assmt: 7).

Interviews and studies report cases where there have been incremental improvements in co-creation (even if temporary) over successive cycles. For example, government in South Africa reportedly made no serious effort to make its action plan process consultative for the first NAP, but then took the process seriously and improved in the second and third rounds. (But it has since lapsed into "negative compliance," failing to provide adequate notice to CSOs, and holding consultation meetings with essentially all-government audiences.) Honduras also started with limited engagement of civil society in the first NAP. But by the second round, a national Steering Committee had been established, providing a permanent forum and linking government, civil society, and private sector actors (Internal Synthesis Paper). A similar trend appears in Brazil, so that by the third round, CSOs were seeking to institutionalize their *ad hoc* working group on an ongoing basis and to include representatives from the private sector and academia (MSIs: 39). In addition, several countries have held subnational events as part of co-creation, going out to towns and rural areas for consultation.

IRM concludes its most recent review by expressing the hope that there will be a shift towards greater government/civil society collaboration in the OGP process.[43] IRM suggests that in order to achieve this shift, OGP may need to make the civic engagement criterion a more stringent requirement for participation in OGP. IRM also calls for OGP to continue educating government and civil society on what meaningful participation entails.[44]

The Francoli report focused on how governments interact with civil society about OGP and sought to identity what factors are critical to the success or failure of such interaction.[45] It identifies three mechanisms as crucial for civil society engagement in OGP; the existence of a permanent civil society/government dialogue mechanism in the participant country to oversee the development and implementation of the NAP; the presence of united, coordinated civil society actors in the country to pursue OGP-related issues; and the availability of OGP guidelines to provide a solid framework for government/civil society discussion. The Report recommends that OGP require all participating countries to establish "regular and institutionalized structures for civic engagement and dialogue. It also recommended that OGP strengthen and expand its guidance, monitoring and awareness-raising activities in support of civil society engagement.

*The meaning of consultation:*

OGP and external observers mostly agree that creating a space for dialogue and bringing government and civil society to sit at the same table to discuss policy issues is new and important, even "revolutionary" according to one interviewee. In the MTR survey, 77% of respondents said that reform-minded groups in civil society had become somewhat or significantly more influential as a result of OGP's presence and the NAP process. But observers and stakeholders also wonder if the quality of consultation has improved. At a minimum, say critics within and outside OGP, the establishment of a PDM in each member country is crucial. The fact that this is not a requirement for countries to be part of OGP is a design flaw that needs to be addressed.

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[43] TP2 at 11.

[44] Id.

[45] See Francoli et al Policy Brief and Full Report [OGP website]

*"I have trouble with these questions. Some of the dynamics you ask about have happened in my country, but I don't think they were as a result of OGP membership. At most, joining the OGP was indicative of a willingness to involve citizens more, which also led to the behaviors you asked about. We also had a change in government."*

– A MTR Survey Respondent's View on Whether OGP Encouraged Reform

Beyond this, the research cautions that structured dialogue should not be confused with actual influence or results, much less with greater accountability. OGP can claim to have contributed to a number of tangible outputs, some of which have advanced open governance. But it is less clear whether OGP is contributing to the longer-term establishment of open government norms, dynamics, and capacities. Further, CSOs increasingly voice a concern that "a seat at the table is not enough." Indeed, sitting at the table loses meaning to the extent that elements in government seek to manage or domesticate CSO engagement, control the open government agenda, and divert attention from problems elsewhere (Halloran 2015). This approach also poses the risk of activities devolving into parallel processes with little actual leverage on reform – or of being seen as such. The tendency toward parallelism, characteristic of many international donor and NGO programs (at least until recently), is one of the dysfunctions that OGP was designed to avoid.

Although the NAP model is flexible in its overall orientation, getting it right requires a fair amount of knowledge, training, and practice. The demands of process may crowd out potentially more productive efforts to develop and test politically informed approaches to reform. As a result, the Global Integrity study warns, NAP processes might actually reduce the ability of pro-reform actors to navigate political challenges. The example of Costa Rica is cited, where civil society advocates focused heavily on the formalities of the OGP process and on competing for OGP-related resources, in the process apparently becoming less willing to coordinate their advocacy efforts. Further, the resources made available to pro-reform actors, including peer learning exchanges and country support, tend to focus on building narrow technical capacities instead of political approaches to securing reforms (GI 2016: 22-25, 28-32).

Some civic actors interviewed for the MTR are concerned that OGP is essentially government-driven, even though it is supposed to be about partnership. They would like the CSOs to have more opportunities to initiate commitments in OGP action plans, rather than leave it solely to government to adopt the NAP. CSOs on many occasions have prepared their own draft NAPs. These are sometimes taken seriously, sometimes ignored. Critics in civil society hold that there is as yet no effective way for CSOs to initiate activities or commitments in OGP, and that governments in general do not take seriously the idea of drafting their countries' NAPs in full partnership with CSOs. Some also view OGP as focusing its attention and resources more heavily on government than civil society, thus compounding the overall emphasis on the state.

*Who sits at the table*

OGP and external analysts share another major concern: whether the CSOs representing the citizenry in OGP processes are sufficiently broad-based, legitimate, and capable. OGP's Strategic Refresh discusses the need to broaden ownership in government and civil society, bringing in new actors, and helping build wider coalitions. Such coalitions might include unions, cooperatives, faith-based groups, and CSOs of different sizes and from both urban and rural areas.

What kinds of groups represent citizens for the purposes of co-creation? This is one of the most hotly debated topics in OGP. Although the Declaration refers to the inclusion and protection of

CSOs, the overarching objective of citizen engagement extends to a vast range of citizen collectives and groups. Interpreting this criterion as referring only to international and local CSOs and public goods groups seems likely to exclude other important citizens' collectives such as farmers' cooperatives, various civic associations of teachers, police, youth and others; and trade unions. OGP's Handbook on Designing and Managing an OGP Multi-Stakeholder Forum allows for a diverse range of stakeholders to be part of co-creation.

Many CSOs (as well as the MSIs in which they are involved, such as OGP) were created by traditionally powerful actors, and may end up perpetuating problems of social hierarchy and political privilege (Brockmyer et al. 2015: 11). Further, the CSOs engaged in OGP are drawn from a fairly narrow sub-set of professional NGOs interested in governance, access to information, open data, and related topics. Thus, there is a risk of OGP limiting its "civil society" platform to a few well-financed, established aid recipient organizations in national capitals. This issue becomes weightier where it is clearest that only those "sitting at the table" have their priorities taken into account, and smaller, newer organizations have trouble being heard – and competing for funds.

Not every OGP country is transparent about how the CSOs involved in the process are selected. IRM's research uncovered a tendency on the part of some governments to allow only NGOs known to be favorable to the government to participate, thereby severely limiting, as IRM notes, the diversity of inputs in a NAP and, in the worst case scenario, providing a thinly veiled means for governmental manipulation of civic space.[46] IRM's report on civic engagement commitments in Latin America reached similar conclusions. IRM found that several of the commitments that were supposed to fulfil and exhibit governments' commitment to civic participation were either inadequate or over-managed by government.[47] In 2015, in response to these findings, IRM introduced two new indicators, *Degree of Potential Public Influence* and *Open or Invitation-Only* for country researchers to examine when assessing compliance with the citizen engagement criterion in NAP development and implementation.

Some inherent constraints need to be overcome in many countries, in order to make meaningful consultation and co-creation a reality. The most straightforward of these concerns is the capacity gap in many civic sectors. Often, CSOs do not have the experience or capacity to engage in sustained dialogue on open government. The technical complexity of many open government issues, such as fiscal or procurement transparency, means that only a narrow circle of CSOs have the capacity to engage in an informed way. Citizens and smaller NGOs far from the national capitals often lack the capacity to engage in consultations or may simply remain excluded.[48] Added to this is the capacity constraint on the part of civil servants and higher officials who have neither the training, experience, nor habit of conducting consultations on reform issues in any meaningful way. Weaknesses in record-keeping and institutional memory in general may make continuity in case of change in government difficult (Francoli et al paper: 71, Francoli et al Blog).

The demands of OGP have clearly generated a financing gap for CSOs. Civil society interviewees repeatedly stated that OGP involvement is very demanding on their human and financial resources and indicated that they need financial support from OGP to continue to have a meaningful level of involvement. They noted that peer exchange is very resource intensive. WRI, for example, reported that it has devoted the equivalent of one and a half full-time staff to co-chair

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[46] TP2 at 10-11. IRM data shows that at the plan development stage, 31% of countries' participation processes were invitation-only (while 6% had no consultation at all) and at the implementation stage, 29% were invitation-only (while 37% had no consultation at all). Id. at 11.

[47] IRM *Civic Participation in Latin America OGP Commitments*.

[48] On top of this, most of OGP's materials are in English and have not been translated into a wide range of other languages.

functions with no money from OGP to support it. The Open Letter from Sixty-Six CSOs echoes this problem. Even if OGP makes funding available to CSOs, some CSOs will face constraints in some countries because some many governments (e.g. the Philippine Government) prevent external funding of CSOs. Civil society also needs funding to monitor the implementation of commitments. And, CSOs compete against each other for resources that might be used for OGP or for other programs.

Then, there is diversity, and at times tension, within civil society. Some civic sectors are especially polarized, with CSOs joining the OGP process being denounced as sellouts. In other cases, critics (including governments) question the credibility of foreign-funded CSOs as representatives of the national civic sector and population. This kind of criticism may arise in in the context of infighting in the sector or governments' attempts to deflect criticism, but it is widely voiced (Halloran 2015). These different groups can have very different, and conflicting, agendas but their engagement in government clearly constitutes "citizen engagement" as that term is broadly understood from an openness perspective. Ideally, co-creation would involve some bridging between these groups and their agendas. The CSE team at OGP are alive to these issues and working to come up with adequate responses. But fundamentally, civic sector size and diversity are strengths in the co-creation context (see **Box 12** below).

**Box 12:** Broadening the Civic Side of OGP

OGP acknowledges the value of including a diverse group of CSOs, but does not require it. Where co-creation is happening, there will, typically, be 3-10 (CSOs) engaged in the NAP process. In countries like the U.K. and Estonia, where there is a layered outreach to civil society, there could be as many as 20 CSOs involved. Even within the distinctive world of reform-minded CSOs, however, interviewees caution that OGP should reach beyond the professional CSOs in the capital city. Interviewees praised the efforts of the CSE Team to listen to small and diverse groups of CSOs and cited an IRM event in Tunisia as evidence of a similar commitment on the part of IRM.

OGP has found that these efforts take an enormous amount of organization and resources. Should everyone be free to join, or should there be standards? To address concerns about verifying the credentials of less well-known CSOs, one interviewee suggested that OGP require them to make commitments to publish regular reports, present a budget, and account for their spending, that the government can support and enable. Some NAPs already include civil society commitments.

Countries differ in how they gather a multi-stakeholder group. In Indonesia and Ghana, for example, the group included CSOs, academics and World Bank representatives. In Ireland, retired teachers and young people were included along with CSOs. A model approach was followed by in Indonesia. There, CSOs organized themselves thematically outside Jakarta and Java to get bottom-up inputs, and then appointed NGOs to sit with the government on certain issues. Similarly, in the U.K., civil society made a specific outreach effort to include civil society from different regions, including Wales and Northern Ireland.

*Politics*

There is increasing sentiment in and around OGP that the "broadening" strategy must have a significant political dimension. It must not only reach across government ministries and CSOs but also reach out to the private sector, the media, the professions, the religious leaders, the legislature, the civil service commissions, and perhaps the courts as well. Specific issues in OGP could be addressed by specific (micro) coalitions. There is certainly an argument that embedding OGP activities in the political process should be an overt goal and metric of OGP. But there is an implicit assumption here: that governments and especially CSOs will get involved, but the reasons for them to do so, and to stay involved, need to be better understood.

Other parts of this report have discussed the benefits that active OGP country governments hope to reap. Yet many are not active. Governments in OGP countries have often not proven effective, and have invested relatively little, in raising awareness about OGP (IRM TP #1**:** 26). Reluctance is likely to reflect a concern by governments and politicians to avoid handing the public and political rivals a pressure point or a stick to beat them with. In some cases, it seems that OGP is a hard sell to the government as well as an uncomfortable fit for much of the population. This is thought to be the case, for example, in some East Asian countries. Interviewees have suggested that resistance might be reduced if OGP were more consistent in using local concepts and terminology to convey OGP principles and standards (e.g. "bureaucratic reform" rather than "open government" in Indonesia). This also suggests the wisdom of testing and using approaches adapted to the local context (for example, relying more on face-to-face than online consultation in some Latin American countries).

For CSOs, the reasons for enthusiasm are usually more obvious than for governments. Some CSOs say that OGP is a "great opportunity" to be seized, and represents a completely new approach in their countries. Students and youth are a natural constituency for openness, especially when it involves new technologies for access to information and civic voice. In one case, probably not unusual, the students lost their enthusiasm when they found out that the chief of state – an increasingly discredited figure – was involved. OGP recognizes that interest has declined in some countries, and continually seeks to galvanize new energy and commitment. OGP, like other MSIs, is likely to win more converts when it is successful in improving the relationship between government and civil society in ways that encourage real change (Brockmyer et al. 2015: 56).

A lack of clarity on how participatory mechanisms lead to changes in policy or practice can cause even the most motivated CSOs to lose interest. Governments historically adopt a default posture of secrecy as well as tension with civil society – factors that hem in the power of the OGP platform. Also, civil society needs to be able to see whether and how its proposals affect policies. Government can accommodate this in the near term by keeping a public online registry of comments, a summary of the comments, and government responses to the comments – as in advanced formal rulemaking procedures globally. Last, the OGP platform, as discussed above, tends to operate in a parallel "silo" to the policy track, in part because reformers in some countries do not regard it as the right venue for political battles over major structural reforms. This may in part be due to the two-year cycle, but likely also sometimes bespeaks OGP's local reputation as more of a demonstration project than a real policymaking forum (Internal Synthesis Paper).

The five-country study by GI notes that few civil society groups and national accountability institutions are typically part of the ongoing OGP platform. The authors detect little sign of multi-stakeholder empowerment and collective action in OGP initiatives to date. What has emerged more clearly, in their view, is a pattern of OGP processes catalyzing the formation of small, OGP-focused coalitions of elite, centralized CSOs. These formations do not affect the civic-state balance of power, nor challenge the perceived centralization of initiative in government and the international community. In the absence of favorable conditions and strategies, the imperatives of co-creation in OGP may end up making coordination more difficult and costly (GI 2016: 12-19).

OGP has taken an important step towards broadening its multi-stakeholder processes to include legislative bodies. In processes of civic-state dialogue, standard-setting, social accountability, and the like, having a reform adopted and pursued as an objective by legislators is key to impact. This reduces dependency on any unit in the executive, and injects the proposal into the formal policy process. Legislatures also have an established role as monitors of executive-led programs. OGP found that several NAPs expressly included commitments from the legislative branch, and four national parliaments (Chile, France, Georgia, Ukraine) had developed independent parliamentary

openness plans. Further, most opposition engagement in the OGP process has been channeled through civil society, as opposition parties are typically not included in government led efforts to develop the NAP. Thus, OGP proposed a policy on legislative engagement, suggesting means and frameworks for formalizing parliamentary participation in NAP processes, while avoiding inroads and conflicts arising from the separation of powers (OGP Policy on Legislative Engagement).

### D. Holding participating countries accountable for meeting commitments

We now take up the following questions: Are countries using Independent Reporting Mechanism reports to learn and improve on OGP processes and the content of NAPs? To what extent is the IRM working as an accountability mechanism and affecting policy change at the country level? The basics of the IRM process are depicted in **Box 13** below.

**Box 13:** The IRM Process

The IRM issues annual reports that assess each OGP participating government's progress in developing and implementing its NAP. This is complemented by the participating government's self-assessment report. The IRM assesses each OGP government on development and implementation of action plans and progress in fulfilling open government principles, and develops technical recommendations. The reports assess each commitment separately. In each country, the IRM national researchers evaluate these areas using a methodology, including a common questionnaire, set down in the IRM Procedures Manual. The independent review process conducted by IRM is recognized as unique among multilateral organizations, which generally rely only upon self-reporting or peer review (CAP 2016: 10).

The draft IRM report prompts a conversation about the government's performance under the NAP, civil society's views of the process and results, and the fairness of the IRM report. Governments will often say that the report has failed to capture some activity, or that an action has had more impact than indicated, or that a meeting was more representative than indicated. IRM asks the government to produce evidence. After receiving comments on the draft report, the national researcher and the Independent Experts Panel (IEP) finalize the report for publication on the OGP portal. OGP participating governments may also issue a formal public response to the report on the OGP portal once it is published. Civil society participants also sometimes publish commentaries on the IRM reports.

The IRM works under fairly rigorous standards and supervision. It is overseen by the IEP, a group of technical experts who design the IRM method, guide the IRM process and provide quality control throughout. The OGP Criteria and Standards Subcommittee provides guidance on OGP standards and on IRM governance. The IRM coordinates closely with the Support Unit to promote the findings of individual IRM reports and crosscutting research. IRM is not to engage in ranking countries or in determining aid eligibility. Research ethics, conflicts of interest, recruitment, and quality control are all spelled out in the Procedures Manual. Governments have the opportunity to vet shortlisted IRM consultant candidates. National researchers are required to participate in training before the research process begins. Each local researcher will carry out at least one stakeholder meeting at the national level, and it is recommended that these include both CSOs involved in OGP and those that are not (IRM Procedures Manual).

In principle, IRM reports hold OGP member countries to account by reviewing their performance, publishing the reports, and eliciting explanation and rebuttal by governments – and commentary by CSOs. There is general consensus, in our interviews and the literature, that IRM competently performs a critically needed function. There is less consensus on the quality and timeliness of specific reports. Political differences partly explain the divergent views here, with many of the criticisms coming either from governments whose performance has been questioned, or from CSOs that view the IRM reports as not sufficiently strict or not fully representing civil society views. One type of criticism holds that the national researchers do not have the seniority or expertise to carry out the reviews properly, and that their findings need to be more specific and more deeply researched. Another critique calls for IRM to use more formal criteria, definitions (e.g. a clear

standard for completion of a commitment), and processes such as peer review. Further, some have called for IRM to provide more guidance on how governments should address IRM's recommendations.

IRM reports are probably the most important of OGP's products. How are IRM's findings communicated and received? **Box 14** below provides some insights here.

**Box 14:** How IRM Reaches its Audience

An important factor in the effectiveness of IRM is how its findings are communicated and disseminated. Variables here could include the format of the reports, the quality of any report launch events, and associated communications strategies. The MTR team's interviewees expressed a mixture of opinion on the IRM reports and processes. But they appear to have had no difficulty in obtaining, understanding, or making use of the reports. The OGP Progress Indicators (Strategic Q 3) list IRM reports as among those most often cited as extremely useful (46% of respondents).

Other researchers have found IRM reports (and other OGP products) to be of high quality but also lengthy and research-oriented. Civil society actors voice a similar criticism, stating that OGP-IRM processes and documents are overly technocratic and do not consider the needs of parliamentarians, local leaders, and others not at the table. They also suggest IRM does not meet the needs of active, real-time monitoring and political advocacy (CAP 2016: 38; Capturing Civil Society Insights).

IEP has done some market research on consumers of the IRM reports, and generated some recommendations for improvement. IEP's interviewees suggested that the reports should be made more concise, and include pithy summaries, to encourage government officials to read them – whether reports on their own countries or others. It was also suggested that implementing agencies, supporting institutions, and politicians need clearer, more actionable recommendations to chart a course for how to improve commitment implementation or adopt new commitments that match OGP values (IEP, How Are OGP's Independent Reports Used?).

IRM as a rule holds a launch event, whether a discussion led by the researcher or some larger forum in which stakeholders participate. The OGP Progress Indicators (Strategic Q 4) found that half (4 of 8) IRM reports had a launch event involving government and civil society in 2013, rising to two-thirds (23 of 35) in 2014, and over 90% (15 of 16) in 2015. This trend, and discussions in OGP, suggest that concerns about the communication of findings are being heard and to some extent addressed.

*IRM as a mechanism of accountability*

On the issue of accountability and IRM's role in it, we noted one relevant outcome previously. There seems to be a much stronger incentive for countries to get into OGP than to perform their obligations after having joined. This results in part from conscious choices in OGP's design. There are no formal sanctions to be imposed on OGP countries that fall short in performing their commitments (barring total inactivity or contravening OGP's Principles), nor does OGP itself engage in explicit rating or comparison. But there are other sources of pressure for accountability.

IRM reports are published, and in final form represent the culmination of efforts by the Support Unit, IRM, and the Independent Expert Panel to complete a rigorous review – and the review has been made available for comment by the relevant government and civic representatives. It is unlikely that successes, or even good faith efforts, would have been overlooked entirely in this multi-layered process. Tolerance for significant underperformance, at least by the measures used by OGP and IRM, appears unlikely as well. Thus, it is not surprising that the IRM reports are widely considered to be credible, and that IRM's criticisms are not made lightly.

Are the reports, and the processes and messages around them, calibrated to produce impact? In the MTR survey, 70% respondents felt that IRM reviews helped make the current NAP better. In the IEP research, most of the Points of Contact (PoCs) interviewed felt that the IRM report influenced the next action plan directly. IEP's analysis of IRM's overall influence found, however, that it was diffuse. While some commitments in new action plans clearly reflect the prior IRM recommendations, in the majority of cases the IRM seems not to have influenced specific commitments as much as the general process, form, and scope of national action plans. Importantly, both IEP's and the MTR team's interviewees cited the IRM reports as the first indication that OGP had "teeth."[49] IRM also generates "teachable moments" when it identifies OGP countries as off track. The Progress Indicators show that, in 9 out of 17 OGP countries so identified in 2014, the situation was resolved (i.e. remediation or sanction) through an intervention of either the Support Unit or the Steering Committee.

In addition to IRM, other units of OGP play a necessary role in accountability. For example, GSX and CSE generate "teachable moments" when they identify participating countries as off track. The Progress Indicators show that, in 9 out of 17 OGP countries so identified in 2014, the situation was resolved (i.e. remediation or sanction) through an intervention of either the Support Unit or the Steering Committee.

*"The IRM is not very flexible. And if the goals are not met, maybe also because of new insights, the IRM is very critical. And this makes government act very defensive so they don't have to say they failed. This is very counterproductive. There should be an option to adjust the action points to new insights and explain why and how."*

– A MTR Survey Respondent's Perspective on the IRM

The IRM reports (and related OGP outputs) represent one key component of the accountability mechanism (e.g. the anvil). The other key part (e.g. the hammer) is the actual use of those reports to push for more dialogue and better performance. In certain OGP countries, the IRM reports appear to have their own political weight – once the government is strongly criticized in such a report, it strives to avoid more embarrassments later. It may be that OGP needs to learn from these experiences to work more effectively with domestic political currents. A second source of accountability is international peer pressure. The ToC seems to rely especially on this kind of pressure, but it is not as prevalent as the theory suggests. It depends partly on who the "peer" group is. For some, the peers are neighbors in their region (this is broadly true in Latin America), while others look elsewhere to countries with similar government systems and levels of development (e.g. New Zealand and the U.K.). IRM reports supply information that can be used for at least rough comparison. The "race to the top" logic does seem to operate, within defined limits and perhaps more as a "scramble to avoid losing face."

Potentially, a stronger form of accountability comes from external use of IRM reports by donor agencies, the World Bank, and other organizations such as the OECD. It is already a regular occurrence for the bilaterals and multilaterals to coordinate with OGP to support open government reforms and enhancements. These institutions also sometimes refuse to offer such support – a decision where the IRM findings appear increasingly relevant. Cases have been cited, in our interviews and in the literature, of countries in Africa and Latin America responding to IRM reports

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[49] IEP, "How are OGP's Independent Reports Used?"

with serious concern that the findings would show a failure to meet World Bank conditionality or disqualify the country from gaining access to some other source of aid.

Analysis of the IRM process, both internal to OGP and external, suggests areas in need of improvement. One review found that the reports are not clearly connected to policy changes, especially as there is no mechanism that directly holds countries accountable for addressing the deficiencies identified by the reviewer. The same analysis found that the intended purpose of the IRM is ambiguous. It is unclear who is expected to use the IRM to drive further reform and whether poor performance in an IRM review could result in adverse consequences for a participating government. In this view, the clearest value offered by IRM from an accountability perspective has been in giving civil society a basis for raising concerns directly with the OGP Steering Committee (CAP 2016: 9-10). Some, if not all, of the criticisms are being addressed in OGP policies.

Overall, OGP has demonstrated a laudable commitment to self-evaluation, as the current Strategic Refresh indicates, and as its vigorous internal debates reflect. The IRM process and its accumulated data—made publicly available for analysis, it is worth emphasizing—are central to that continuing process of analysis and review. The IRM discussions about levels of commitment and accomplishment remain fact-based, and participating countries are judged by standards common to all. This presents an important contrast with the perception-based rankings and indices published by many other reform and advocacy groups. The IRM data not only help OGP itself understand what it has achieved, but are also sending important messages to governments and civil society alike that OGP is for real, and that the IRM process will register and help demonstrate their efforts and accomplishments.

### E. The question of impact

What can be said about OGP's broader impact upon the openness of governments? Here, we present some data from the MTR survey, then move on to an analysis of indicators. In the MTR survey, nearly three in five of our respondents said that greater citizen involvement and knowledge have at times changed government policy and administration.[50] In addition, half of respondents felt that their country's NAP commitments had a positive effect on the following:

- Transparency in administrative processes and policy implementation

- Broad-based participation in administrative processes and policy implementation

- Accountability of government to citizens

*"The "policy of secret surveillance was broadly discussed by the public. After advocacy of civil society organizations in the framework of OGP, [the] government changed the regulations on secret surveillance and the Supreme Court of [...] started publishing secret surveillance statistics."*

– A MTR Survey Respondent's View on Changes Due to Greater Citizen Involvement

Respondents generally say that norms are beginning to change in positive ways too. Cooperation, and expectations of transparency and fair treatment, are judged to have strengthened; the respondents are evenly divided, however, on the question of whether citizens actually do find it

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[50] We do not, however, know whether the positive trends perceived by our respondents hold true across whole governmental systems and among different sorts of societies.

easier to get access to officials and agencies, and there is general disagreement that citizen trust in government has been enhanced (see **Table 1** below). It is important to remember that these sorts of changes can reflect and be influenced by a much wider range of factors than OGP activities alone.

**Table 1:** Citizen Trust in Government (percent)

**In the time since this country began to participate in OGP:**
(For each statement, please select one response) N=42

| | Agree | Disagree | Don't Know |
|---|---|---|---|
| Civil society organizations have become more likely to cooperate in pursuit of common goals. | 81.0 | 4.8 | 14.3 |
| Citizen-government relations have become more cooperative in recent years. | 59.5 | 28.6 | 11.9 |
| Transparency in government is becoming more of a routine norm among officials. | 52.4 | 31.0 | 16.7 |
| Citizens are finding it easier to get access to government officials and agencies. | 42.9 | 42.9 | 14.3 |
| Citizens are becoming more likely to expect fair treatment from government officials and agencies. | 54.8 | 26.2 | 19.1 |
| Citizens are becoming more likely to trust government officials and agencies. | 19.1 | 45.2 | 35.7 |

*Impact data*

This section considers the impact question using time-series data on three widely-employed country-level indicators. In no way are those indicators assumed to be definitive measures of openness; indeed, there are good reasons to be skeptical of such indices.[51] Instead, they are three ways to test a first variation on a working hypothesis concerning the broader impact of OGP on government openness, and to frame a number of questions for later analysis. In effect, at this point we are using very general evidence as a way to move deeper into the impact question.

Three indicators are the focus of analysis:

- The World Bank Institute's Voice and Accountability index,[52] one of six dimensions included in the Worldwide Governance Indicators (WGI) series;

- The Doing Business database,[53] another World Bank project, and in particular its "Distance to Frontier" (DTF) indicator estimating how close a given country lies to the best scores in a series of measures of regulatory quality and efficiency; and

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[51] Oman, Charles, and Christiane Arndt. 2010. "Measuring Governance." OECD Development Centre, Policy Brief number 39. Online at

http://www.oecd-ilibrary.org/development/measuring-governance_5km5z9nnxwxw-en;jsessionid=6q7p4fhpomae3.x-oecd-live-02 (Viewed 19 August 2016). Rightly or wrongly, international indices have become a first resort for judging attributes of societies, their economies, and their governing processes and institutions; omitting them could well invite questions regarding their absence.

[52] The World Bank, Washington, DC: "Worldwide Governance Indicators", online at http://info.worldbank.org/governance/wgi/index.aspx#home (Viewed 16 August 2016).

[53] The World Bank, Washington, DC: "Doing Business: Measuring Business Regulations", online at http://www.doingbusiness.org/ (Viewed 16 August 2016).

- Participatory Democracy scores derived from expert surveys conducted by the V-Dem Project based at Gothenburg University in Sweden and the Kellogg Institute at the University of Notre Dame.[54]

Data on OGP countries' time of accession, the dates of National Action Plans, numbers of commitments, ratings for impact and completion, and other variables were derived from the first round of IRM assessments as reported in "Independent Reporting Mechanism Technical Paper One" and on OGP's website.[55] Other indicators that might be seen as measuring various aspects of openness do exist, but do not offer extended series of results.

To anticipate: country-level indicators of openness do not, by themselves, point to clear-cut openness effects from OGP activities and commitments. That is true for each of the three indices, and for OGP countries both across the board and when divided by factors such as income level and elapsed time since their first NAPs. Similarly, the ambition of a country's NAP, as judged by the mean "impact score" for its commitments and by the mean completion scores per commitment, appears unrelated to trends in openness.

Those results, however, do not necessarily tell us OGP has been ineffective, is pursuing a faulty strategy, or that its overall mission cannot be attained. The more likely message is that OGP must consider other ways of assessing impact, and other levels beside the national at which effects can be assessed. Careful thinking about the nature, agents, resources, and incentives for positive change is in order; ultimately we should revisit the Theory of Change with an eye to clarifying assumptions as to what its key sources of energy and incentives to action might be. As argued elsewhere in our report, the result of such a re-examination can and should make the ToC not just a description of trends and changes that *should* occur, but also a sound account of how such changes *do* take place.

The primary assessments here examine scores over time on our three indicators of openness for OGP states, both on aggregate and by categories, and for a group of selected non-OGP states. For OGP countries, scores are compared before and after their first NAP. That choice was made because some countries in an entry cohort defined a NAP more or less immediately, while other NAPs came into being a year or two later. The first NAP is the basis of comparison because nearly all OGP countries have reached that stage, while fewer have established a second NAP; even fewer have moved on to a third NAP. Given the short timeline (2011 to date) for even the earliest OGP cohort, pre-post connections must be restricted to the first NAP in order to allow some time for any post-NAP effects to become evident. The methodological justification for using these pre-post NAP comparisons, and detailed discussions of the three indicators in question, appear in Appendix A.

As noted above, neither Voice and Accountability, Doing Business, nor V-Dem Participatory Democracy scores provide clear evidence for positive openness effects of OGP membership or commitments. That is the case whether we look at all OGP members with an NAP, membership cohorts, or income groups.[56]

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[54] V-Dem Project: "V-Dem: Varieties of Democracy", online at https://www.v-dem.net/en/ (Viewed 16 August 2016).

[55] Foti, Joseph. (n.d.) "Independent Reporting Mechanism Technical Paper One". Washington, DC: Open Government Partnership; and Public Access Combined IRM – SU Database, July 2016, provided by OGP.

[56] High, Medium, and Low Income groups are as defined by the World Bank; see http://data.worldbank.org/?locations=XD-XP-XM (Viewed 22 August 2016).

<u>Voice and Accountability</u> trends for OGP countries do not appear to differ from those of a group of selected non-OGP member states.[57] The following graphs (see **Figure 2** and **Figure 3** below) illustrate these results; while the profusion of lines can be confusing, rolling a cursor up to a line will show the country it refers to. Major overall results are shown below; more detailed breakdowns appear in Annex 6:

**Figure 2:** WGI Voice/Accountability Scores, All OGP Countries with NAPs
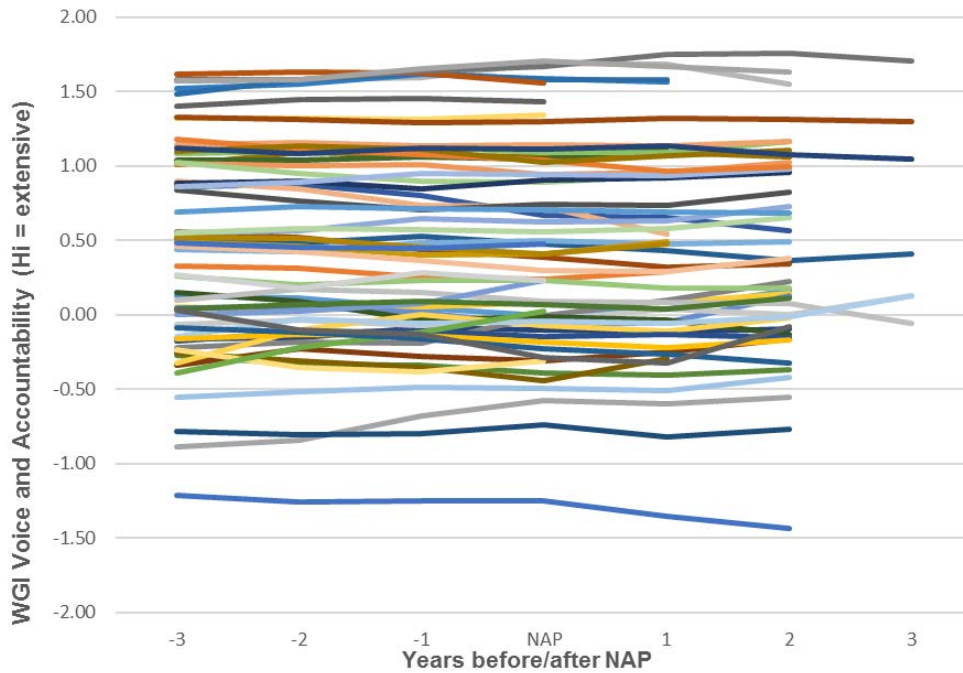


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**Figure 3:** WGI Voice/Accountability Scores, Selected Non-OGP Countries
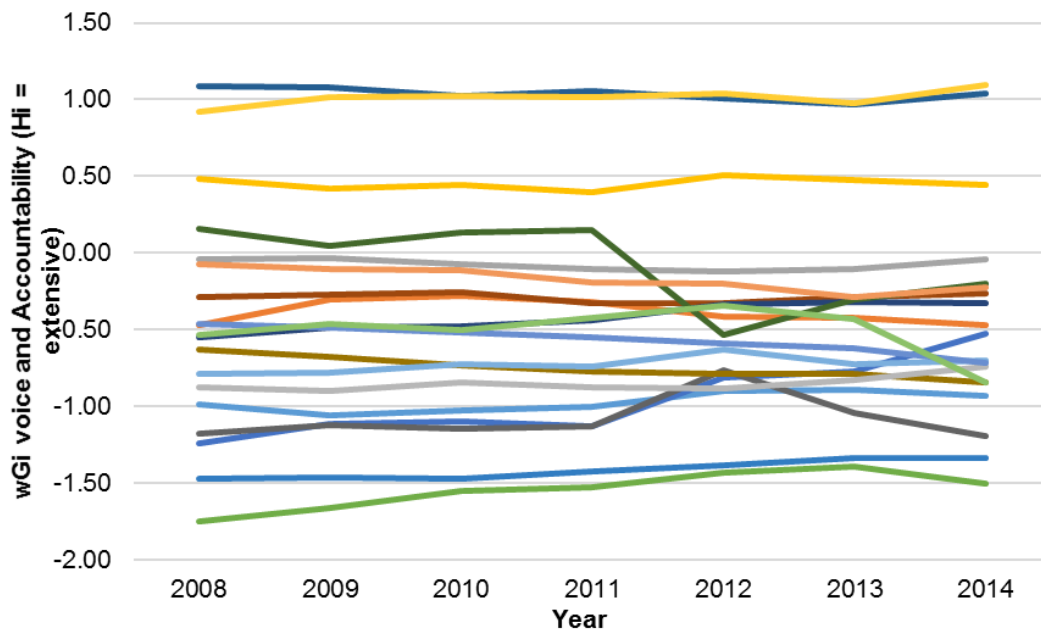


Results are quite similar for the "Doing Business" Distance-to-Frontier (DTF) data for 2010-2014, and for the V-DEM participatory democracy index (see Annex 7). Overall, few if any countries show the kind of sustained improvement in Voice and Accountability that one might initially hope to see.

So far we have been looking for effects upon openness flowing from the simple facts of OGP membership, and from having promulgated a National Action Plan. It would be easy to subject these results to a more elaborate statistical analysis such as multivariate regression to estimate whether any effects are robust with respect to other variables, but overall there does not seem to be any pattern of OGP-related differences to test in that way. On the one hand, we cannot rule out the possibility that such analysis (by adding a variety of control variables) might tease out some limited effects of the sorts we seek. On the other hand, for reasons related to the validity of the three indicators (see discussion below), it is unlikely that such effects could be found, or would be reliable if they were to emerge.

*Transformative agendas and completed commitments*

NAPs, however, vary widely in terms of the ambition and completion of the commitments they include. Do more transformative NAPs tend to affect openness more than less ambitious ones, and/or does the rate at which a country completes its commitments affect overall trends in openness?

Data from the first iteration of the (IRM) allow us to examine those possibilities. Each commitment in a country's NAPs is scored in terms of *impact* and *completion,* with higher scores indicating greater levels of each. The following scatter plots (see **Figure 4** and **Figure 5** below) compare countries' mean impact and completion scores per commitment with *trends* in our three country-

level indicators of openness.[58] In each case I examined data from the first NAP only, as not all OGP countries have reached the point of drawing up a second one, and even fewer have moved on to a third. The summary statistic that appears below each plot – "Pearson r" – is a simple linear correlation, and any relationship in a plot is represented by the trend line, or "line of best fit", as well.

**Figure 4:** Change in Voice/Accountability by Mean Impact Score per OGP Commitment
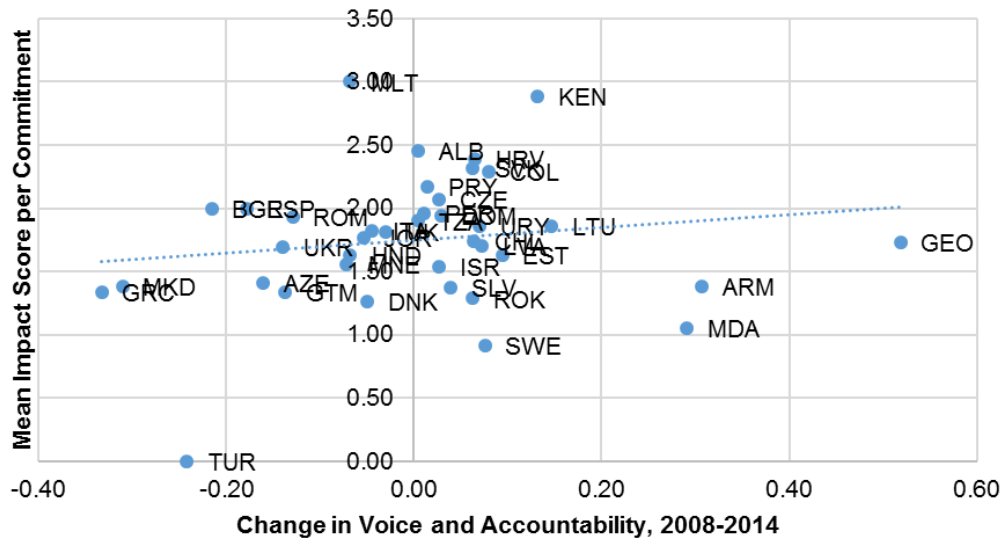


Pearson r = .147, p=.380

**Figure 5:** Change in Voice/Accountability by Mean Completion Score per OGP Commitment
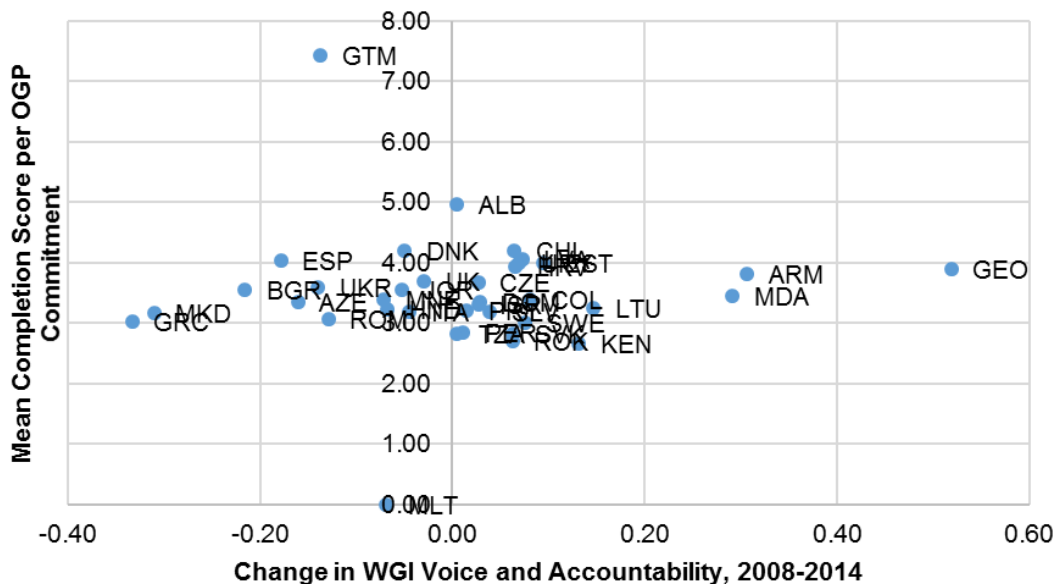


Pearson r = -.013, p=.938

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[58] For a few countries, impact and completion scores were not awarded for every commitment, so their mean scores are calculated only for those commitments that were rated.

Overall, neither the share of transformative commitments, nor the rate of completion, is systematically related to trends in our three indices of open government. The closest we find to a significant relationship is that between trends in V-DEM participatory democracy scores and the mean impact of rated NAP commitments, but even there the results fall short of statistical significance.

Once again, results for these comparisons using the "Doing Business" and V-DEM participatory democracy score are quite similar – showing little indication of systematic positive effects from having more transformative, and more completed, commitments, and so those scatter plots appear in Annex 7.

*Discussion*

As noted above, the indicators we have examined do not provide supporting evidence for the notion that OGP has produced improvement in openness of government as a national attribute. Neither, however, do they *disprove* that proposition. The reasons for that seemingly contradictory reading of the data are partly methodological, but also point to important substantive concerns that might be useful in OGP's future work.

From a methodological standpoint, the three indicators leave open important questions of validity. Any method of defining, operationalizing, and measuring openness will inevitably involve value judgments and a range of methodological compromises. All three indices possess a reasonable amount of *construct validity* – that is, they correlate with other variables in ways that might be expected from a reasonable conception of openness. But timing is an important issue: while all three are calculated in ways that make the data for, say, 2013 as applicable as possible to that year, they still incorporate underlying data gathered at different times – in some instances, from the previous year or two. Moreover, the underlying data were gathered in different ways by different researchers or organizations with questions and agendas of their own, and will inevitably incorporate some error. In important respects, calculating any composite indicator, including our Voice and Accountability, DTF, and Participatory Democracy indices, is an exercise in sausage-making.[59]

Substantive issues arise as well. Is "openness" really a national-level attribute, or does it vary significantly by sector, level, or region? Is it really a function of the strength of civil society, or of attitudes and instincts of individual officials? Countries are not monolithic entities and OGP, after all, interacts with a wide and varying range of counterparts. NAP commitments are often highly specific in their intended and actual impact. Where should we be looking for effects, what other factors besides OGP activities might influence them, and how might they be manifested? Similarly, we have no way of knowing, yet, how long it might take for any benefits from completed NAP commitments to become evident, particularly given that the links between specific commitments – say, an aggressive open-data project *versus* a series of technical improvements in expert networking among agencies – and wider perceptions of openness will differ considerably.

There is another matter of considerable significance. Openness, by itself, would seem to matter little without interaction with society: we might make data available, but if no one knows about or wants to use them, little will have changed. Yet another possibility, given the international

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[59] That delicious analogy is borrowed from Paolo DeRenzio, "DeRenzio on 'What is Governance?'" *The Governance Blog* (March 13, 2013). Online at http://governancejournal.net/2013/03/13/de-renzio-on-what-is-governance/ (Viewed 24 August 2016).

dynamics of OGP's opening phases, is that increases in openness of government have occurred mostly in terms of how national governments or OGP Points of Access deal *with each other,* and less in terms of interactions with society. How that sort of contrast might affect the indices is unknowable, but would seem likely to be harder to pick up in the expert judgments and perception surveys that factor into them. A final substantive point: openness as a concept and governmental virtue is not necessarily the same thing for all people or segments of society. A lobby group might see openness in terms of getting access to decision makers or policy implementers, while citizens might experience it in terms of whether the police or public utility agencies respond quickly, efficiently, fairly -- or at all. Any index assigning single scores to whole countries will tell us little about such variations.

*Looking ahead*

The inconclusive results from the data in hand at the moment should not be seen as an invalidation of OGP and its efforts, of the ToC, or of countries' actual levels of commitment. Instead, they point toward an *opportunity* to build greater detail and realism into the ToC by devising measures of the sorts of processes, incentives and linkages needed to improve the ToC and to bring its desired changes closer to fruition.

Metrics and evidence at those more specific and detailed levels could, for example, tell us much more about what "openness" means in practice. They will also be essential if we are to fully evaluate the ToC, and help the organization put more meat on the bones of what is now just a very general framework. While the ToC does identify key components of hoped-for changes, it does not (yet) say much about how change actually does occur, or about how those processes relate to various aspects of OGP's repertoire.

Thus, questions remain that should be the focus of efforts to develop new and more sensitive measures of both OGP goals and of the specific processes and interactions that we might envision as affecting them. For example,

- If the ToC provides an accurate description of factors shaping openness, which people and groups, influenced by what resources, incentives, and constraints, set its key processes and linkages into motion? In effect, *who and what are the sources of energy that can make positive changes real?*

- If essential components are missing from the ToC, what are they, and how might they influence the pace and direction(s) of change?

- Should a revised and elaborated ToC address contrasting expectations, and processes of change, for societies at contrasting stages of development, or for those with unusually deep internal divisions and economic problems?

- Can the IRM process—already a powerful analytical process drawing upon an impressive fund of data and experience—become the source of new indicators and measures that will yield a more detailed look at actual influences upon change, and at the linkages and assumptions built into the ToC?

# IV.  OGP's Rules of the Game

All countries participating in OGP must undertake to do the following:

- Endorse the high-level Open Government Declaration;

- Make concrete commitments, as part of a country action plan, that are ambitious and go beyond a country's current practice;

- Develop country action plans through a multi-stakeholder process, with the active engagement of citizens and civil society;

- Commit to a self-assessment and independent reporting on the country's progress; and

- Contribute to the advancement of open government in other countries through sharing of best practices, expertise, technical assistance, technologies and resources, as appropriate.[60]

Within this broad set of shared undertakings, OGP has developed an operating framework of policies, processes, activities and products, collectively referred to as OGP's *Rules of the* Game or *Rules of Engagement.* This framework has five key component parts; eligibility criteria; response policy, national action plans and commitments; calendars and deadlines for action and assessment; and peer learning and exchange. The national action plans and commitments and related deadlines for action and assessment are dealt with elsewhere in this report (Chapter II). This part of our report addresses the other parts of OGP's rules of the game: the eligibility criteria; response policy; and peer learning and exchange mandate.

## A.  Eligibility criteria

**Eligibility in general**

*Formal Requirements*

To participate in OGP, governments must show commitment to meeting a set of minimum performance criteria on key dimensions of open government that OGP views as particularly consequential for increasing government responsiveness, strengthening citizen engagement, and fighting corruption. These key dimensions are; fiscal transparency, access to information, public officials' asset disclosure and citizen engagement.[61] (see **Figure 6** below) OGP uses objective, third-party indicators to determine the extent of country progress on each of the dimensions.[62] The Support Unit reviews OGP's eligibility criteria every year, or as requested by stakeholders.[63] IRM's Procedures Manual details indicators which aim to capture whether countries' commitments regarding these criteria are real. The IRM database stores data containing insights and information on countries' performance and experience with each of the criteria, and on how countries prioritize between them.

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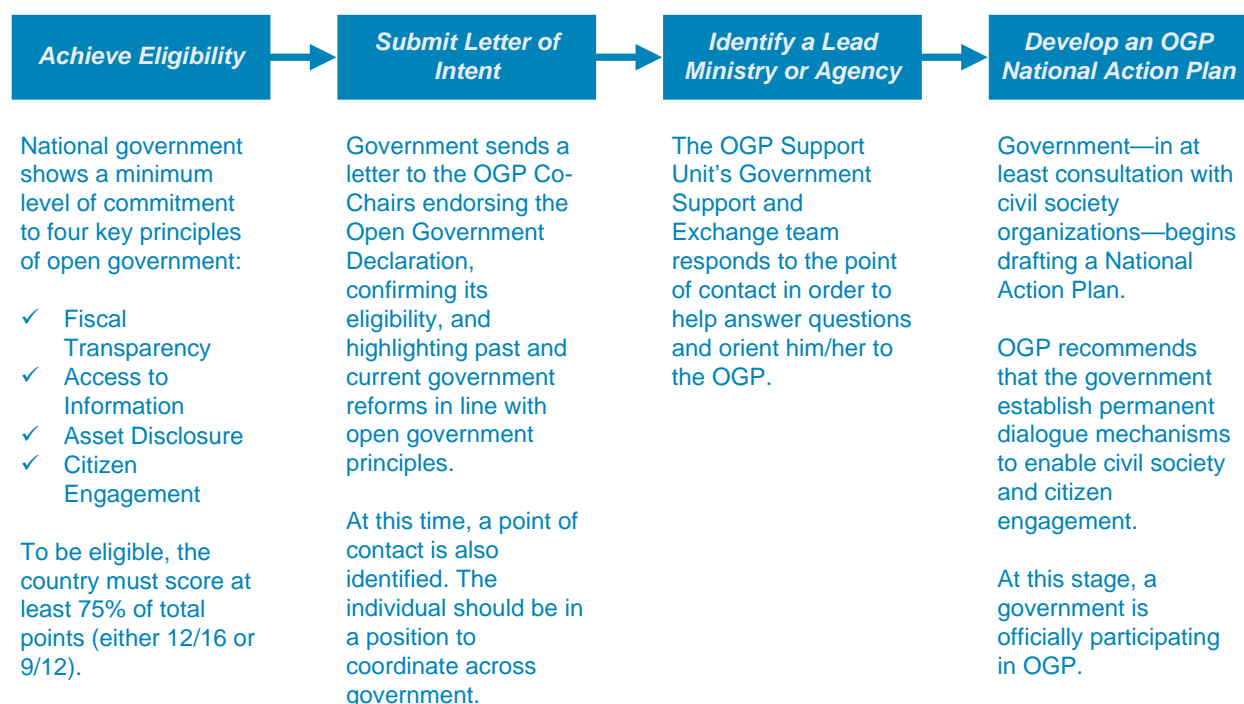
[60] OGP Articles of Governance, Section II, Expectations of OGP Partnership Governments.

[61] Id.

[62] OGP Articles of Governance, Addendum A, Country Eligibility for the Open Government Partnership

[63] OGP Articles of Governance Section II.

**Figure 6:** Joining the Open Government Partnership

| Achieve Eligibility | Submit Letter of Intent | Identify a Lead Ministry or Agency | Develop an OGP National Action Plan |
|---|---|---|---|
| National government shows a minimum level of commitment to four key principles of open government:<br><br>✓ Fiscal Transparency<br>✓ Access to Information<br>✓ Asset Disclosure<br>✓ Citizen Engagement<br><br>To be eligible, the country must score at least 75% of total points (either 12/16 or 9/12). | Government sends a letter to the OGP Co-Chairs endorsing the Open Government Declaration, confirming its eligibility, and highlighting past and current government reforms in line with open government principles.<br><br>At this time, a point of contact is also identified. The individual should be in a position to coordinate across government. | The OGP Support Unit's Government Support and Exchange team responds to the point of contact in order to help answer questions and orient him/her to the OGP. | Government—in at least consultation with civil society organizations—begins drafting a National Action Plan.<br><br>OGP recommends that the government establish permanent dialogue mechanisms to enable civil society and citizen engagement.<br><br>At this stage, a government is officially participating in OGP. |

*Analysis*

There is broad consensus that these four criteria focus on the right areas but there is considerable controversy over whether OGP should change how it measures and polices countries' compliance.[64] At stake here, is the concern about weakening OGP's reputation and the value of its brand. All stakeholders want OGP participation to be meaningful; to keep OGP an initiative that both civil society and governments are proud to be a part of. But with 70 countries already participating and more expected to join, striking the right balance between keeping the bar to entry low so that many countries can join while, at the same time, setting criteria that are sufficiently stringent to make participation stand for something, is difficult.[65]

There is strong, though not unanimous, support for OGP being a wide tent, and for its encouraging, rather than deterring, weak performers to join. Some express concern, however, about OGP's time and resources being consumed in trying to cajole performance from poor performers who, "perhaps," should "never have been permitted to participate in OGP in the first place." Some also express concern about ongoing suggestions to persuade a number of additional countries (with poor records on openness) to join OGP. They see it as unwise to have countries join OGP if they lack any serious intention to make the reforms civil society expect them to make. For example, some countries may never set up a proper government/civil society dialogue, or they may simply make services digital and claim that doing so is enough in itself to serve as an indicator of government openness. Several current examples of such efforts to game OGP membership were cited. IRM aims to capture such false intentions but can't deter such government behavior.

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[64] See U.S. and U.K. comments at SC Meeting in NYC (September 2016).

[65] 9/7/16 Civil Society Dialogue.

The prevailing view that emerged in interviews is that OGP should have one set of expectations for countries at the point of entry and a different set of expectations for the duration of a country's participation. An April 2016 letter to the Steering Committee from a group of sixty six CSOs echoes this view.[66] While urging the Steering Committee to strengthen the eligibility criteria, the letter suggests that OGP apply the eligibility criteria more loosely when countries first apply to join OGP so as to avoid automatically excluding countries, but that OGP set clear benchmarks for countries to meet after entry within a set timeframe. The letter suggests that OGP elaborate upon the entry criteria by establishing a set of more stringent indicators to measure progress, for example, indicators that evaluate the satisfactory nature of a country's access to information law and not simply whether such a law exists.

Differentiating between entry-level and ongoing expectations would pose two key challenges for OGP. First, it would require designing progress benchmarks that take account of the fact that participating countries join OGP at very different starting points when it comes to openness. Second, it would require OGP to decide what measures to pursue if a country fails to meet progress expectations.

Turning to the first of these challenges, it is axiomatic that all 70 participating countries have ample room for progress and improvement. However, any progress indicators would have to take account of the fact that what progress will look like in a country like the U.S. or U.K., for example, will be very different from what progress will look like in other parts of the world. At the same time, all progress takes huge effort and, often, significant political capital to achieve and it would be vital for OGP's progress benchmarks to honor that reality. For this reason, progress benchmarks would ideally be based on a multi-tiered, multi-speed approach. Some interviewees suggested that such a multispeed approach might involve employing a red light, yellow light, green light kind of categorization .[67] What such an approach might look like in practice is discussed later in this Report.[68]

Having differentiated progress indicators for countries that come from differing starting points would also comport with participant governments' understanding of how OGP's suasive force works. Interviewees from government consistently praised OGP's achievement in creating international pressure for governments to become more open. Yet, they emphasized that the way this pressure works is that it creates a transparent international benchmark for countries to compare their own performance with the performance of the countries that they consider their peers.

OGP countries do not care, interviewees reported, whether they are seen as more, or less, open than countries that are entirely different from them from a socio-economic, political culture point of view. Thus, for example, a country with no tradition of consulting with civil society does not experience pressure to create a permanent dialogue mechanism in response to the information that the U.K. has such a mechanism because for a range of reasons it knows that circumstances preclude its aspiring to be like the U.K. Similarly, a country with a strong tradition of government responsiveness to its citizens finds meaningless the information that it rates higher than a country traditionally regarded as relatively authoritarian. Of far more concern, and, therefore, a factor likely

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[66] Open Letter to the Open Government Partnership Steering Committee, April 29, 2016 (hereinafter "Open Letter"). The letter also asks the Steering Committee, inter alia, to adopt "clear and rigorous criteria for dealing with human rights violations by participating countries," noting that respect for human rights is fundamental to the creation of an "enabling environment for open government." See Open Letter at 2-3

[67] 9/7/16 Civil Society Dialogue.

[68] See infra at [78].

to generate far more pressure on the government to change, would be information that it was trailing on the civic engagement component in comparison with countries it considers its peers.

The second challenge differentiated progress expectations would generate; the challenge of deciding what to do when a country fails to meet expectations, can arise in two different situations; (i) when a country fails to make expected progress; and (ii) when a country backtracks on progress already made.

Currently, OGP has two options for addressing both situations; the issuance of a negative IRM report; and the invocation of the Response Policy. Consideration should be given to expanding OGP's range of options. The threat of a negative IRM report is proving insufficient in and of itself to mobilize country progress (in many but not all cases) or prevent backtracking. Meantime, expanding the use of the Response Policy (discussed below at Chapter IV(c)) which, as currently drafted, is designed to address blatant governmental violations of the Open Government Declaration rather than tardiness or passive resistance, would be a heavy handed approach at odds with the collaborative, suasive essence of OGP. A possible third option would be for OGP to devise a formal policy of interventions comprised, possibly, of Steering Committee member outreach; and/or an in-country workshop; and/or targeted peer-to-peer exchange; and, possibly a name and shame procedure. OGP could decide that these interventions in a pre-agreed order will be triggered by prolonged failures to progress, or clear instances of backtracking that nonetheless fall short of the kind of behavior that triggers the Response Policy.

More generally, OGP may wish to reconsider how often it makes sense to review its eligibility criteria. Consistent with its essence as an innovative and fast-growing initiative OGP has invested heavily in the process of examining and refining its eligibility criteria over the first few years of its existence, and the Criteria and Standards Subcommittee has done considerable work in this regard. Over time, however, OGP's interests will likely be better served by allowing for some stability and continuity in the eligibility criteria requirements. Currently, Section II of OGP's Articles of Governance provides that the SU will review the eligibility criteria "every year or as requested by stakeholders." It is not clear that mandating such an annual review is in OGP's interests over the long term; OGP's resources might be better deployed in some other way. Under Section II, OGP's stakeholders could request that OGP review the eligibility criteria on a different schedule. However, amending this provision would be a cleaner approach. OGP might consider amending Section II to provide that OGP will review its eligibility criteria whenever the Criteria and Standards Subcommittee decides that such a review is warranted, and, at a minimum, every three years.

*Recommendation*

OGP should devise a policy of interventions to address participant countries' prolonged failures to progress and/or backtracking. The interventions could be comprised of Steering Committee member outreach; and/or an in-country workshop; and/or targeted peer-to-peer exchange; and, a name and shame procedure. OGP could decide that these interventions will occur in a pre-agreed order.

OGP should amend Section II of its Articles of Governance to provide for more flexibility on the frequency of its review of the eligibility criteria.

**Individual Criteria**

Individually, each of the eligibility criteria has been the subject of some analysis and debate. In our interview and desk research, however, the volume of comments and material on the citizen engagement criterion far outstripped the volume of inputs and materials on the other criteria. This

is not surprising given the centrality of citizen engagement to the uniqueness of OGP. While all four of OGP's eligibility criteria are critical to open government, citizen engagement is viewed as the corner stone of OGP. OGP's mobilization of government-civil society dialogue and, indeed, of civil society/civil society dialogue, is repeatedly hailed as one of OGP's most impressive achievements. Many claim that OGP is creating a new global norm for how governments should interact with their citizens and helping to make regular government-civil society dialogue a part of that norm.[69] Accordingly, this section of the report briefly mentions each of the criteria separately but our review and analysis focuses primarily on the citizen engagement criterion, which we have accorded a separate section (Chapter IV(b)) below.

1) Fiscal Transparency

*Formal Requirements*

Under OGP's eligibility criteria, fiscal transparency is defined as the timely publication of essential budget documents. OGP relies on the most recently published version of the Open Budget Survey conducted by the International Budget Partnership as a measure of fiscal transparency, focusing in particular on whether a government has published the Executive's Budget Proposal and an Audit Report.[70]

Countries' experience with this criterion is reflected in IRM's database and in an Open Budget research paper prepared by external researchers.

2) Access to Information

*Formal Requirements*

OGP requires that participating countries have, or commit to passing, an access to information law that guarantees the public's right to information and access to government data. It relies on a survey by Right2Info.org (a collaboration of the Open Society Institute Justice Initiative and AccessInfo Europe) that covers 197 countries and is updated on a rolling basis, to determine countries' compliance with this requirement.[71]

IRM relies on a 5-level categorization (the most widely used categorization) to determine if a country's commitment to provide access to information is genuine. This categorization looks at such factors as whether there is a commitment to interact with users of the information that is being made public. It also looks at whether the government gets feedback from users regarding the users' priorities for what databases should be open, for example, whether users want databases on government procurement, foreign aid, or natural resources.

Countries' experience with this criterion is reflected in IRM's database and in work done by the Working Group on Access to Information, including in a Directory of National Action Plans Access to Information Commitments, produced by the Working Group.[72]

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[69] Interview Notes. IRM's Second Technical Paper supports the view that OGP has contributed to an overall increase in the amount of government-civil society dialogue that is occurring. IRM Technical Paper 2 (September 2016) at 9.

[70] OGP Articles of Governance, Addendum A, Paragraph 1.

[71] OGP Articles of Governance, Addendum A, Paragraph 2

[72] *See* Directory of National Action Plans Access to Information Commitments (April 20016) available at http://www.opengovpartnership.org/resources-1

*Analysis*

OGP sees itself as particularly well placed to bridge certain gaps in access to information, such as helping to create a link between government supply and citizen demand; and helping to translate global initiatives like the open data charter and the global partnership for sustainable development data into country actions.[73]

Three key challenges arise with this criterion. First, critics have noted that the indicator IRM relies on for this criterion has some weaknesses. For example, it does not assess implementation or the quality of access to information laws. Further, in some countries, (usually common law) countries, constitutional law is stronger than statute.

Second, countries can engage in "open washing," i.e. they can make a whole lot of irrelevant information available and, in that way, seem more open than they actually are. OGP is well aware of this challenge.[74] In examining countries' compliance with this criterion, the SU and IRM are exploring ways of doing a "qualitative review" of what information sets are being released.

The third challenge arises from the fact that participant countries have dramatically different starting points for this criterion. For example, the United Kingdom has made major progress on access to information and has taken several steps that open government advocates in other countries, like Armenia can only "dream about." Accordingly, if OGP decides to adopt differentiated progress indicators, such differentiation will clearly be necessary for this indicator.

3) Public Officials' Assets Disclosure

*Formal Requirements*

OGP requires that participating countries institute rules that require public disclosure of income and assets for elected and senior public officials. It relies on the World Bank's Public Officials Financial Disclosure database, which is updated on a rolling basis, as its source of information on asset disclosures. The database is supplemented by a published survey the World Bank conducts every two years.[75]

**B. Co-creation**

*Formal Requirements*

OGP participants commit to developing their country action plans through a multi-stakeholder process, with the active engagement of citizens and civil society, and agree to develop and implement their country commitments according to agreed principles set out in Addendum C to OGP's Articles of Governance (the "Co-Creation Guidelines").

The Co-Creation Guidelines provide participating countries with a road map for complying with the citizen engagement criterion. At the plan development stage, countries must; (i) publish a timeline for a public consultation process, (ii) take steps to raise public awareness of the process, (iii) use multiple channels to allow citizens to engage in the public consultation process, and (iv) publish comments received. At the plan implementation stage, countries commit to using an

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[73] CEO EM to SC 11/3/16.

[74] *See* CEO Remarks at IODC (Madrid 2016)

[75] OGP Articles of Governance, Addendum A, Paragraph 3.

existing or new forum to enable regular multi-stakeholder consultation. The Guidelines have recently undergone an extensive review and are on the cusp of being revised.[76]

*Background*

The application of this criterion is under constant review and refinement and has been the subject of considerable research, all of which calls for some added stringency in what OGP asks of governments in connection with this criterion. IRM's Second Technical Paper analyzes the extent of participation that is occurring in the NAP process, and an earlier IRM report, *Civic Engagement Commitments in Latin America* reviewed the Latin American experience with this criterion. In addition, a July 2015 independent study procured by OGP entitled *From Informing to Empowering* (Francoli, Ostling and Steibel) (the "Francoli Report") addressed several central questions about government/civil society engagement in OGP. Further, since 2012, the Support Unit Civil Society Engagement Team has conducted an annual survey of civil society's views on how OGP is working for civil society.

At the individual country level, countries' starting points on this criterion are very different. For some, engaging with civil society is common place. For others, a commitment to do so is revolutionary. Countries' performance spans two extremes. At one extreme, is the U.K., which has a permanent dialogue mechanism that includes CSOs from diverse areas of specialty. The CSOs in the mechanism coordinate and pool funds and appoint a civil society leader.[77] At the other extreme, is Azerbaijan, whose government's crackdown on CSOs led to the Steering Committee declaring the country inactive pursuant to the Response Policy.[78]

Most countries, as the IRM data attests, fall somewhere in between these extremes. But the existence of these extremes has meant that some countries which have made little effort to engage in co-creation are still "treated as good OGP citizens" simply because they have not actively assaulted civic space. The April 2016 Open Letter of 66 CSOs to the Steering Committee asks OGP to stop giving these countries what civil society perceives as a free pass and to demand more from them at the post-entry stage.[79] It also asks OGP to push countries beyond basic consultation processes. Consultation, the letter claims, essentially consists of "checking a box once every two years" and does not amount to "real empowerment." The letter recommends that OGP establish a rapid response mechanism to investigate whenever civil society raises concerns about lack of participation.

*Analysis*

The Civil Society Engagement Team's ongoing revision of OGP's Co-Creation Guidelines is OGP's response to the suggestions for change made by IRM, the Francoli Report, the Open Letter from Civil Society and the Team's own findings. The revisions aim to make public participation and citizen engagement a real collaborative process with more actors being brought to the table and more civil society recommendations being included in the NAPs. They identify consultation as the bare minimum of public participation that's expected and real collaboration as the ideal. In addition, they recommend the creation of a permanent dialogue mechanism as best practice. They stop short, however, of making the creation of such a mechanism a mandatory requirement. The proposed Guidelines also provide detailed information and examples of best practices on all

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[76] See Help Improve the OGPs co-creation guidelines! (OGP Website) (hereinafter, the "Draft Co-Creation Guidelines").

[77] IRM Country Report

[78] Criteria and Standards Sub-Committee Report

[79] Open Letter, April 2016

aspects of co-creation. Finally, the Guidelines propose awarding countries that comply with the practices outlined in the Guidelines a star for the quality of their co-creation (comparable to the starred commitments).[80]

The revised Co-Creation Guidelines are OGP's attempt to strike a reasonable balance between government and civil society's interests in framing and applying the citizen engagement criterion. Whether they achieve the right balance depends on whether they advance the goals and purposes the citizen engagement criterion is intended to achieve. A review of the first articulation of this criterion, however, shows that there is some inherent confusion in the original conceptualization of this criterion's goals and in its underlying premises.

Specifically, the starting premise of this criterion, as articulated in the Open Government Declaration, is that "[p]ublic engagement … increases the effectiveness of governments." The meaning of this premise is unclear and its validity is untested. We don't know what is meant by "effectiveness" in this context. Indeed, what constitutes governmental effectiveness is an elusive question. The contested nature of governmental effectiveness, and the impact of CSO engagement on it has dogged scholars of government, political theory and other disciplines for years.[81]

As for the practical application of citizen engagement, the Open Government Declaration breaks the criterion down into five commitments asked of participating governments. Governments commit to; (i) making policy formulation and decision making more transparent; (ii) using channels to solicit public feedback; (iii) deepening public participation in developing, monitoring and evaluating government activities; (iv) creating mechanisms to enable greater collaboration between government, CSOs and business; and (v) protecting the right of nonprofits and CSOs to operate.

The first three of these commitments are extensions of the other three eligibility criteria (fiscal integrity, access to information and disclosure of public officials' assets). The fourth and fifth commitments do something different. In requiring governments to protect the ability of CSOs and other nonprofits to organize, and, as further clarified in the Co-Creation Guidelines, to engage in multi-stakeholder consultation, they create (a) a governmental recognition of the right of the third sector to exist and be protected; and (b) a governmental commitment to engage with that sector, and with business, on NAP development and implementation. These latter two commitments create high expectations on the part of civil society but appear to have been less well understood by many governments. The proposed Co-Creation Guidelines reflect Civil Society Engagement Team's best effort to address that discrepancy, and they are clear and comprehensive about expectations and approaches that have been found to work well.

The problem with starring the co-creation process of countries that comply with these Guidelines, however, is that it seems unlikely to motivate countries that are not ready to adopt best practices but likely to antagonize them. It's hard, therefore, to see how starring advances OGP's interests. Starring takes no account of the reasons why a country might fail to meet best practices. It pits OGP against modern democracies with governments that are generally regarded as reasonably responsive to their citizens but which do not rely on, or achieve that responsiveness, through third

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[80] See Help Improve the OGPs co-creation guidelines! (OGP Website) (hereinafter, the "Draft Co-Creation Guidelines").

[81] See, for example, Daniel M. Bodansky, *The Legitimacy of International Governance: A Coming Challenge for International Environmental Law?* (1999),Available at: http://digitalcommons.law.uga.edu/fac_artchop/443; Monica Hlavac, *A Developmental Approach to the Legitimacy of Global Governance Institutions*, Chap. 14, D. Reidy & W. Riker (eds) COERCIION AND THE STATE (Springer 2008); Sophie Smyth *NGOs and Legitimacy in International Development,* 61:2 Kan. L. Rev. 377 (2012).

sector channels. Ireland and New Zealand are examples of such countries. Such countries clearly meet the overall purpose and objectives of the citizen engagement criterion. As for those countries which have shown no interest in meaningful citizen engagement, OGP is concerned about CSO burnout and fatigue but keenly aware of OGP's limitations in the face of a failure of political will. Starring will not be an effective tool in such cases. In contrast, IRM's data and the Civil Society Engagement Team's experience suggest that step-by-step guidance for countries that want to engage but have no processes for doing so, can make a tangible difference.

*Recommendation*

The conceptualization of the citizen engagement criterion should be clarified as part of OGP's tightening of its Theory of Change. The proposed revisions to the Co-Creation Guidelines are a well-considered, measured response to the needs that have emerged for strengthening the citizen engagement criterion. OGP may, however, wish to reconsider the idea of starring co-creation processes.

## C. Response policy

*Origins*

The Response Policy addresses the action OGP's governing bodies may take when a country undermines the values and principles of OGP. The policy originates from Article II of OGP's Articles of Governance governing the expectations of OGP participation.

Article II, Paragraph 2 provides that participating governments must "uphold the values and principles articulated in the Open Government Declaration."[82] The Article is somewhat inconsistent, however, on the question of how and when a country may be found to have violated this obligation.

The first part of Article II, Paragraph 2 is clear. It authorizes the Steering Committee, upon the recommendation of the Criteria and Standards Subcommittee, to undertake a review to determine whether any country that fails to uphold the values and principles of OGP should be allowed to remain in OGP and lists three situations in which such a review may occur:

   (1) where a government in two consecutive action plan cycles acts contrary to OGP process (as set out in Addendum C) <u>and</u> to its action plan commitments (with reference to Addendum B) (emphasis added);

   (2) where a government fails to adequately address issues raised by the IRM; or

   (3) where a government is taking actions that undermine the values and principles of OGP.[83]

The latter part of Article II, Paragraph 2 adds some further scenarios when the Steering Committee may review whether a country should be allowed to remain in OGP. But this part of the Article also provides for such review in circumstances that are slightly different from those indicated in the first paragraph of Article II.

First, the latter part of Article II provides that the Steering Committee may review the continued participation of any country that falls below the minimum eligibility criteria and fails to take immediate and explicit steps to address issues that will enable it to meet the minimum eligibility threshold within one year of its having failed to do so. This provision omits the need for any prior

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[82] OGP Articles of Governance, Article II, Expectations of OGP Participating Countries.

[83] *See Id.*

recommendation from the Criteria and Standards Subcommittee, as required in the previously listed scenarios. The rationale for omitting that step in the process is unclear.

Second, the latter part of Article II provides that the Steering Committee, upon the recommendation of the Criteria and Standards Subcommittee may review the continued participation of any government that, for two consecutive action plan cycles, "acts contrary to OGP process <u>or</u> its Action Plan commitments (addenda B and C), <u>and</u> fails to adequately address issues raised by the IRM …' (emphasis added).

Reading this part of Article II together with the first part, we see that Article II provides the following with respect to a country's continued failure to comply with the OGP process set out in Addendum C:

The Criteria and Standards Subcommittee may ask the Steering Committee to review a country's continued participation in OGP whenever a government for two consecutive action plan cycles;

    i.    acts contrary to OGP process <u>and</u> to its action plan commitments; <u>or</u>

    ii.    acts contrary to OGP process <u>or</u> its action plan commitments (addenda B and C), <u>and</u> fails to adequately address issues raised by the IRM.

In sum, under these provisions as currently written, acting contrary to the process outlined in Addendum C (the Co-Creation Guidelines) does not, in itself, expose a government to the risk of having its continued participation in OGP reviewed by the Steering Committee. Such a review could only occur if the country also acted contrary to its NAP commitments and/or failed to adequately address issues raised by the IRM. Of course, if the Criteria and Standards Subcommittee and the Steering Committee wanted to review a country's continued participation because the government was acting contrary to OGP process, they could undertake such a review pursuant to the first part of Article II which gives them broad discretion to undertake such a review whenever a government's behavior "undermines the values and principles of OGP." [84]

That broad discretion is the foundation of the Response Policy which the Steering Committee approved in September 2014 after three CSOs notified it that Azerbaijan had passed legislative amendments which amounted to a crackdown on CSOs generally and, in particular, on CSOs promoting governmental transparency and accountability. [85]

*Formal Requirements*

The Response Policy is a "policy of reacting to actions that contradict the Open Government Declaration…."[86] It details how governmental behavior that "undermines the values and principles

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[84] There is inconsistent language in the second part of Article II regarding the consequences of failing to adequately respond to issues raised by the IRM. Specifically, the first part of the Article provides that a country's continued participation In OGP can come under review if the country's government fails to adequately respond to issues raised by the IRM for two consecutive action plan cycles. The second part of the Article, however, provides that such a review can only occur if a government, in addition to failing to adequately respond to the IRM, also acts contrary to process or its NAP commitments. In practice, this discrepancy is likely to be irrelevant because the issues raised by the IRM will inevitably concern either the country's commitments and/or its failure to follow OGP process. But if at some point in the future Article II is being amended for other reasons, this discrepancy should be removed. The second part of Article II that refers to what happens when a country fails to adequately respond to issues raised the IRM adds nothing to the first part of Article II and should be deleted.

[85] OGP Articles of Governance, Addendum F, *Policy on Upholding the Values and Principles of OGP, as articulated in the Open Government Declaration) (September 25, 2014)*

[86] OGP Articles of Governance, Addendum F, Rationale.

of OGP" may be brought to OGP's attention; the nature of the governmental behavior that may trigger an inquiry and ultimate review; and the responsibilities of the various components of OGP's governance structure in receiving, investigating, and responding to claims that such behavior has occurred. (See **Box 15** below).

<div align="center"><strong>Box 15:</strong> OGP Response Policy[87]</div>

The Response policy has two objectives:
- Assist the country in question to overcome difficulties and to help re-establish an environment for government and civil society collaboration, and
- Safeguard the Open Government Declaration and mitigate reputational risks to OGP.

The policy is triggered when the Steering Committee, the chair of the Criteria and Standards subcommittee, or the OGP Support Unit receives a letter of concern regarding a situation of relevance to OGP in a participating country from:
- a Steering Committee member, either government or civil society;
- a multilateral partner or Working Group co-anchor; or
- a civil society, not-for-profit organization, or media organization involved in OGP at the national or international level.

The kinds of situations that may trigger a Response Policy Review include:
- 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.

This is not, however, an exhaustive list. The Policy provides that, over time, the Criteria and Standards Subcommittee will build up a list of factors and measurements for what issues should be considered relevant for consideration.[88]

The Support Unit notifies the pertinent country when a letter of concern is received and then investigates the concern, working in tandem with the Criteria and Standards subcommittee, which appoints a small review team for that purpose. Investigating the merits of a concern involves a comprehensive, multi-step factual and qualitative review.[89] If the Support Unit finds a concern has

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[87] OGP Articles of Governance, Addendum F.

[88] OGP Articles of Governance, Addendum F.

[89] OGP Articles of Governance, Addendum F. This review includes the following steps:
- Establishing 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.
- Establishing the relevance of the concern to the Open Government Declaration and OGP's Articles of Governance with a view to determining whether the matter directly undermines the fulfillment of the country's commitment to OGP principles, thereby calling into question the process of its OGP participation.

merit, it seeks a formal response from the pertinent country. Any response received is circulated to the full Criteria and Standards subcommittee along with a short report from the Support Unit.

If the subcommittee finds the response satisfactory, that ends the matter. If not, several actions referred to as *Stage One Actions*, which rely on various axes of suasion, can then be carried out by members of the subcommittee, the co-Chairs, the Support Unit, and other interested Steering Committee members, without the approval of the full Steering Committee.[90]

If the *Stage One Actions* fail to have the desired impact, or the situation does not improve within three months, the subcommittee recommends to the full OGP Steering Committee that one of two actions, referred to as *Stage Two Actions,* takes place. Either the Steering Committee invites the government principal to attend a special session of the Steering Committee to discuss the situation and possible consequences, or the Steering Committee Co-chairs inform the country that it is listed as inactive in OGP until the concern is resolved.[91]

The Response Policy does not specify what consequences follow from being in inactive status but an April 2015 Steering Committee decision on inactivity lists the consequences that apply.[92] Countries placed in inactive status are not expelled from OGP. They remain participating countries for a maximum of one year. A country in inactive status continues to receive Steering Committee and Support Unit assistance, including from OGP Working Groups and peer exchange visits, and may submit a NAP indicating its commitment to addressing the concerns that have triggered its inactive status. Further, countries in inactive status remain eligible to receive support from the Steering Committee, Support Unit and Working Groups, and peer exchange visits. However, countries in inactive status are not eligible to vote on Steering Committee elections.

If the country in inactive status does not address the concerns within a year, the Criteria and Standards subcommittee has to recommend to the full Steering Committee that the Support Unit move the country off the inactive status list, and that the country no longer be listed as part of OGP. Of course, while inactive a government may unilaterally decide to withdraw from OGP.

*Background*

The Response Policy was triggered twice in 2015, its first year of existence; first, by international civil society organizations with regards to Azerbaijan's participation in OGP; and second, by civil

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- Checking 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.
- Assessing whether an OGP intervention could have the desired impact in a country or is necessary to protect the credibility of OGP.

[90] OGP Articles of Governance, Addendum F.

These *Stage One Actions* include:

1. Engaging in or brokering diplomatic outreach to the government concerned at the official and/or political level, including from the co-chairs.
2. Writing 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. Offering to broker technical assistance to work on the issues raised in the concern.
4. Contacting multilateral partners active in the country to help address the issues raised in the concern.
5. Inviting 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.

[91] Id.

[92] See SC Resolution re Azerbaijan available at http://www.opengovpartnership.org/how-it-works/response-policy.

society organizations involved in Hungary's OGP participation.[93] *Stage One* actions proved unavailing in the case of Azerbaijan. Azerbaijan submitted a NAP but the plan failed to address the triggering concerns. Consequently, in May 2016, the Steering Committee placed Azerbaijan in inactive status.[94] Hungary submitted a formal response which is currently being reviewed by the Criteria and Standards Subcommittee.[95] OGP received three letters of concern in 2016 in regards, respectively, to Australia, Israel and Turkey. It investigated all three letters but only one, the letter concerning Australia, was found to trigger the Response Policy. Australia has recently submitted a formal response.

*Analysis*

OGP's governing bodies cannot ignore governmental behavior that amount to a deliberate, and flagrant disregard of OGP's values and principles such as the actions against civil society taken by Azerbaijan and under investigation in Hungary. To ignore such behavior would be inconsistent with OGP's core values and risk damaging OGP's credibility and ability to pursue its objectives. The Response Policy reflects a considered effort to address that concern. But as it stands, presently, the Policy poses risks for OGP on several levels. First, framing the policy as aimed at safeguarding the Open Government Declaration makes the policy very broad because the Declaration is broad and, in places, sweeping in its scope. Second, though the list of the kind of situations that can trigger a review indicate that significant governmental malfeasance must be present, the policy states that this is just a sample and non-exclusive list, and, thereby, could be seen as inviting claims for lesser concerns. Third, claims may be brought by "any civil society, not-for-profit organization or media organization involved in OGP. This gives standing to a wide net of folks; the "involvement" in OGP could be very tenuous and the pool of possible complainants is vast.

The draft first year report on lessons learned from the Policy's implementation already reveals some serious person power constraints, in the Support Unit and the subcommittee.[96] The Support Unit's constraints could conceivably be addressed by funding additional staff (assuming financing was available), but full staffing could prove a costly undertaking if there are numerous complaints all of which have to be investigated thoroughly (as the Policy requires) in order to determine whether they are valid. It's not clear that this would be the optimal use of OGP's resources. For the subcommittee members, all of whom have other work responsibilities; additional funding would not be a solution. Moreover, constraints may arise from diplomatic concerns in addition to lack of time. More fundamentally, investigating letters of concern and deliberating over those found to be valid plunges the Support Unit and the subcommittee into an investigative and quasi-judicial role that is fraught with difficulty.

This is a fledgling policy. The instances in which it has been applied show extraordinarily thorough and measured investigation and decision-making on the part of the Support Unit and the subcommittee. But the degree of work required is not sustainable and the nature of the tasks required warrant considering alternative approaches. Thought should be given to limiting who can submit a letter of concern, tightening the kinds of situations that will trigger the policy, and engaging an outside team of experts to be convened as needed to do the work required, both at the investigatory and deliberative stages. The deliberative task is a quasi-legal task that would

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[93] Criteria and Standards Subcommittee Draft first year report on lessons learned from implementation of the "Policy on Upholding the Values and Principles of OGP" ("Lessons Learned Report") at 1.

[94] See SC Resolution re Azerbaijan available at http://www.opengovpartnership.org/how-it-works/response-policy

[95] See correspondence available at http://www.opengovpartnership.org/how-it-works/response-policy

[96] See Draft first year report on lessons learned from implementation of the Policy on Upholding the Values and Principles of OGP.

benefit from legal expertise, particularly as it would be important to develop a cohesive and consistent body of decisions. It is possible that volunteer legal experts could be found from such sources as the International Center for Not-for-Profit Law (based in Washington DC) and/or the International Society for Third Sector Research. Groups like Amnesty International and other human rights groups would also have helpful experience to share on the investigation task. In addition, precedents like the World Bank Inspection Panel may provide useful ways of framing manageable standing requirements to submit letters of concern.

*Recommendation*

OGP should consider limiting who can submit a letter of concern under the Response Policy; tightening the kinds of situations that will trigger the policy; and engaging an outside team of experts to be convened as needed to do the investigatory and deliberative work.

OGP should also tighten the language in the second and third paragraphs of Article II of OGP's Articles of Governance, as indicated in this section of the Report.

### D. Peer learning and exchange

*Formal Requirements*

Peer learning and exchange is a core tenet of OGP's *modus operandi.*[97] The Steering Committee's Peer Learning and Support Subcommittee (PLS) oversees OGP's peer learning and exchange strategy.[98] The Support Unit's Peer Learning and Exchange Team handle these responsibilities at the working level. OGP's key tools for peer learning and exchange include hosting OGP's biannual Global Summit, regional events and webinars; and sharing resource materials on OGP's website.

In addition, OGP has several thematic working groups which it relies on to provide learning and share best practices on openness in their respective areas of expertise. Currently, these areas are: fiscal openness; legislative openness, access to information; anti-corruption; open data; and openness in natural resources.[99] Each Working Group is co-lead by a participating government and at least one civil society participant. The Groups are intended to help governments design and implement commitments in the Groups' respective thematic areas.

*Background*

Interviewees and survey respondents have been generally positive about OGP's peer learning tools and materials. Their most frequent demand has been for more involvement and materials, and more tailoring of the inputs to regional and national contexts. The most valued input was the opportunity to learn and compare notes with peers – although, in practice, CSOs appear to have taken advantage of this to a much greater extent than government officials. Structured events and exchanges are appreciated, but even simply making reformers and would-be reformers in government and civil society aware of each other, and facilitating mutual learning and support, is

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[97] See Open Government Declaration (pursuant to which signatories pledge to contribute to open government in other countries by sharing best practices and expertise); Article II OGP Articles of Governance (confirming the expectation that participants will pursue and support peer learning and exchange).

[98] OGP Articles of Governance, Section IV. PLS members are encouraged to assume leadership roles in organizing some of these activities, especially in their own regions. In addition, PLS is tasked with overseeing efforts to study and to document OGP's results, for example through case studies and impact research. The PLS also oversees the aspects of the multilateral organization partnerships that promote peer exchange and learning

[99] OGP Articles of Governance, Section IV. Governments and civil society organizations are free to suggest the creation of new thematic working groups to the Steering Committee.

highly valued. Interviewees recognize that targeted peer exchange involves a significant investment of time, money and personnel but believe that OGP should make it a high priority. Interviewees also praised the concept of the Working Groups. Brief case studies of three of the Working Groups illustrate their role (see **Box 16** below).

**Box 16:** Working Group Case Studies

**Working Group on Openness in Natural Resources**

Launched in 2015 in Mexico at the encouragement of Mexico and Indonesia, this Working Group has ten participant countries. The Group encourages OGP participants to make commitments regarding the natural resources sector and concentrates on three key areas; (a) disclosure of contracts, beneficial ownership and environmental data and information; (b) adherence to data standards; and (c) implementation of the Extractive Industries Transparency Initiative (EITI).[100] It gives technical advice on new commitments and offers peer exchange. Its activities have included hosting panels on the natural resources sector at global and regional events (like the 2016 Open Data Summit in Madrid ); hosting webinars; consulting and providing technical briefings on natural resource-related commitments; and conducting research on how to encourage more strategic commitments in the natural resources sector.

**Working Group on Open Data**

Launched at the Global Summit in London in October 2013, this Working Group was prompted by government interest in open data. Membership rose from sixty-six to one hundred and forty in the first two years. The Group attracted significant interest from participant and non-participant governments. This led to some disagreement on modalities between OGP and the Working Group. OGP took the view that the group should only serve participant governments. The Group wanted to serve non-participant governments also and ultimately prevailed in this view. The Group began by creating a bare minimum guide for governments writing commitments on open data (*Guiding Principles*), then created a best practices document and, ultimately, created an Open Data Charter. Since February 2015, the Charter has been taken out of the Working Group's remit and made an overall OGP responsibility. The Working Group is being reorganized.

**Working Group on Legislative Openness**

This Working Group was launched at the Global Summit London in 2013. It engages with a particular constituency (parliaments) unlike the other Working Groups which focus on a specific issue. In some countries, interest in OGP diminishes when the government changes. Getting parliaments involved can create a bulwark against diminished executive branch engagement. The Group has broadened the constituency for OGP. Reform-minded parliamentarians find OGP a useful platform and are eager to engage on openness data issues because it's difficult for parliaments to deal with technology and social media. Since the Group's creation, several parliaments around the world have replicated an Open Government Parliamentary Plan. The plans address ways to make parliamentary issues, and issues of political financing, more transparent to the public. The Group's activities include hosting an annual Global Legislative Openness Week.

*Analysis*

Peer learning and exchange is, not surprisingly, more efficient at helping countries improve their compliance with OGP process standards than helping them mount ambitious reforms. Although the NAP model is flexible in its overall orientation, getting it right requires a fair amount of knowledge, training, and practice. The resources made available to pro-reform actors, including peer learning exchanges and country support, tend to focus on building technical capacities

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[100] *See* Working Group on Openness in Natural Resources website

instead of enabling adaptive learning with an emphasis on political approaches to securing reforms (GI 2016: 22-25, 28-32).

Interviewees praised the concept of the Working Groups. They expressed a strong need for the consolidation of technical expertise that the Groups represent and welcome the opportunity to connect with a whole community engaged on a particular issue. But the Groups' performance is seen as sub-optimal and feedback on their outputs was uneven. A few interviewees praised the Groups for valuable input. Others felt that the Groups were *ad hoc*, shoestring operations that could not devote sufficient time and attention to any given country. Some of the Working Groups are seen as lacking strategic vision. Disillusionment in the Group's outputs and impact has caused some parties to disengage. Both OGP research and interviewees point out that the Groups, overall, do not have the capacity to deliver helpful and up-to-date technical assistance to governments working on creating and implementing NAPs.

Repeatedly, interviewees stated that the Groups' design and operation need improvement. Interviewees repeatedly cited concern about a tendency on the part of the Groups' co-chairs, upon assumption of office, to push their own organizations' priorities and profiles at the expense of the Group's and, ultimately, OGP's, coherence and continuity. Giving one or two organizations power to lead for one or two years allows those organizations' priorities to dominate to the detriment of OGP's broader concerns.

There is no obvious way to address this concern as the Groups are currently conceived and funded. The Groups have very small budgets ($25,000 each) and depend largely on volunteer effort by the co-chairs, which limits who could assume such a role. Deciding who should represent civil society at the global (as distinct from the national) level in the Groups is not an easy task. The Working Group on Fiscal Transparency is seen as one of the more successful groups and has a rotating chair. But the Group's success is based on a range of reasons and annually rotating the chairs risks interfering with continuity.

Governments, too, find serving on a Working Group a heavy lift. Working Group membership is an unfunded mandate which can require many time-consuming and thankless tasks. Over time, people burn out.

Possible mission creep and a lack of clarity over the Groups' mandates, and poor collaboration with those parts of OGP's multilateral partners whose mandates overlap the Working Groups' roles also emerged as common concerns.

In sum, the peer learning aspect of OGP appears overall to be viewed as somewhat haphazard, not amounting to an organized "platform for peer learning." But for an under-resourced function, peer learning has an outsized role in OGP's Theory of Change – i.e. as the mechanism by which countries gain the know-how to compete in the "race to the top." As indicated above (Chapter II), several aspects of the TOC, including the notion of a "race to the top" are subject to question. Nonetheless, the peer learning component assumes that OGP participants have incentives that support peer learning, an assumption that appears to have little basis.

*Recommendation*

- The lack of incentives for government and civil society to invest in peer learning needs to be addressed for peer learning to be sustainable as a pillar of OGP.

- Expanded funding, improved organization of a peer learning platform, and targeted peer exchanges should be a priority for OGP.

- Thought should be given to anchoring the leadership of the Working Groups in the Support Unit so that they work within the umbrella of OGP's priorities and are less subject to being driven by the priorities of the entities that serve as Co-Chairs.

- Failing agreement to anchor leadership to the Working Groups in the Support Unit, thought should be given to funding the Working Group chairperson position so that more organizations can afford to undertake it, and to rotating the position every two years.

# V.    Structures, Organs, and Finance

OGP's legal, organizational and financial structure is key to its ability to deliver on its objectives. This section of the report reviews these aspects of OGP with a view to assessing the partnership's robustness and identifying any aspects that may be in need of strengthening in order to maximize OGP's potential.

## A.  Legal status

*Formal Requirements*

OGP's legal status is in transition. Up until March 2016, OGP had not pursued independent legal status. Instead, since its founding, it has existed as a project of the Tides Center, a nonprofit entity based in California, which serves as OGP's fiscal sponsor.[101] As a Tides Center-sponsored project, OGP is treated for legal and tax purposes as a nonprofit with 501(c) (3) tax-exempt status.[102] Under this status, OGP is also subject to Tides Center's policies and procedures, including an annual audit, conflict-of-interest disclosure policies, and other compliance-related requirements. The Tides Center, however, is legally and financially responsible for OGP's legal, taxation, and regulatory issues.

*Background*

Tides' fiscal sponsorship arrangement allowed OGP to rely on the Tide Center's organizational and administrative apparatus. For example, most all of OGP Support Unit staff are Tides Center employees. As OGP expanded, it found the fiscal sponsorship arrangement increasingly administratively cumbersome. Consequently, in June 2016, OGP secured independent legal status, as an independent nonprofit 501 (c) entity registered under the nonprofit law of the District of Columbia, separate and apart from the Tides Center. To allow for a smooth transition, the Tides Center and OGP have agreed that Tides will remain OGP's fiscal sponsor until January 1, 2018.

*Analysis*

The transition to independent legal status as a D.C-registered nonprofit has significant implications for OGP from a legal, administrative and financial management perspective. OGP has engaged outside consultants to help it design various aspects of the new policies and procedures it needs to put in place.

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[101]Fiscal sponsorship is a practice that enables new charitable initiatives delivering public services to start up in a cost-efficient manner. The Tides Center is fiscal sponsor to approximately 230 projects, of which OGP is one of the largest. Fiscal sponsors are nonprofits that enable the movement of resources from funders and donors to projects, activities, ideas, and organizations that share the fiscal sponsor's mission. Fiscal sponsorship provides a legal framework for a new initiative. See *Learn About Fiscal Sponsorship at Tides,* available at http://www.tides.org/i-want-to/turn-my-vision-ideas-into-a-nonprofit-project/learn-about-fiscal-sponsorship-at-tides#5

[102] Under this status, OGP can receive charitable donations and grants available only to tax-exempt organizations under U.S. federal and state tax and nonprofit organization law but is subject to federal regulations governing nonprofits, such as limits on lobbying and political activities. The term 501(c) refers to a subsection of the United States Internal Revenue Code that lists the types of nonprofit organizations exempt from certain federal taxes. Section 501(c)(3) is one of the tax law provisions granting exemption from the federal income tax to nonprofit organizations that exist for religious, charitable, scientific, literary, or educational purposes, among others. See IRS [website].

*Recommendation*

OGP will need to devise its own operating policies and procedures including, but not limited to, employment policies, conflict of interest policies, and a more expansive financial infrastructure. As OGP seeks to reach out to smaller, less well-known citizen collectives, it will also need to ensure that it has a tight screening process to guard against the risk of including shell or front organizations.

## B. Structure and key organs

*Formal Requirements*

OGP's governance structure is comprised of; (i) a Steering Committee; (ii) three Steering Committee Sub-Committees; (iii); a CEO; (iv) a Support Unit, which serves as a permanent secretariat to the partnership and has four Sub-Units (Teams); (v) an Independent Reporting Mechanism, which relies on Country Researchers; (vi) Regional Coordinators and country-based Points of Contact; and (vii) an Independent Experts Panel as indicated in the organogram below (see **Figure 7** below). The respective functions of the different components of the structure are indicated in **Annex 8**).

**Figure 7:** OGP Governance Structure
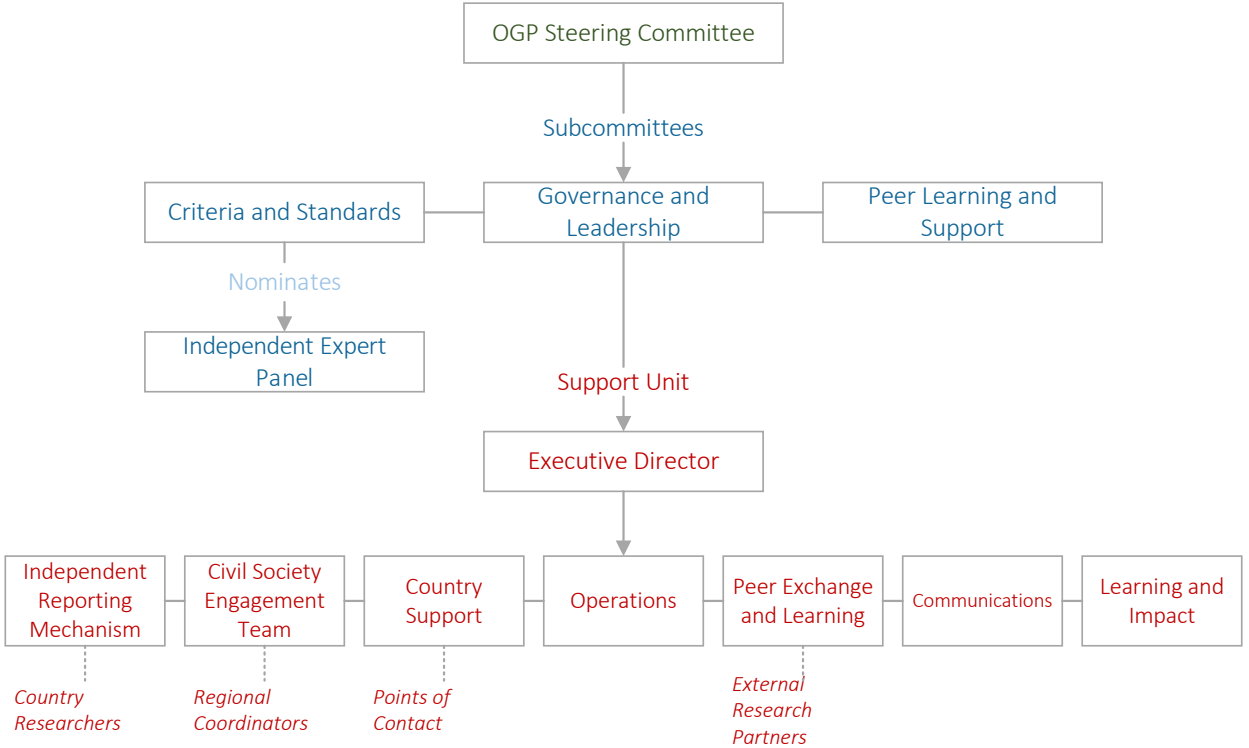


*Background*

Interviewees suggested a number of tweaks to aspects of OGP's governance. With respect to the SC, the need for stabilizing OGP's priorities, perhaps by limiting the Co-Chairs' authority and/or rotating them less often, emerged as a widely held view. In addition, interviewees indicated that OGP should provide more clarity on the SC's role in endorsing the work of the C&S sub-committee so as to ensure that the SC doesn't simply re-do the work of the SC. Several interviewees

indicated that they would like to see the SC reserve some seats for representatives from countries' legislatures. Although Chile and Argentina currently have parliamentarian representatives on the SC, these interviewees maintain that legislative representation of legislatures on the SC is too important to leave to happenstance.

Some interviewees also stressed a need for greater OGP transparency and accountability about OGP's budget and internal processes. Interviewees also recommended that OGP make the criteria and processes for electing members to the SC clearer and more transparent.

Uniformly, OGP participants praised the dedication and energy of the SU – a few describing the Country Support Team's efforts as "amazing" and the Civil Society Engagement Team as incredible. But the interviewees repeatedly observed that the Support Unit needs more resources to do what it aims to do. It is too small. [103] Further, the Country Support Team's capacity is, inevitably, constrained by its lack of an in-country presence.

Interviewees indicated that at times, this leads to the SU appearing to have insufficient individual country knowledge and the required sensitivity to the operative political climate in a country and the impact of that climate on OGP commitments. Government interviewees often state a preference for either having a permanent SU presence in the country or region, or having staff and leadership (Steering Committee members) visit more often – their presence is seen as providing a noticeable boost to activities relating to the NAP. Some interviewees suggested that, at a minimum, the SU should aim to cultivate a strong leader in every region; someone with strong relationships and communications and outreach capability across the region.

Some expressed concerns that the SU does not communicate well enough or often enough. Shortfalls in these areas are usually understood as the result of covering a large number of countries with limited time and resources.

Finally, as noted elsewhere in this report, the Operations Sub-Unit's tiny (though efficient and effective) staff will need to expand and build capacity to assume the responsibilities that have so far been handled by the Tides Association.

With respect to the Points of Contact, interviewees noted that the Point of Contact in the country, not the NAP or the IRM researcher, is the crucial factor for OGP success. If the Point of Contact is not in a powerful ministry, he/she is of "little help." Too often, interviewees noted, the Point of Contact is too junior or is in the Ministry of Foreign Affairs. In such situations, interviewees suggested, the multilaterals and bilaterals, whose contacts are in the Ministries of Public Administration and Finance, can help OGP. Interviewees recommended that OGP strategize to have Points of Contact in influential places and/or to help the Points of Contact spread awareness of OGP throughout other government ministries and branches of government.

*Analysis*

All young and evolving initiatives learn from experience what tweaks to their governance structure and operations will improve their ability to function. In that vein, OGP should give due consideration to the thoughtful suggestions of its participants and stakeholders, all of whom are deeply invested in OGP's success.

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[103] In 2016, the SU has a staff of 25 and a budget of $6.7 million to cover all of its work in communications, provision of tools, managing electronic resources, mediating between governments and CSOs, etc.

*Recommendation*

- OGP needs to be more transparent about its budget and the criteria and processes for electing members to the SC.

- The SU needs more financial and staff resources.

- The Country Support Team is very under-staffed and needs to expand and deepen its country knowledge to cover the large number of countries that now comprise OGP.

- The Operations Team will need to expand and build capacity to assume the responsibilities that have been handled by the Tides Association for the first five years of OGP's existence.

- OGP needs to strategize to have Points of Contact in influential places and/or to help the Points of Contact spread awareness of OGP throughout other government ministries and branches of government.

### C. Multilateral partners

*Formal Requirements*

In addition to its core component parts, OGP has several multilateral partners. Early in its creation it established partnerships with four multilateral partners; the Organization for Economic Cooperation and Development (OECD); the World Bank; the InterAmerican Development Bank (IDB); and the United Nations Development Program (UNDP). More recently, the Steering Committee reached out to four additional multilateral partners, including the Economic Commission for Latin America & the Caribbean (ECLAC), the Organization of American States (OAS), the New Partners for Africa Development (NEPAD) and the Asian Development Bank. Each of the Multilateral Partners is invited to participate as observers in the "relevant" session of at least one of the Steering Committee's meetings a year. In observer capacity, they may be invited to share their views but they have no role in voting.[104]

*Background*

OGP's multilateral partners have enormous respect for what OGP is doing, noting that OGP has "created a very special niche amongst multilateral organizations and initiatives." This respect and admiration is held in those departments of the multilaterals that are dedicated to good governance (government transparency and integrity; e-government; and improved public service delivery). The staffs of these multilaterals are heartened by what OGP is accomplishing (while acknowledging that in multilaterals that place low priority on good governance, senior management and operational staff tend to be uninterested and/or skeptical). They say that OGP's efforts in encouraging governments to work with civil society on co-design and the co-creation of government policy, and OGP's encouragement of the use of technology for these purposes, help bring citizen demands "into the spotlight."

The multilaterals see significant synergies between OGP's objectives and their own mandates to promote better governance, including advancing Goal 16 of the Sustainable Development Goals (SDGs), and the goals of the Joint Declaration on Open Government for the Implementation of the 2030 Agenda for Sustainable Development.[105] OGP and SDG 16 have a common mandate.

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[104] OGP Articles of Governance, Section II.

[105] Interviews; A. Ramirez-Alujaso & N. Dassen, *Winds of Change II, Progress and Challenges in Open Government Policy in Latin America and the Caribbean,* Technical Note (July 2, 2016).

Moreover, all 70 OGP participant countries are signatories to the SDGs. Given this overlap, the multilaterals would like to see OGP "systematically promote" this "larger chapeau." The connection between OGP and two International Development Association (IDA) indicators (open government and citizen engagement) is seen as a desirable approach. Working together, the multilaterals, OGP and civil society can be a "strong leveraging tool" on many governments.

*Analysis*

The synergies between OGP and its multilaterals partners are not being exploited to their full potential. Some multilaterals say that OGP is inclined to leave them has in "a limbo" and, too often, to view the multilaterals as just a "wallet." This disregards the fact that the multilaterals have extensive programs on precisely the same issues with which OGP is concerned; for example, several of the Working Groups focus on issues in which multilaterals have amassed considerable expertise. The multilaterals may also have a long history of engagement, and many government contacts, in the countries where OGP is seeking to engage. The limited role multilaterals have been able to play in the Working Groups has prompted some to disengage somewhat in OGP.

The multilaterals recognize that OGP cannot immerse too completely with the multilaterals (or, indeed, with the bilaterals) if it is to preserve its core agenda and central objectives. But, uniformly, they believe that this necessary caveat should not preclude much greater coordination and collaboration than currently exists. For example, they suggest that countries' NAPs and SDG plans should ideally be linked, or, at a minimum, cross-reference each other. The OGP/UNDP 5-Country Pilot on Monitoring SDG-16 is seen as a promising step in this direction. They also suggest that OGP work with the multilaterals to create a systematic way for OGP and the multilaterals to be informed whenever a multilateral is working with a country on an issue covered by a NAP.

Several multilaterals indicated that the NAPs should be better synchronized with countries' budget cycles.[106] Ambitious commitments require financing so OGP/multilaterals coordination around such commitments makes sense. One multilateral proposed that OGP amend its NAP template to include a "source of financing" column that would indicate the source of funds a government intends to rely on to fund implementation of its commitments. Such information would provide an automatic way for the joint interests of the multilaterals and OGP in a given commitment to be exposed. The Points of Contact and the multilateral country teams could collaborate in working with the country on establishing realistic milestones and timetables, aligned with country budget cycles. The World Bank also suggested that IRM try to strengthen the link between its timetables and the World Bank's project cycle, and that IRM and the Bank could share learning and experience on the challenge of assessing the impact of governance reforms.[107]

All of the multilaterals and the bilateral agencies interviewed believe that OGP's voice could be amplified at the country level if OGP coordinated more closely with the multilaterals. Successful examples of such coordination with USAID in Liberia, Mexico and Jordan were noted. In contrast, a lack of such coordination as a routine matter was cited as a "glaring deficiency" in OGP. Multilaterals and bilaterals noted that OGP's Support Unit (whilst extraordinarily hardworking) often lacks a sense of "realpolitik" and displays a poor understanding of country dynamics and the difficulties countries face in following through with the implementation of commitments. They urge the Support Unit to develop a coordinated mechanism to convene donors in-country to supplement the Support Unit's lack of knowledge of the in-country drivers of reform and the in-country obstacles. Multilaterals repeatedly suggested that OGP's Points of Contact should

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[106] World Bank Memorandum, *Feedback and Recommendations to Support Unit and IRM* (June 2016)
[107] *Id.*

routinely work closely with donor roundtables on transparency and good governance where such roundtables are in place.[108] Such collaboration would create a more strategic and integrated vision of sustained support for open government.

*Recommendation*

OGP could better use its multilateral partners by analyzing what each partner has to offer OGP and designing a partner-by-partner strategy to exploit that potential. The areas to target for immediate improvement are:

- Coordinating the NAPs with countries' SDGs plans and the multilaterals' country assistance programs;

- Systematically having Points of Contact reach out to multilateral and bilateral staff who are working on related issues in the Point of Contacts' respective countries to identify areas for collaboration and mutual support

- Re-defining the role of the multilaterals in the Working Groups

### D. Financial structure and funding sources

*Formal Requirements*

OGP's funding is comprised of foundation and other nonprofit organization grants, bilateral aid agency grants from some participating countries (notably, DFID and USAID), and participating country contributions. Since 2015, all participating countries are expected to make annual contributions to support the Support Unit and the IRM.[109] A number of countries are in arrears on paying their contributions. As of December 31, 2015, OGP's total assets were $$6,875,106. [110] Its projected budget for 2016, as approved by the Steering Committee, is $6,689.327.[111]

*Background*

Currently, the Tides Center accepts all financial contributions from OGP's donors to OGP and holds and manages OGP's bank account. The Executive Director has signature authority over the account, overseen by the SC Governance and Leadership Subcommittee (GL). The OGP account(s) may be used for any activity falling within OGP's objectives and the budget and work plans approved by the Support Unit. The funds may be applied to administration and governance costs, country-specific activities and multi-country activities. OGP intends the Executive Director to continue to have authority over OGP's finances, subject to GL oversight, when OGP's independent legal status becomes operational.

OGP has expanded rapidly in the first five years of its existence and has existed throughout on a shoestring budget in a manner that is not sustainable. In order to help OGP to deliver transformative impact, and to equip it to follow through on the goals of the Strategic Refresh, the Steering Committee has been pursuing the possibility of raising additional financial resources for

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[108] World Bank Memorandum, *Feedback and Recommendations to Support Unit and IRM* (June 2016)

[109] OGP Articles of Governance, Section. Prior to 2015, only countries on the Steering Committee were expected to contribute. Expected contributions are set according to the size of a country's economy, using World Bank country economy classifications. OGP sets a recommended and minimum contribution amount for each country classification. For example, the minimum contribution for a high income country is $100,000 and the expected contribution is $200,000.

[110] Report of Independent Auditors (June 30, 2016)

[111] 2016 Support Unit and IRM Budget, available at http://www.opengovpartnership.org/finances-and-budget

OGP, through the creation of a possible multi-donor trust fund, or other financing mechanism.

*Analysis*

OGP clearly needs more funding to continue to operate and to deepen and expand every aspect of its activities. In raising additional funding, it is crucial that OGP retain power and control over any additional funding raised in order to ensure that OGP can use such funding in accordance with what OGP perceives to be its highest priorities. Under current plans for raising additional funding, donors will have the option to send additional funding either directly to OGP (the new nonprofit entity under DC law) or to a new, separate, multi-donor funding mechanism, the creation of which may be necessary to accommodate the needs of some government donors.[112] The simplest, most efficient way to give additional funds to OGP is contribute them directly to OGP. If some donors' legal and/or operational constraints require, however, that they contribute through a trust fund, OGP needs to exercise caution in the design of any such multi-donor funding mechanism in order for the mechanism to serve OGP's needs in an optimal manner.

The key issue in the design of a new multi-donor trust fund is choosing who will have the authority to decide what activities get funded from the new fund on a proposal-by-proposal basis.[113] OGP enjoys considerable autonomy over contributions it receives from donors now. It should ask the donors to any new multi-donor trust fund to give it the same autonomy over the trust fund resources without constraint. OGP would then be free, at its discretion, to fund peer exchange, convening events, technical assistance and other activities that could be carried out by a range of entities, including entities like the UNDP, the World Bank, CSOs and others pursuant to grant and contractual arrangements entered into with OGP.

If the donors to any new multi-donor trust fund decide, however, that they want to retain the power themselves (acting through a trust fund donor representative group) to allocate the trust fund resources, rather than delegating that power to OGP, the design of a workable structure for such involvement will be of critical importance. Thought will need to be given to how any donor representative funding council will coordinate with OGP's existing governing bodies and five-person Board of Directors of OGP's new nonprofit legal structure (which provides for OGP to be governed by a five-person Board of Directors, four of whom will be members of the Steering Committee). At the granular level, OGP should suggest that all proposals for funding from the any new multi-donor trust fund be submitted in the first instance to the Support Unit for initial vetting (for basic eligibility). The Support Unit could then compile the proposals for the body charged with authority to allocate the trust fund's resources.

As for where any multi-donor trust fund should be housed, if OGP and/or donors believe that a multi-donor trust fund is a necessary repository for additional funding (either on an interim basis until OGP builds increased internal operational capacity or permanently), a World Bank multi-donor trust fund could meet this need *provided that* it is set up as a financial intermediary fund (FIFA). Such a structure would enable OGP (or any donor representative group the donors might with to establish) to have allocation authority over the funds but would rely on the World Bank to serve as a pass-through financial intermediary. In that capacity, the World Bank would collect the contributions to the fund, invest them pending disbursement and then disburse them on the instructions of, and in accordance with, the decisions of the person(s) or body in charge of

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[112] OGP Multi-donor Trust Fund Brief (September 2016)

[113] Sophie Smyth*, A Practical Guide to Creating a Collective Financing Effort to Save the World: The Global Environment Facility Experience*, 22.1 Geo. Int'l. Env. L. Rev. 29 (January 2010); Sophie Smyth, *Agency and Accountability in Multilateral Development Finance: An Agenda for Change*, 4:1 L. & Dev. Rev. (Summer 2011), *Sophie Smyth & Anna Triponel, Funding Global Health,* 15 Health & Hum. Rts. 58 (2013)

allocation decisions. Under such an arrangement, grant agreements would be issued by OGP to recipients and OGP would supervise and monitor recipients. The World Bank would simply be a financial intermediary. There are many precedents for such arrangements. The World Bank would be paid an administrative fee. World Bank departments and operational units would be eligible to submit proposals for funding to the decision-making body, along with other eligible recipients. The World Bank would also be free to encourage governments or groups it is working with to submit proposals.

*Recommendation*

OGP should ask donors to contribute additional financing direct to OGP to be used at the discretion of OGP's Executive Director with oversight from the GL. If donors wish or need to provide such additional financing to OGP through a multi-donor trust fund, OGP should work with donors to design a fund along the lines indicated above.

# VI.  Conclusions and Recommendations

## A. Findings and conclusions

In this chapter, we recap the findings and conclusions of preceding analysis, then present our recommendations for OGP going forward. We alluded above to OGP's character as a multi-stakeholder initiative, and compared it particularly with EITI. It is clear from this Review that OGP is distinct in its broad mission of supporting initiatives to increase openness in government across the globe, as well as its insistence on equal partnership between government and civil society. As a result, OGP is positioned (and challenged) differently from other MSIs that deal with governance—which tend to have a tighter focus. OGP has a special niche as a "wholesale" MSI, partnering with more specialized initiatives, although continuing in certain areas at the "retail" level. OGP also has a potentially important role to play as a partner to the development agencies, but its operative logic follows that of the MSIs and not development implementers. Last, OGP is in some sense a tool, or perhaps a force, that external actors (chiefly governments and international bodies) attempt to turn in directions that suit their interests. This shows its potential power but also creates hazards. In short, OGP is *multivalent*. This poses a particular challenge to those trying to understand it, work with it, and plan its future.

OGP's *Theory of Change* outlines desired changes based upon assumed linkages and behavior. Among the problems of the ToC is the assumption that the basic problem common to poorly-governed societies is a lack of openness and shared norms. Overall, however, the ToC has considerable promise as a statement of goals and as a roadmap. It is at this point incomplete, but that can be addressed. There is also a sense in which the Theory tries to say too much. The vision and value of OGP are not reducible to a linear flow in which Inputs are fed in and processed into governmental effectiveness or specific reforms. OGP should be, and to some extent is, looking for both near-term and longer-term outcomes. In the long run, it is about establishing openness as the default assumption across governments and countries, and helping societies sustain that vision of openness. Understandably, OGP emphasizes near-term benefits related to openness, such as adoption of reforms and improvements in functions and services. This is where it can affect people's lives and garner support for continued action.

OGP aims to exert influence through the *interactions of high- and mid-level government officials as well as civil society leaders*. Accountability for results in this process is supplied chiefly by means of IRM assessments of the ambition and completion of NAP commitments. Through its work, OGP has earned a great deal of respect and has strengthened the international effort and normative framework for openness in government. At the level of its operations and progress metrics, both internationally and in OGP countries, the experience has been more mixed. It includes high-profile successes in securing major commitments from heads of state and others. But the link in the chain of OGP influence from high-level commitments to effective action at the working level of government is in many cases, perhaps most, not a strong or certain one. The hopeful aspect here is the co-creation process, which seems to have proven its worth. That process, and the OGP support to it, has a positive value that tends to increase over time. IRM comes in as an accountability mechanism at specified points. Its reports are widely accepted as credible, and they usually prompt action. On the question of impact, country-level indicators do not point to clear-cut openness effects from OGP activities and commitments.

The *Rules of the Game* channel the energies of the various players into productive action and interaction. The Eligibility Criteria set the floor under OGP country performance standards, providing for a wide, but not wide open, tent. Those criteria themselves do not change with time or progress. Now, the prevailing view is that OGP should have one set of expectations for

countries at the point of entry and a different set of expectations for the duration of a country's participation. This approach would comport with participant governments' understanding of how OGP's suasive force works – by fixing a transparent international benchmark for countries' self-improvement. The Co-Creation Guidelines provide participating countries with a road map for complying with the citizen engagement criterion. The application of this criterion is under constant review and refinement. For some countries, engaging with civil society is commonplace. For others, a commitment to do so is revolutionary. This has meant that some countries make little effort to engage in co-creation, and yet remain in good standing. Other relevant components of the OGP structure here are Peer Learning and the Working Groups, both of which are critical and much-appreciated, but not optimally designed or resourced.

The *legal and organizational* dimension of OGP presents several questions and opportunities. The transition to independent legal status as a nonprofit has significant implications for OGP from a legal, administrative and financial management perspective. The Steering Committee has seen some arguments about its make-up and procedures. Among the issues are the proposal of systematically including legislative representatives, among others, and the criticism that co-chairs have too much power to shift priorities as this suits them. OGP also faces the challenge of matching means to ends. The Country Support Team in particular is under-staffed and needs to expand and deepen its country knowledge. Current fund-raising plans include a possible multi-donor trust fund, but there are fundamental design issues to be decided on this. More generally, OGP's multilateral partners see significant synergies between OGP's objectives and their own mandates to promote better governance. Working together, the multilaterals, OGP and civil society can be a strong leveraging tool on many governments. At present, this leveraging tool is not working as it should, and the obvious synergies are not being exploited.

## B. Recommendations

*Theory of Change*

A refined and more complete ToC should be based on OGP's knowledge and experience base–notably, the IRM process and activities of the Support Unit–with a goal of identifying key groups and linkages to energize in order to move the larger scenario forward. That sort of thinking should emphasize not only broad goals but also the incentives, motivations, and specific social/political connections necessary to move in positive directions.

A more complete and nuanced ToC, in practice, means the design and deployment of a number of new-model measures and a more detailed level of thought and assessment about causal connections that are, at present, mostly desired scenarios. Many of them will of necessity be qualitative in nature, based on interviews, focus groups, and the like. Others may be gathered via sample surveys. Those, most likely, would be done as needed in individual countries, rather than across large numbers of societies at once.

Recommended revisions are as follows:

- Devise a phased, or perhaps multi-track, ToC, in order to accommodate widely divergent realities of societies at differing levels of economic and civil-society development, with social divisions of various sorts, and with various conflict or post-conflict situations. Those variations should give clearer guidance as to sequencing important changes in civil society, law enforcement and maintenance of order, provisions for civil liberties, basic reforms of administrative structures and processes, and the like.

- Incorporate the lessons and tactics that OGP has learned from experience into a more fully-specified ToC and into new measures shedding light on the presence and activities of specific kinds of groups and leaders.

- Make timelines and expectations regarding the pace of positive change more flexible. Results and trends in established liberal democracies will differ from those elsewhere, particularly where societies are divided or countries are in post-conflict situations.

- Use creative, low-cost ways of assessing progress on early priorities (more detailed suggestions appear on pages 16 and 17 of this Review). If strengthening civil society is one of them, what are the levels of mutual and political trust in a society? What sorts of inequities in policy and social provision exist among segments of society? What is the state of civil liberties? Such dimensions can be assessed both quantitatively and, qualitatively by OGP staff and in-country observers.

- Examine desired processes of change in differing developmental, political, and civil-society contexts as a way of giving the ToC more content and nuance.

- Subject the notion of virtuous cycles to a close empirical examination, using historical evidence from established well-governed societies as well as contemporary evidence from OGP participating countries.

- Specify the core idea of high-level political commitment in more detail – again, adapting it as necessary for the realities of differing types of participating countries. There are likely no universal answers to those questions, but understanding the forces for, and opposing, positive change is essential.

- Measure participation in decision making by key sectors of civil society – farmers, women, small business operators, civil liberties groups, the press. These can be at least qualitatively assessed, country by country, for strategic categories of participating states.

*Chain of interactions and influence*

OGP as a *high-level commitment* mechanism has a specific value and niche at the same time as it embraces a wide and expanding substantive terrain within its purview. We mentioned OGP's posture as a "wholesale" MSI and as a partner to key actors in diplomacy, development, and finance. There are also the opportunities and dangers of its usefulness as a tool for powerful interests and for mobilized groups. Further, OGP's ultimate value lies in long-term shifts in norms and institutions along the axis of openness. In this area, we recommend as follows:

- Deepen and strengthen the techniques for distinguishing genuine from *pro forma* commitments. There need to be better ways to scrutinize proposed commitments, including those that focus on existing or ongoing reforms and those that target substantive "low-hanging fruit." Neither of these tactics, contrary to their critics, always amounts to slacking or cheating. As an entity that helps reformers gain momentum, OGP should continue to encourage commitments of this kind – in the right circumstances. More resource-intensive approaches to this would include commissioning political economy analyses, as well as more intensive consideration of heavy substantive clustering in certain areas (e.g. Open Data) and the existence (or absence) of accompanying accountability reforms in OGP-IRM performance measurement. Less costly would be requiring greater precision in NAPs (and IRM reviews) in specifying the marginal contribution of a proposed action (as proposed in the Internal Synthesis paper).

- Encourage longer-term reform commitments by lengthening the two-year NAP timeframe or providing other inducements. There is wide agreement that the existing NAP cycle is not optimally designed to support deep and lasting reform. It tends to produce small-bore commitments with low ambition, and to emphasize process, short-term targets, and box-checking. One option here is move to a three- to five-year cycle that incorporates annual reporting and intermediate targets. Another might be to open a kind of "auction window" for OGP countries to "bid" for some prize or recognition in return for a major breakthrough over the three to five-year period. Lastly, OGP should consider cumulative benchmarks and measurement over the life of several cycles, with special IRM reports and longitudinal studies targeted at longer-term achievements.

- Address the trade-offs of costly high-level events against other valuable activity such as country support, peer learning, and analysis. This is easier said than done, but it appears to be a sore point. Absent high-level commitment, there would likely be no OGP. The summits and other events appear successful in extracting commitments, and so it is vital to continue them in some form. The constraint here appears to be less about funding than about staff time. This argues again, as other parts of this report argue, for an expansion of Support Unit staff, along with upgrading or reform of the Working Groups, and related steps.

*Mid-level officials* working with civil society translate high-level commitment into ambition and action. Have co-creation processes prompted learning and improvement? OGP has had mixed success here, but the co-creation process is widely regarded as open, helpful, and improving. Co-creation and implementation of plans require a great deal of work from both sides, and progress can evaporate quickly where governments or conditions change. Here, we recommend as follows (most of the following suggestions also appear in the SU's "Feedback Report," 2016):

- Increase OGP's presence in participating countries and regions. Stakeholders repeatedly express an interest in hosting meetings and events in their countries with the Support Unit or Steering Committee members. This does not happen enough. "We don't see them for two years," is a typical comment. Visits and events are considered vital for visibility, momentum, encouragement, and learning. Having a more robust regional presence – as in Latin America – would make more frequent involvement feasible. This involves costs, and some regions (e.g. Asia and Africa) may not have the scale of country participation to justify this. Increased presence should include deployment (or perhaps contracting or secondment) of people with technical experience and understanding of the context (this would require increased resources, as discussed below).

- Reduce sources of resistance to co-creation and reform. This is partly a matter of adjusting rhetoric and terminology to fit the context, thus reducing the red flags and the opportunity for the unwilling to denounce OGP as a Western intervention. This has cropped up most frequently in East Asian OGP countries. Related to this, the overall optic of OGP – as reflected in our discussion of the TOC – should ideally be more nuanced. Increasing openness has significant marginal benefits across the board for many countries, especially those whose political systems were more recently established. But a reasoned discussion of openness should acknowledge its limits and its need to accommodate other values such as autonomy and impartiality. Doing so could give comfort to some who are determined to resist, but is likely to make it easier for a larger number of interested leaders and organizations to take the plunge. Such an approach should be studied with a view to incorporating it into OGP guidance.

- Break out of the "silo." There has already been much discussion in OGP of the need to raise and broaden out its presence in the public sector. Centers of power in relevant parts of government need to be identified and brought into in-country leadership, from cabinet to line ministries in the sectors of interest. Independent oversight agencies, legislatures, in some cases the judiciary, should be actively solicited for their views and participation. MSIs in other fields (again, EITI is an example) take this approach with some success. If it turns out that these other power centers have no interest, at least OGP stakeholders will have a realistic view of where things stand. A related point, touched on elsewhere, is pushing to integrate OGP more into the national budget process, thereby generating commitments that are more credible for having some resource allocations. Incorporating this approach more firmly in OGP guidance documents and IRM metrics would encourage progress here.

- The broadening of OGP ownership across government should be done in a way that addresses the need for continuity through political transitions. This permanent presence could take the form of an established long-term dialogue mechanism, a unit or series of units responsible for OGP initiatives, or perhaps OGP officers (civil servants) placed in key ministries or agencies. These officers would be analogous to auditors, legal counsel, or government ethics officers placed in line ministries (and often reporting to a functional supervisor in a central audit, legal, or ethics office). Indicia of permanent establishment or continuity should be developed so as to recognize and incentivize such steps.

*Civil society* dynamics, incentives, and concerns are at the forefront of OGP activities and analysis. As a result, the knowledge base here is quite developed, and the key issues identified and discussed. The civil society dimension, and particularly the power that CSOs have by virtue of their seat at the table and equal voice with government in co-creation, is one of OGP's remarkable features and perhaps the best known. Yet, the evidence that this alone has empowered civic groups or enhanced their purchase on the politics of reform is thin. Our recommendations here are these (again, to a great extent informed by discussions in OGP):

- Recognize and support greater civil society initiative in NAP processes. CSO representatives have expressed on a few occasions their view that they need to be part of implementation as well as creation of the NAP – rather than handing over the NAP to government. They would like to see more demand-driven commitments, and to see this balanced against the supply-driven agenda of government. This would provoke resistance in some countries, but this orientation is already being incorporated into OGP guidance. It needs to emerge more clearly as part of the overall normative framework and expectations for NAP processes.

- Consider adopting standards for CSO transparency and participation in OGP. The polarization and questions of legitimacy around CSO engagement in several countries seem to call for some response. Not every OGP country is transparent about how the CSOs involved in the process are selected. These problems are inevitable in civic participation initiatives. The strategic question is whether these matters should be left to the civic sectors in OGP countries to sort out on their own, or if there needs to be a standard. A related question is whether such a standard is likely to be applied in a way that shuts out CSOs with certain views or limited capacity. But there are standards that have been developed by specialist organizations dealing with NGO governance and transparency, and these can provide guidance. (See the discussion below.)

*Accountability for progress, outcomes, and impact* comes at mid- and end-points of the NAP process. IRM plays the lead role here. IRM and its studies are highly regarded, but there are ways

in which they can be strengthened. Also, there is some misunderstanding of IRM's purpose as an (independent) affiliate of OGP – i.e., to stimulate action, learning, and improvement from within governments and civic sectors in OGP countries. Its influence is indirect, even if the World Bank or EU uses IRM findings in decisions about those countries. In this light, we offer the following recommendations (again, reflecting the Feedback Report and other OGP documents):

- Adjust the time frame of IRM reviews to match the longer-term approach suggested above. There, it was proposed that this adjustment be made to enable more of a focus on deep long-term reforms. The IRM review function would need to adapt to a new time frame, or to the alternative of multiple short- medium- and long-term commitments. Research tools would also need to be adjusted to include more longitudinal studies about changes in practices, service delivery, perceptions, and norms related to openness reforms.

- Improve the communication of IRM results. IRM performs a vital function well, but is in the unenviable position of often delivering bad news to both government and CSOs. OGP has been formulating new guidance on IRM report formatting and language, report launches, press releases, other means of communicating results including social media. These steps will be important, and should happen soon in a more systematic way, to help defuse resistance and misunderstanding.

- Calibrate expectations of impact in the near term. Analysis of international indicators of open government does not yield any clear-cut evidence on the effects of OGP activities or commitments one way or the other. This underlines the need to adjust the timeframe of NAP processes, and to redefine expectations of what OGP is indeed offering and can be expected to deliver. As suggested above, longer-term studies of on-the-ground dynamics and influences should be used to supplement IRM studies in their current form, in order to address the impact issue, to shape the discussion around it, and to adapt OGP-IRM approaches accordingly.

*Rules of the Game*

Regarding the *Eligibility Criteria*, OGP is moving in the direction of differentiating between entry-level and ongoing expectations. This poses two key challenges. First, it would require designing progress benchmarks that take account of the fact that participating countries join OGP at very different starting points when it comes to openness. At the same time, all progress takes significant political capital to achieve and any OGP progress benchmarks must honor that reality. Second, differentiation would require OGP to decide what measures to pursue if a country fails to meet progress expectations. This can arise in two different situations; (i) when a country fails to make expected progress; and (ii) when a country backtracks on progress already made. Currently, OGP has two main options for addressing both situations, neither of them ideally designed for this purpose: the issuance of a negative IRM report, and the invocation of the Response Policy.

We recommend as follows:

- Consider a multi-tiered, multi-speed approach with graduated progress benchmarks. This mirrors the idea, discussed above, of a phased or multi-track Theory of Change, with differentiated metrics. One tier could be made up of richer, more powerful countries that are in relatively comfortable circumstances internationally, in which OGP is a side issue if not a nuisance. These countries are often relatively open already, and CSOs often do not have as much leverage as elsewhere. A second tier could comprise countries, usually small and middle to lower income, that are highly motivated and quite sensitive to global

opinion, many of them seeking international aid or finance, or accession to bodies such as the OECD. A last category might include the poorer and less stable OGP countries. While a core tenet of OGP is open government reform based on goals, commitments, and pressures generated within the domestic political sphere – i.e. relative rather than absolute benchmarks – more could usefully be done to take account of countries' different starting points, and the differing magnitude of likely impact as a result of changes in one context as compared to another.[114] This could help adjust expectations appropriately as well as focus resources on high-payoff commitments. Tiered progress metrics, and less insistence on a particular co-creation model, would help address the frustration, and in some cases waning motivation, felt by OGP participants in countries that are relatively advanced in openness terms.

- Devise a formal policy of interventions to address participant countries' prolonged failures to progress and/or backtracking. The interventions could include Steering Committee member outreach, in-country workshops, targeted peer-to-peer exchange, and a "name and shame" procedure. OGP could decide that these interventions will occur in a pre-agreed order.

- Consider adopting a requirement of periodic membership renewal or sunset. OGP's rules would need to be changed so that membership in good standing lapses after a period of years, perhaps three or five. Each country would, depending on the approach, need to apply for renewal of OGP standing ("membership") or submit to a process of re-validation. This approach is used in some other MSIs, including EITI. The trade-off here is between the benefit of reinforcing incentives to perform (at least for countries wishing to remain) and the increased investment of time and resources in procedure, notably in the Criteria and Standards Sub-committee. There is a risk that membership would drop off, but if departing members are not motivated, it might be better not to have them.

*Co-Creation:* Here, the conceptualization of the citizen engagement criterion will need to be clarified in tune with OGPs' refinement of its Theory of Change. At the operational level, the proposed revisions to the Co-Creation Guidelines are a well-considered, measured response to the needs that have emerged for strengthening the citizen engagement criterion. A few other adjustments are needed. We recommend the following:

- Reconsider the idea of starring co-creation processes. It is not clear that the proposed starring process advances OGP's interests, since it risks becoming too prescriptive and antagonizing several key OGP countries without obvious upside trade-offs.

- Consider ways of expanding the concept of citizen engagement to include the engagement of a wide range of citizen collectives beyond CSOs. This fits with both the Legislative Openness policy and the Local Government pilot, but also goes beyond them. It means casting a wider net, using outreach to encourage participation by a broader spectrum of organization. This in turn may require OGP to set up some basic parameters on backing and independence – a potential boost to credibility but also a cost in terms of time devoted to procedure.

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[114] The analogy of economic growth measures seems relevant here. The same absolute increment of economic activity would represent a very small uptick in a large developed country but quite a large spurt of growth in a small, poor country. In the same way, a particular open government step (e.g. appointing an information ombudsman) might be a huge breakthrough in one setting but only marginal progress in another. OGP might then target the changes likely to bring the largest marginal impact on openness globally.

- Link CSOs and other citizen collectives involved in OGP to new sources of financial support for the indispensable role they are called upon to play in OGP. All players need "skin in the game," but CSOs are often operating at the limits of their resources and yet OGP participation places significant burdens on them. This may need to become a higher priority in OGP's discussions with its international partners – but there may also be an opportunity here for productive collaboration on domestic philanthropy in many OGP countries.

Experience with the use of the *Response Policy* suggests adjustments to be considered. The potential volume of letters of concern has become problematic. Also, deliberating on responses to such letters is a quasi-legal task that would benefit from legal expertise, particularly as it would be important to develop a cohesive and consistent body of decisions. It is possible that volunteer legal experts could be found to assist, and precedents borrowed from other initiatives and institutions. We recommend the following:

- Consider limiting who can submit a letter of concern under the Response Policy and tightening the kinds of situations that will trigger the policy.

- Engage an outside team of experts to be convened as needed to do the investigatory and deliberative work needed for application of the policy to specific cases.

*Peer Learning* and exchange is a core tenet of OGP. Stakeholders' most valued input from OGP overall is the opportunity to learn and compare notes with peers. The Working Groups are OGP's mechanism for arranging such learning opportunities. But Working Group membership is an unfunded mandate that often requires time-consuming and thankless tasks. There is no obvious way to address this concern as the Groups are currently conceived and funded. We recommend as follows:

- Address the lack of incentives for government and civil society to invest in peer learning in order for it to be sustainable as a pillar of OGP.

- Take the important next steps in seeking expanded funding, improving the organization of the peer learning platform, and developing targeted peer exchange programs. There are numerous models that can be employed, and the forward funding plan for OGP will address this. But the question of incentives remains. The cyclical model of co-creation, performance and feedback needs a clear learning component for all involved, but especially the governments and CSOs on the front lines. Learning can be benchmarked, measured, and rewarded (or lack of it sanctioned) in such ways as those discussed above.

- Consider anchoring the leadership of the Working Groups in the Support Unit so that they work within the umbrella of OGP's priorities and are less subject to being driven by the priorities of the entities that serve as Co-Chairs. This may need to be part of a more wide-ranging upgrade and formalization of the WGs, assuming resources permit this.

*Legal, organizational, and financial structure:*

OGP is now faced with a number of important challenges and transformations in this area. It should consider the following recommendations:

- OGP needs to devise its own *operating policies and procedures* as it transforms into a new, independent legal entity. These include employment policies, conflict of interest policies, and a more expansive financial infrastructure. Also, as OGP seeks to reach out

to smaller, less well-known citizen collectives, it will also need to ensure that it has a tight screening process to guard against the risk of including shell or front organizations.

- The *Steering Committee* should consider moving ahead with the following items: (i) reserving a certain number of seats for legislators; (ii) clarifying the interaction of the SC and the Criteria and Standards Sub-Committee; and (iii) either restricting the authority of the SC co-chairs to change OGP's priorities or having the co-chair position rotate less frequently

- The *Support Unit* needs more resources to do what it aims to do. The Country Support Team is under-staffed and needs to expand and deepen its country knowledge to cover the large number of countries that now comprise OGP. The Operations Team will need to expand and build capacity to assume the responsibilities that have been handled by the Tides Association for the first five years of OGP's existence.

- OGP needs to provide a clearer role for its *Multilateral Partners*, and particularly their reform-minded staff. OGP could better use its multilateral partners by analyzing what each partner has to offer OGP and designing a partner-by-partner strategy to exploit that potential. Two key areas to target for improvement are; (i) coordinating the NAPs with countries' SDGs plans and the multilaterals' country assistance programs; and (ii) improving the relationship between the multilaterals and the Working Groups. OGP should also consider having the multilaterals serve as Co-Anchors of the Working Groups, and giving the multilaterals an enhanced consultative role in the Steering Committee.

- Overall, OGP needs more *funding*. OGP should ask donors to contribute additional financing direct to OGP to be used at the discretion of OGP's Executive Director with oversight from the GL. If donors wish or need to provide such additional financing to OGP through a multi-donor trust fund, OGP should work with donors to design a fund along the lines indicated above.

# Annex 1: Terms of Reference



**CALL FOR PROPOSALS**

**A mid-term review of the Open Government Partnership**

## 1. Background and objective

The Open Government Partnership (OGP) is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In the spirit of multi-stakeholder collaboration, OGP is overseen by a Steering Committee including representatives of governments and civil society organizations in equal number.

OGP's vision is that more governments become sustainably more transparent, more accountable, and more responsive to their own citizens, with the ultimate goal of improving the quality of governance, as well as the quality of services that citizens receive. This will require a shift in norms and culture to ensure genuine dialogue and collaboration between governments and civil society. OGP aspires to support both government and civil society reformers by elevating open government to the highest levels of political discourse, providing 'cover' for difficult reforms, and creating a supportive community of like-minded reformers from countries around the world.

OGP is part way through its four-year strategy. As planned, OGP will now commission a mid-term review to assess the state of the partnership, understand whether OGP's theory of change is working and if OGP interventions are helping to deliver on its short term objectives. The findings from this review will assist with real-time learning and provide critical input to inform a strategic refresh for OGP going forward. The review will be shared with the OGP team, Steering Committee and funders.

## 2. Scope of Analysis

The learning review will focus on the following:

- ❏ **Setting the context:** macro-level outcomes on the state of the partnership
- ❏ **Assessing progress in OGP's theory of change:** the role of OGP's domestic policy mechanism and international platform in helping to deliver outcomes
- ❏ **Assessing effectiveness of OGP's rules of the game**: the role of OGP's structure and policies in helping to deliver outcomes

The review would cover the period from September 2011 till September 2016.

**2.1 Setting the context**

The review should begin by presenting macro-level outcomes for the partnership: Is government-civil society dialogue improving? Are National Action Plans (NAPs) getting more ambitious and completed over time? Drawing from readily available data from the IRM and OGP explorer, it should present a short summary of key parameters of progress in OGP by analyzing the following metrics (among others):

- Compliance with OGP consultation processes
- Starred commitments
- Degree of implementation and completion of commitments
- Degree of potential impact of commitments

To the extent possible, the review should track progress on these metrics over time through consecutive NAPs. It should also include a brief analysis of how these metrics vary across 1) regions 2) income categories and 3) thematic areas

**2.2 Assessing progress in OGP's Theory of Change:**

This section should present an in-depth analysis of how OGP is contributing to the macro-level outcomes discussed above, vis-a-vis factors external to OGP. Specifically, it should unpack how the OGP platform (i.e. domestic policy mechanism + international networking and events) is helping three key stakeholders to deliver on country-level progress. OGP's theory of change is that OGP creates a platform where:

- **High level political leaders:** create the political space at the domestic level for reformers to implement open government initiatives and, at the international level, encourage one another to race to the top.
- **Mid-level government officials:** collaborate with civil society organizations at the domestic level, and network with their peers at the international level to implement ambitious open government reforms
- **Civil society organizations**: use domestic and international platforms to advocate for implementation of more ambitious policies and programs in their countries

In addition, OGPs Independent Reporting Mechanism (IRM) holds countries publicly accountable for progress on their NAPs and encourages learning at the country level.

The theory of change holds that if these three actors are playing their roles effectively, it should improve dialogue and relationships among its stakeholders, and change institutional processes and norms towards openness - ultimately leading to more ambitious open government reforms in the short term. The review should interrogate this theory and offer an assessment of the current validity of OGP's Theory of Change by exploring the following questions:

Securing high-level political commitment:
- What are the most effective ways in which OGP is helping to secure high-level political commitment in high/low performing OGP countries? Is high level political commitment translating to more ambition at the country level?

● To what extent has OGP been successful in setting global norms and expectations on open government? What is the degree of high-level political buy-in (e.g. at Cabinet level) in using OGP/open government as an integral tool for improving government performance?

Empowering mid-level government reformers:

● Are the design and content of OGP inputs (e.g. peer exchange, technical support, communications materials) helping government reformers to (a) more effectively develop and implement ambitious OGP commitments? and (b) build stronger relationships between reformers to learn from each other?

● To what extent is OGP helping to institutionalize the open government agenda across different levels and branches of government? How broad or narrow is the ownership of OGP across ministries in OGP countries, including in line or sector ministries?

Engaging civil society actors:

● Is OGP support (e.g. advocacy tools, partnerships, listening post) equipping civil society actors to meet their demands through the OGP platform? What can be done differently to make OGP work better for civil society?

● Is OGP's domestic policy mechanism adding value to government-civil society engagement processes in the country? How narrow or broad is the base of civil society in engaging with OGP at the national level?

Holding participating countries accountable:

● Are countries using IRM reports to learn and improve on OGP process and content of NAPs? How effective are report launch events, associated communications strategies, and format of the reports in reaching this goal?

● To what extent is the IRM working as an accountability mechanism and affecting policy change at the country level? How do key OGP stakeholders define "accountability" in the context of the IRM, and are those views divergent or convergent on a common framework? If divergent, what implications does that have for key assumptions in OGPs theory of change?

## 2.3 Assessing effectiveness of OGP's rules of the game

Finally, the review should address the effectiveness of OGP's structure and policies - which collectively entail the rules of the game. Specific questions are:

● Are OGP's calendar, guidelines (e.g. co creation process) and rules (e.g. regarding NAP delays) designed and communicated in ways to encourage more ambition?

● Do the eligibility criteria adequately capture the vision of OGP as stated in the OGP declaration? Are they a useful predictor of a country's performance in OGP once they join?

● How effective are OGP's reward and review mechanisms (e.g. IRM reports, OGP Response Policy) in incentivizing positive outcomes or sanctioning negative outcomes in participating countries?

## 3. Output

The review should discuss macro-level outcomes (and other observable outcomes not defined here) of the partnership till date, with detailed analysis of the effectiveness of the OGP platform, structure and policies in shaping those outcomes. In particular, the review should stem from an understanding that OGP works in complex environments with a diverse set of actors. It should take into account the following considerations when evaluating the effectiveness of the partnership.

● **Role of key actors:** The interests and motivations of reformers (high level political leaders, government officials, civil society actors) as well as OGP Steering Committee members, Support Unit and IRM are central to understanding progress. OGP's platform will only be as good as the actors promoting and using them.

● **Contribution vs. attribution:** In some cases, OGP may be a principal contributing factor to changes in the world, but it will almost never be the only factor.

● **Political context:** The major reforms within OGP take place within contentious political, social, and economic contexts. The success of OGP commitments often happens because of--not in spite of--the broader context.

● **Contingency and unpredictability:** The nature of OGP's work can at times be unpredictable and subject to volatility from external factors, making course corrections a necessary and effective part of our strategy.

With these in mind, the review should provide a retrospective analysis of the first years of OGP. It should discuss whether OGP's contribution, if any, were essential to achieving these observable outcomes. Based on these findings the review should also present key implications for a strategic direction forward.

## 4. Sources and Evidence

The review can draw upon existing information collected by the the OGP Support Unit and IRM. These include but would not be limited to the following:

● OGP Explorer and other databases of commitments
● IRM Reports
● OGP's Progress Indicators, which track the steps in its theory of change to reach short and long term goals.
● OGP research products, which try to understand whether and how the OGP platform contributes to open government reforms.
● OGP Civil Society Surveys and civil society reviews of National Action Plans

In addition, evaluators may need to collect the following additional information:
● Interviews
● Surveys

Depending on the design of the evaluation, a sample of the following stakeholders may be involved in the evaluation:
▪ (Former) Steering Committee members
▪ A sample of IRM researchers
▪ A sample of OGP civil society organizations
▪ A sample of OGP governments
▪ A sample of OGP's funders
▪ Support Unit

## 5. Qualifications and expertise of the evaluating team

The evaluation team should have:

1.  A minimum of ten years of experience in evaluating outcomes and impact of transparency and accountability interventions in developed and developing countries
2.  A strong academic understanding of international multi-stakeholder initiatives (MSIs), including opportunities and challenges faced by MSIs in solving global problems
3.  A successful track record of publishing scholarly articles in peer-reviewed journals on evaluating impact of transparency and accountability initiatives and/or MSIs
4.  A demonstrated ability to communicate effectively with a wide range of stakeholders, including government officials and members of civil society

## 6. Deliverables & Timeline

Evaluators will be expected to follow the general stages of work listed below:

(1)  Develop a plan for the review which could include:

   a.  Objectives
   b.  Framework and guiding questions
   c.  Methodology
   d.  Data collection and analysis
   e.  Reporting
   f.  Timeline for deliverables

2)  Interim report, with preliminary findings presented either in the form of a short report or powerpoint presentation

3)  Final report

| Activity | Lead | Timeline |
|---|---|---|
| Call for Proposals | Evaluation Committee | June 2, 2016 |
| Deadline for submission of proposals | Evaluation Team | June 23, 2016 |
| Notification to selected team | Evaluation Committee | June 30, 2016 |
| Submission of evaluation plan | Evaluation Team | July 14, 2016 |
| Comments on first draft of evaluation plan | Evaluation Committee | July 25, 2016 |
| Begin evaluation | Evaluation Team | July 26, 2016 |
| Interim Report | Evaluation Team | November 15, 2016 |
| Final report | Evaluation Team | December 1 , 2016 |

## 7. Budget

The evaluating team should submit a technical and financial proposal, outlining their preferred methodology to conduct the evaluation and corresponding costs associated with it.

## 8. Obligations of stakeholders in the evaluation

*Evaluation Committee*

The evaluation committee will consist of members from the OGP Steering Committee and Support Unit. Their role includes:
- Providing feedback on the design of the evaluation and approving the evaluation plan
- Commissioning and financing the evaluation after thorough consideration of the proposed budget
- Appointing a point person who will coordinate with the evaluating team to provide key documents and facilitate access to relevant stakeholders
- Providing feedback on the interim and final reports before submission

*Evaluation Team*

The role of the evaluation team includes:

- Treating documents in a confidential manner, when appropriate
- Not publishing evaluation findings without prior approval of the evaluation committee
- Highlighting any possible conflicts of interest
- Informing the coordinator of all the contacts made with stakeholders for the purposes of the evaluation

## 9. Submission guidelines

Evaluators should submit a 5 page proposal which includes the following:

- Proposed methodology and its relevance to OGPs work
- Proposed budget
- Expertise, credibility and capacity to deliver of the evaluating team
- 2 references or 1 example of previous evaluation/relevant analytic work

Proposals should be submitted to Munyema Hasan, Program Manager
<munyema.hasan@opengovpartnership.org> copying <info@opengovpartnership.org> by June 23, 2016

# Annex 2: Sources Consulted

Acemoglu, Daron, and James A. Robinson. *Why Nations Fail.* New York: Random House/Crown Business. 2012.

Agnafors, Marcus. 2013. "Quality of Government: Toward a More Complex Definition." American Political Science Review 107:3 (August), pp. 1-13.

Agnafors, Marcus. 2013. "Quality of Government: Toward a More Complex Definition." *American Political Science Review* 107:3 (August), pp. 1-13.

Anand, Nicole. 2016. "Communities of Practice: They keep disappointing us, but we keep building them." *Open Government Partnership.* http://www.opengovpartnership.org/blog/ogp-webmaster/2016/06/06/communities-practice-they-keep-disappointing-us-we-keep-building-them

Babbie, Earl R. 2010. *The Practice of Social Research.* Belmont, CA: Wadsworth.

Barr, Casey. 2014. "IRM Results Unpacked: Who's involved in OGP? Part 1: Branches of Government" *Open Government Partnership.* http://www.opengovpartnership.org/blog/casey-barr/2014/09/16/irm-results-unpacked-who%E2%80%99s-involved-ogp-part-1-branches-government

Bauhr, Monika, and Marcia Grimes. 2014. "Indignation or Resignation: The Implications of Transparency for Societal Accountability: Indignation or Resignation." *Governance* 27 (2): 291–320. doi:10.1111/gove.12033.

Bodansky, Daniel. 1999. "The Legitimacy of International Governance: A Coming Challenge for International Environmental Law?" *American Journal of International Law*, 596–624.

Brockmyer, Brandon, and Jonathan A. Fox. 2015. "Assessing the Evidence: The Effectiveness and Impact of Governance-Oriented Multi-Stakeholder Initiatives." *Transparency & Accountability Initiative* (September). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2693379.

Campbell, Donald T., and Julian C. Stanley. 1963. *Experimental and Quasi-Experimental Designs for Research.* Boston: Houghton-Mifflin. Online at https://moodle.technion.ac.il/pluginfile.php/367640/mod_resource/content/1/Donald_T._(Donald_T._Campbell)_Campbell,_Julian_Stanley-Experimental_and_Quasi-Experimental_Designs_for_Research-Wadsworth_Publishing(1963)%20(1).pdf (Viewed 15 November 2016).

Dimba, Mukelani. 2016. "Proposed Policy Guidance on Legislative Engagement in OGP." *Draft*. Washington, D.C.: OGP

Elgin-Cossart, Molly, Trevor Sutton, and Kathryn Sachs. 2016. "Let the Sunshine IN: An Assessment of the Open Government Partnership." Washington, D.C.: Center for American Progress.

Extractive Industries Transparency Initiative. 2016. ""Standard Terms of Reference for Independent Administrators." Oslo: EITI.

Extractive Industries Transparency Initiative. 2016. "Developing an EITI Work Plan: Guidance Note 2." Oslo: EITI.

Extractive Industries Transparency Initiative. 2016. "Establishment and governance of multi-stakeholder groups: Guidance note 14" Oslo: EITI.

Extractive Industries Transparency Initiative. 2016. "How to Become a Candidate Country: Guidance Note 1." Oslo: EITI.

Extractive Industries Transparency Initiative. 2016. "MSG Oversight of the EITI Reporting Cycle: guidance Note 8." Oslo: EITI.

Foti, Joseph. 2014. "OGP by the Numbers: What the IRM Data Tells Us About OGP Results." Independent Reporting Mechanism: Technical Paper 1. Washington, D.C.: OGP.

Foti, Joseph. 2016. "Second Open Government Partnership Technical Paper: 2012-2014" Independent Reporting Mechanism: Technical Paper 2. Washington, D.C.: OGP.

Francoli, Mary, Alina Ostling, and Fabro Steibel. 2015. "From Informing to Empowering: Best Practices and Recommendations for Improving Government-Civil Society Interactions within OGP." IDRC.

Francoli, Mary, Alina Ostling, and Fabro Steibel. 2015. "Improving Government – Civil Society Interactions Within OGP." *Open Government Partnership*. http://www.opengovpartnership.org/blog/mary-francoli-alina-ostling-and-fabro-steibel/2015/09/01/improving-government-civil-society

Fukuyama, Francis. 2013. "What is Governance?" Governance 26: 3 (July), pp. 347–368.

Guerzovich, Florencia, and Michael Moses. 2016. "Learning to Open Government: Findings and Reflections on How the Open Government Partnership is Playing Out, in Practice, in Five Countries." Global Integrity.

Guillán, Aránzazu. 2015. "Open Government and Transparency Reform in Chile: Balancing leadership, Ambition and Implementation Capacity." 2015: 2. U4.

Guillán, Aránzazu. 2015. "Open government in Uruguay: Strengthening dialogue to make up for institutional challenges." 2015: 1. U4.

Halloran, Brendan. 2015. "Enhancing Accountability through Open Government? Learning about and Leveraging OGP." *Politics, Governance, and Development.* Accessed October 21, 2016.

Herrero, Alvaro. 2015. "Access to Information Commitments in OGP Action Plans." http://redrta.cplt.cl/_public/public/folder_attachment/a3/1a/1a89_4602.pdf.

Hlavac, Monica. 2008. "A Developmental Approach to the Legitimacy of Global Governance Institutions," in Coercion and the State, David A. Reidy and Walter J. Riker, eds. Springer, Netherlands.

Hughes, Tim. "Launching the NAP Review: Results." *Open Government Partnership*. http://www.opengovpartnership.org/blog/tim-hughes/2015/12/07/launching-nap-review-results

IAP2. 2014. "Public Participation Spectrum."

Independent Reporting Mechanism. 2015. "How are OGP's Independent Reports Used?" *Open Government Partnership*. http://www.opengovpartnership.org/blog/independent-reporting-mechanism/2015/06/17/how-are-ogp%E2%80%99s-independent-reports-used

Johnston, Michael, 2014. *Corruption, Contention, and Reform: The Power of Deep Democratization.* Cambridge University Press.

Johnston, Michael, and Sahr J. Kpundeh, "Building a Clean Machine: Anti-Corruption Coalitions and Sustainable Reforms." World Bank Institute Working Paper number 37208 (December, 2002).

Johnston, Michael. 2010. "Assessing Vulnerabilities to Corruption: Indicators and Benchmarks of Government Performance." *Public Integrity* 12:2 (Spring), pp. 125-142.

Khan, S. and Joseph Foti. 2015. "Aligning Supply and Demand for Better Governance." Open Data in the Open Government Partnership. Washington, D.C.: Open Government Partnership.

Khemani, Stuti, Ernesto Dal Bó, Claudio Ferraz, Frederico Finan, Corinne Stephenson, Adesinaola Odugbemi, Dikshya Thapa, and Scott Abrahams. 2016. *Making Politics Work for Development: Harnessing Transparency and Citizen Engagement*. Washington, D.C.: World Bank. http://elibrary.worldbank.org/doi/book/10.1596/978-1-4648-0771-8.

Mayne, Jayne. 2008. Contribution analysis: An approach to exploring cause and effect, *ILAC Brief 16*, Institutional Learning and Change (ILAC) Initiative, Rome, Italy.

McDevitt, Andy and Jose Marin. 2016. "Anti-Corruption Commitments in the Open Government Partnership." Transparency International.

Naím, Moises, "What is a GONGO? How Government-Sponsored Groups Masquerade as Civil Society". *Foreign Policy* 160 (2007), pp. 92-95.

OGP Four-Year Strategy 2015-2018 http://www.opengovpartnership.org/sites/default/files/attachments/OGP%204-year%20Strategy%20FINAL%20ONLINE.pdf (Viewed 15 November 2016).

Olson, Mancur, *The Logic of Collective Action.* Cambridge, MA: Harvard University Press, 1965.

Open Government Partnership. 2014. "Four-Year Strategy: 2015-2018." Washington, D.C.: OGP.

Open Government Partnership. 2015. "Advancing Open Government and Evaluating its Impact." Washington, D.C.: OGP.

Open Government Partnership. 2015. "OGP Calendar Guidance Note." Washington, D.C.: OGP.

Open Government Partnership. 2016. "Capturing Civil Society Insights on OGP." Washington, D.C.: OGP.

Open Government Partnership. 2016. "Feedback and Recommendations of OGP Support Unit and Independent Reporting Mechanism" Washington, D.C.: OGP.

Open Government Partnership. 2016. "Government Point of Contact Manual." Washington, D.C.: OGP.

Open Government Partnership. 2016. "Government Point of Contact Manual." Washington, D.C.: OGP.

Open Government Partnership. n.d. "EIP Questionnaire." Washington, D.C.: OGP.

Open Government Partnership. n.d. "Guidance for IRM Researchers Communications Strategy Template." Washington, D.C.: OGP.

Open Government Partnership. n.d. "Guidance for national OGP dialogue." Washington, D.C.: OGP.

Open Government Partnership. n.d. "IRM Procedures Manual." Washington, D.C.: OGP.

Open Government Partnership. n.d. "OGP Progress Indicators." Washington, D.C.: OGP.

Open Government Partnership. n.d. Internal Synthesis Paper. Washington, D.C.: OGP.

Overseas Development Institute, *Event summary: Doing Development when Politics Matters*, London, September 2016.

Overseas Development Institute. 2016. "Doing Development when politics Matters." London: ODI.

Petrie, Murray. 2015. "How Transparent Are Budgets and Fiscal Management in OGP Countries?" Background Paper for OGP-GIFT Fiscal Openness Working Group.

Petrie, Murray. 2016. "How Open Are Budgets in OGP Member Countries and What Are the Trends?" *Open Government Partnership.* http://www.opengovpartnership.org/blog/ogp-webmaster/2016/06/01/how-open-are-budgets-ogp-member-countries-and-what-are-trends.

Ponce, Alejandro and Stephen Lurie. 2015. "Are OGP Member Countries Actually More Open? Insights from the new World Justice Project Open Government Index." *Open Government Partnership. http://www.opengovpartnership.org/blog/alejandro-ponce-and-stephen-lurie/2015/03/26/are-ogp-member-countries-actually-more-open*

Ramírez-Alujas, Álvaro, and Nicolás Dassen. 2014. "The Progress of Open Government Policymaking in Latin America and the Caribbean." http://services.iadb.org/wmsfiles/products/Publications/38728927.pdf.

Reite, Torun, Arne Disch, David Gairdner, and Audun Glinsvik. 2011. "Achievements and Strategic Options: Evaluation of the Extractive Industries Transparency Initiative." Oslo: EITI.

Rothstein, Bo and Jan Teorell. 2008. "What is Quality of Government: A Theory of Impartial Political Institutions." *Governance* 21:2 (April), pp.165-190.

Rustow, Dankwart A. "Transitions to Democracy: Toward a Dynamic Model." *Comparative Politics* 2:3 (1970), 337-363.

Scrollini, F., and Ursula Durand Ochoa. 2015. "Perspectives on Open Government in Latin America." LSE Ideas. London.

Smyth, Sophie E. 2011. "Agency and Accountability in Multilateral Development Finance: An Agenda for Change." *The Law and Development Review* 4 (1). doi:10.2202/1943-3867.1113.

Smyth, Sophie E., and Anna F. Triponel. 2013. "Funding Global Health." *Health and Human Rights* 15 (1). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2289402.

Smyth, Sophie. 2009. "Practical Guide to Creating a Collective Financing Effort to Save the World: The Global Environment Facility Experience, A." *Geo. Int'l Envtl. L. Rev.* 22: 29.

Smyth, Sophie. 2012. "NGOs and Legitimacy in International Development." *U. Kan. L. Rev.* 61: 377.

Swislow, Daniel. 2016. "Legislative Openness is One of OGP's Greatest Success Stories. "*Open Government Partnership.* http://www.opengovpartnership.org/blog/ogp-webmaster/2016/04/19/legislative-openness-one-ogp%E2%80%99s-greatest-success-stories

Taxell, Nils, and Aránzazu Guillán. 2015. "Open Government Reforms: The Challenge of Making Public Consultations Meaningful in Croatia." 2015: 3. U4.

Thomas, Melissa A. 2009: "What Do the Worldwide Governance Indicators Measure?" *European Journal of Development Research* (July). Online at http://fsi.stanford.edu/sites/default/files/Thomas_Gov_Indicators.pdf (Viewed 19 August 2016).

Vasani, Dolar, Andreas Pavlou, and Paul Massen. 2013. "Improving the OGP Experience: Lessons from OGP Member Countries." Washington, D.C.: OGP

V-Dem Project https://www.v-dem.net/en/data/data-version-6-2/ (Viewed 22 August 2016).

Whitt, J. Preston. 2014. *Civic Participation in Latin American OGP Commitments*. OGP Independent Reporting Mechanism. Retrieved from http://www. opengovpartnership. org/sites/default/files/attachments/LatAm% 20Participation% 20Web. pdf. http://www.opengovpartnership.org/sites/default/files/LatAm%20Participation%20Web.pdf.

Wilson, James Q., *Political Organizations.* New York: Basic Books, 1973.

World Bank Group, "Doing Business". Online at http://www.doingbusiness.org/data/distance-to-frontier (Viewed 22 August 2016).

World Bank Group, World Governance Indicators
    http://info.worldbank.org/governance/wgi/index.aspx#doc (Viewed 19 August 2016).

# Annex 3:   Individuals Interviewed

| Name | Institution | Title |
|---|---|---|
| **Civil Society Organizations** | | |
| Helen Darbishire | Access Info | Executive Director |
| Laura Neuman | Carter Center | Director, Global Access to Information Program |
| Rodrigo Mora | Citizen Ombudsman Commission (CDC), Chile | President |
| Reinford Mwangonde | Citizens for Justice, Malawi | Executive Director |
| Liana Doydoyan | Freedom of Information Center of Armenia | President |
| María Baron | Fundacion Directorio Legislativo | Executive Director |
| Alejandro Gonzalez Arreola | GESOC | Executive Director |
| Hazel Feigenblatt | Global Initiative for Fiscal Transparency (GIFT) | Managing Director, Research |
| Juan Pablo Guerrero | Global Initiative for Fiscal Transparency (GIFT) | Network Director |
| Tania Sánchez Andrade | Global Initiative for Fiscal Transparency (GIFT) | Research & Learning Manager |
| Michael Moses | Global Integrity | Director of Advocacy & Programs |
| Dave Henderson | Hui E! | External Relations Manager |
| Sugeng Bahagijo | INFID | Executive Director |
| Anuradha Joshi | Institute of Development Studies | Governance Team Leader |
| Warren Krafchik | International Budget Partnership | Executive Director |
| Greg Brown | National Democratic Institute for International Affairs | Program Officer, Governance |
| K. Scott Hubli | National Democratic Institute for International Affairs | Director of Governance Programs |
| Marie Lintzer | Natural Resource Governance Institute | Governance Officer |
| Suneeta Kaimal | Natural Resource Governance Institute | Chief Operating Officer |
| Martin Tisné | Omidyar Network | Director, Policy |
| Georg Neumann | Open Contracting Partnership | Senior Communications Manager |
| Sierra Ramirez | Open Contracting Partnership | Program Analyst |
| Mukelani Dimba | Open Democracy Advice Centre (ODAC), South Africa | Executive Director |
| Veronica Cretu | Open Government Institute | President |
| Patrice McDermott | Open the Government – U.S. | Executive Director |
| Hille Hinsberg | Praxis Centre for Policy Studies, Estonia | Advisor |
| Nicole Anand | Reboot | Associate Director of Strategy |
| Zack Brisson | Reboot | Principal |
| Nathaniel Heller | Results for Development Institute (R4D) | Managing Director |
| Pusphi Weerakoon | Transparency International | Project Coordinator |
| Robin Hodess | Transparency International | Group Director, Research and Knowledge |
| Aidan Eyakuze | Twaweze, East Africa | Executive Director |
| José M. Alonso | Web Foundation | Program Director, Open Data |

| Name | Institution | Title |
|------|-------------|-------|
| Carole Excell | World Resources Institute | Project Director, The Access Initiative |
| Manish Bapna | World Resources Institute | Executive Vice President and Managing Director |
| Mark Robinson | World Resources Institute | Global Director, Governance |
| *Government Officials* | | |
| Kevin Daly | Department of Public Expenditure and Reform, Ireland | Commercial Delivery Manager, Department of Public Expenditure and Reform |
| Camila Colares | Government of Brazil, Office of the Comptroller | Coordinator-General of International Cooperation and Agreements Unit |
| Allison O'Beirne | Government of Canada: Treasury Board of Canada Secretariat | Advisor/Economist |
| Thea Tsulukian | Government of Georgia, Ministry of Justice | Minister of Justice |
| Zurab Sanikidze | Government of Georgia, Ministry of Justice | Director of Analytical Department |
| Pablo Villareal | Government of Mexico, President's Office | Director of Open Government |
| Radu Pichiu | Government of Romania | Secretary of State, Chancellery of the Prime Minister |
| Ayanda Dlodlo | Government of the Republic of South Africa | Deputy Minister, Public Service and Administration |
| Leonie Parminter | New Zealand State Services Commission | Senior Advisor |
| Amy White | New Zealand State Services Commission | Principal Advisor, Performance Improvement Framework Development |
| Santiago Garcia | Paraguay Technical Secretariat for Socioeconomic and Development Planning (STP) | Director of the Open Government Unit |
| Camille Eiss | U.S. Department of State | Senior Advisor, Bureau of Democracy, Rights, and Labor |
| Corinna Zarek | U.S. White House | Deputy U.S. Chief Technology Officer |
| Oliver (Ollie) Buckley | U.K. Cabinet Office | Deputy Director, Policy and International, Data Group |
| Paul Maltby | U.K. Cabinet Office | Director of Data at Government Digital Service |
| Thom Townsend | U.K. Cabinet Office | Senior Policy Advisor |
| *International Development Organizations* | | |
| Haidy Ear-Dupuy | Asian Development Bank | Social Development Specialist |
| Nicolás Dassen | InterAmerican Development Bank | Senior Modernization of the State Specialist, Institutional Capacity of the State Division |
| Alessandro Bellantoni | Organisation for Economic Co-operation and Development (OECD) | Senior Policy Analyst and Coordinator, OECD Open Government Project |

| Name | Institution | Title |
|---|---|---|
| Alan Pettigrew | U.K. Department for International Development (DfID) | Program Management Officer, Governance, Open Societies and Anti-Corruption Department |
| Joanna Perrens | U.K. Department for International Development (DfID) | Governance Advisor |
| Micol Martini | U.K. Department for International Development (DfID) | Governance Advisor |
| Tessa MacArthur | U.K. Department for International Development (DfID) | Team Leader, Empowerment & Accountability |
| Jairo Acuna | UNDP | Policy Advisor on Core Government Functions and Public Service Excellence |
| Julia Keutgen | UNDP | Programme Specialist (Parliamentary Development) |
| Diana Zubko | UNDP Ukraine | Governance Expert |
| Neil Levine | USAID | Director, Center of Excellence for Democracy, Human Rights and Governance |
| Aichida Ul-Aflaha | World Bank | Senior Open Government Consultant |
| Stephen Davenport | World Bank | Global Lead for Open Government |
| *OGP Staff* | | |
| Abhinav Bahl | Open Government Partnership | Program Chief Executive Officer |
| Alonso Cerdan | Open Government Partnership | Deputy Director of Government Support and Exchange |
| Emilene Martinez Morales | Open Government Partnership | Regional Civil Society Coordinator for Latin America |
| Joseph Foti | Open Government Partnership | IRM Program Director |
| Joseph Powell | Open Government Partnership | Deputy Director |
| Kitty von Bertele | Open Government Partnership | Special Assistant |
| Munyema Hasan | Open Government Partnership | Program Manager, Learning and Impact |
| Paul Maassen | Open Government Partnership | Director for Civil Society Engagement |
| Sangita Sigdyal | Open Government Partnership | Director of Operations |
| Sangita Sigdyal | Open Government Partnership | Director of Operations |
| Sanjay Pradhan | Open Government Partnership | Chief Executive Officer |
| Tinatin Ninua | Open Government Partnership | IRM Research Manager |

# Annex 4:    Survey Instrument and Results

**Mid-Term Review of the Open Government Partnership – Survey**

This annex presents the survey instrument and where possible the summary data (counts). For open-ended questions, we have provided a summary of comments.

## Introduction

In cooperation with the Open Government Partnership (OGP), the Development Portfolio Management Group (DPMG) at the University of Southern California is conducting a mid-term review of OGP programs and policies. Your name has been selected from a list, provided by OGP, of individuals who are familiar with its activities in specific countries. Your answers to the questions on this short survey will be most valuable to us as we conduct our assessment.

Responses will be returned directly to the DPMG team and will not be attributed to you or your organization. Any personally identifiable information will be kept confidential. Your specific responses will be kept anonymous, and results will be tabulated only by groups in order to ensure your anonymity. Individual survey responses will not be made available to OGP by DPMG.

The survey should take only about 10-12 minutes to complete, and there will be opportunities at many points to add your comments.

**Please note that all questions apply only to the country that is the main focus of your OGP work**.

For any questions about this survey, please contact dpmg@usc.edu.

Thank you.

## Questions about the Respondent

**Country in which you have been most involved with OGP:**[115]
N = 46
Europe          13
Asia            10
Americas        14
Africa          13

**Type of Organization:**
N = 46
Government       21
CSO              8
NGO              15

---

[115] Although respondents provided the country, here we are only providing the regional breakdown.

Academe/ University     0
Think Tank              0
Other                   2


**Job Title and Level:**

**Briefly describe your role and/or focus (e.g. substantive area, set of commitments, etc.) in OGP:**

### General Questions

**1. For how long have you personally been involved in OGP activities? Select on.**
N = 46
Less than one year        2
One to three years        16
More than three years     28


**2. Over the past year, have you interacted with government officials regarding the formulation and implementation of the National Action Plan?**
   **Select one.**
N = 46
Daily or almost daily     12
Several times a month     14
A few times a month       11
A few times in the        7
year
Rarely or never           2


**3. Over the past year, have you interacted with civil society groups regarding the formulation and implementation of the National Action Plan?**
   **Select one**
N = 46
Daily or almost daily     5
Several times a month     17
A few times a month       11
A few times in the        12
year
Rarely or never           1


**Please enter any comments or examples regarding this group of questions:**

- Many respondents articulated the same concern that reforms and OGP involvement hinged on how credible and committed their government is. One comment that summarizes the sentiment is "Both government and CSOs need to have a better knowledge of fundamental principles the OGP requests the NAPs to be built around." Specially, a respondent commented on how limited its NAP process was during the first and second iterations "due to the previous governments lack of credibility on transparency and accountability issues." Another respondent stated that the implementation of the FOI law in his or her country "will only be successful if the political

will from government officials is manifested." Both CSOs and government respondents understand the importance of the government's role in setting the stage for reform.

## Good Government

**4. Please rank the following attributes of good government from most important to least important with 1 = most important and 6 = least important**

N = 43

|  | 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|---|
| Transparency in administrative processes and policy implementation | 18 | 13 | 6 | 4 | 2 | 0 |
| Broad-based participation in administrative processes and policy implementation | 5 | 10 | 13 | 10 | 2 | 3 |
| Accountability of government to citizens | 16 | 15 | 8 | 2 | 1 | 1 |
| Technical competence and capacity | 2 | 4 | 6 | 16 | 12 | 3 |
| Autonomy of government to make and implement decisions | 1 | 0 | 4 | 5 | 19 | 14 |
| Regional and international engagement with other governments and organizations | 1 | 1 | 6 | 6 | 7 | 22 |

**5. Please indicate the effects of your country's OGP membership/participation upon the attributes of good government listed below:**
**Select one in each row**

N = 43

|  | Positive | Little or no effect | Negative | Don't know |
|---|---|---|---|---|
| Transparency in administrative processes and policy implementation | 26 | 15 | 1 | 1 |
| Broad-based participation in administrative processes and policy implementation | 23 | 16 | 3 | 1 |
| Accountability of government to citizens | 24 | 12 | 6 | 1 |
| Technical competence and capacity | 10 | 30 | 1 | 2 |
| Autonomy of government to make and implement decisions | 9 | 25 | 2 | 7 |
| Regional and international engagement with other governments and organizations | 24 | 15 | 1 | 3 |

**6. Please indicate the effects of your country's NAP commitments upon the attributes of good government listed below:**
**Select one in each row**

N = 43

|  | Positive | Little or no effect | Negative | Don't know |
|---|---|---|---|---|
| Transparency in administrative processes and policy implementation | 28 | 10 | 2 | 3 |
| Broad-based participation in administrative processes and policy implementation | 22 | 15 | 3 | 3 |
| Accountability of government to citizens | 23 | 14 | 3 | 3 |
| Technical competence and capacity | 19 | 18 | 2 | 4 |
| Autonomy of government to make and implement decisions | 10 | 22 | 4 | 7 |
| Regional and international engagement with other governments and organizations | 21 | 15 | 2 | 5 |

**Please enter any comments or examples regarding this group of questions:**

- In general, the comments are positive about the implicit effect OGP membership has had and the changes in government. Some comments echo the above sentiment about government commitment and how a lack of high-level political support leads to an ineffective and irrelevant NAP.
- This is the first section in which respondents address the difficulty of assigning attribution to OGP membership and NAP commitments. The quote from a respondent comment summarizes this best: "It is pretty hard to determine what change has happened due to OGP membership or NAP commitments and what kind of development would have happened without it."

## Openness and Innovation

**7. In the time since this country began to participate in OGP:**
**For each statement please select one response**

N = 42

|  | Agree | Disagree | Don't know |
|---|---|---|---|
| Civil society organizations have become more likely to cooperate in pursuit of common goals. | 34 | 2 | 6 |
| Citizen-government relations have become more cooperative in recent years. | 25 | 12 | 5 |
| Transparency in government is becoming more of a routine norm among officials. | 22 | 13 | 7 |
| Citizens are finding it easier to get access to government officials and agencies. | 18 | 18 | 6 |
| Citizens are becoming more likely to expect fair treatment from government officials and agencies. | 23 | 11 | 8 |
| Citizens are becoming more likely to trust government officials and agencies. | 8 | 19 | 15 |

**8. As a result of OGP membership, have consultations between government and civil society regarding the quality of openness of government been:**
**Select one**

N = 42

| | |
|---|---|
| More frequent and more productive | 20 |
| More frequent but less productive | 11 |
| The same as before | 10 |
| Less frequent but more productive | 0 |
| Less frequent and less productive | 1 |

**9. Have the consultations mentioned in the previous question (#8) included:**
**Select all that apply**

N = 42

| | |
|---|---|
| Face-to-face meetings | 40 |
| Written consultations | 31 |
| Online consultations | 30 |

**10. (a) The International Association for Public Participation has proposed a five-step "spectrum" of participation indicating increasing public impact on government**

**decisions. Has the government's usual approach in your country within your country's OGP process been:**
**Select one**

N = 42

| | |
|---|---|
| To inform: provide the public with balanced, objective information | 9 |
| To consult: obtain public feedback on analysis, alternatives, and/or decisions | 11 |
| To involve: work directly with the public to ensure its concerns and aspirations are understood and considered | 12 |
| To collaborate: partner with the public in decisions, including development of alternatives and identification of the preferred solution | 9 |
| To empower: place final decision making in the hands of the public | 1 |

**10. (b) The International Association for Public Participation has proposed a five-step "spectrum" of participation indicating increasing public impact on government decisions. Has the government's usual approach in your country government-wide been:**
**Select one**

N = 42

| | |
|---|---|
| To inform: provide the public with balanced, objective information | 16 |
| To consult: obtain public feedback on analysis, alternatives, and/or decisions | 15 |
| To involve: work directly with the public to ensure its concerns and aspirations are understood and considered | 7 |
| To collaborate: partner with the public in decisions, including development of alternatives and identification of the preferred solution | 4 |
| To empower: place final decision making in the hands of the public | 0 |

**11. Have government policy and/or administration been changed in any way by greater citizen involvement or knowledge?**
**Select one**

N = 42

| | |
|---|---|
| Yes | 24 |
| No | 9 |
| Don't know | 9 |

**If you selected "Yes," please briefly describe the changes:**

- The changes that respondents have seen range from more systematic consultations (perhaps through a permanent dialogue mechanism) to all commitments being from the public sector and not ministerial agencies.
- One significant change was described: The "policy of secret surveillance was broadly discussed by the public. After advocacy of civil society organizations in the framework of OGP, [the] government changed the regulations on secret surveillance and the Supreme Court of [ ] started publishing secret surveillance statistics."
- There is "more engagement and consultations on the part of the government with the CSOs. Advocacy boomed more with the OGP process."

**12. Have the following contributed to innovation in the process and/or content policymaking?**
**Select one in each row**

N = 43

| | Very helpful | Somewhat helpful | Not at all helpful | Don't know |
|---|---|---|---|---|
| Peer Exchange (OGP Working Groups, PoC Camps, Webinars, Workshops) | 14 | 18 | 4 | 6 |
| Resources (OGP Guidance Notes, Case Studies, Open Gov Guide, OGP Explorer, IRM Reports) | 16 | 15 | 3 | 8 |
| Events (OGP Global Summit, Regional Meeting, Open Government Awards) | 17 | 15 | 2 | 8 |
| Communication (OGP Website, Newsletter, Blogs, Social Media) | 10 | 25 | 3 | 4 |

**13. In your answer to the previous question (#12), are you referring to innovation that has occurred in:**
**Select one**
N = 42
Government                                 16
Civil society/ non-governmental sectors    4
Both equally                           22

**Please enter any comments or examples regarding this group of questions:**

- Again, two inter-related themes reemerge in this group of comments. First, the importance of political commitment comes up implicitly in a few comments. The other is more explicit about whether OGP membership has created change. One factor that influences the role OGP plays in each country is the country context and the government's previous commitment to open government. If the government is already committed to open government, OGP can serve as support tool. If the government isn't, OGP is either toothless or serves as the catalyst for change. OGP serves a slightly different purpose depending on political support
- "The questions seem to indicate that the changes happen due to OGP. In real life, it maybe plays quite a small role. Development work would happen anyway in our country and of course different kinds of tools help, but the part they play is however quite marginal."
- "I have trouble with these questions. Some of the dynamics you ask about have happened in my country, but I don't think they were as a result of OGP membership. At most, joining the OGP was indicative of a willingness to involve citizens more, which also led to the behaviors you asked about. We also had a change in government."

## National Action Plans

**14. Has your country submitted its first NAP:**
**Select one**
N = 42
Yes     35
No      7

**15. Did you personally participate in the most recent NAP process?**
**Select all that apply**
N= 35

| | |
|---|---|
| Yes, in shaping its content | 28 |
| Yes, by providing comments | 10 |
| No | 3 |

## 16. Was the most recent NAP process:
**Select one**

N = 35

| | |
|---|---|
| Very open and inclusive | 15 |
| Somewhat open and inclusive | 18 |
| Not at all open and inclusive | 2 |

## 17. Is the most recent NAP itself well known and understood:
**Select Yes or No for each**

N = 35

| | Yes | No |
|---|---|---|
| Within government | 23 | 12 |
| Within civil society | 20 | 15 |

## 18. Is the most recent NAP consistent with the open government priorities of the following?
**Select one in each row**

N = 35

| | Yes, in all or nearly all respects | Only in some respects | No - inconsistent in most respects |
|---|---|---|---|
| National government | 26 | 6 | 3 |
| Civil society organization | 17 | 16 | 2 |
| Political parties | 8 | 16 | 11 |
| Citizens | 15 | 16 | 4 |

**If you answered "only in some respects" or "no" in any row above, please explain briefly:**

- Political parties don't have much of a role in making commitments.
- "Partisan considerations were not taken into account when the Action Plan was being developed. National interest was considered as paramount."

## General OGP Impact

## 19. As a result of OGP's presence (and any NAPs), have reform-minded officials become:
**Select one**

N = 40

| | |
|---|---|
| Significantly more influential | 4 |
| Somewhat more influential | 20 |
| No more or less influential than before (no change) | 15 |
| Somewhat less influential | 0 |
| Significantly less influential | 1 |

**20. Do those reform-minded officials involved in OGP include:**
   **Select all that apply**

N = 40

| | |
|---|---|
| Political leaders | 13 |
| Senior national government officials | 27 |
| Mid-level national officials | 31 |
| Local or regional government officials | 20 |
| A narrow group of officials-- e.g. from one office or agency in a specific sector | 12 |
| A wide group of officials across ministries, levels, or branches of government | 0 |

**21. As a result of OGP's presence (and any NAPs), have reform-minded groups in civil society become:**
   **Select one**

N = 40

| | |
|---|---|
| Significantly more influential | 7 |
| Somewhat more influential | 24 |
| No more or less influential than before (no change) | 8 |
| Somewhat less influential | 0 |
| Significantly less influential | 1 |

**22. If your country has had one or more previous NAP and IRM reviews, have those experiences help make the most recent NAP better:**
   **Select one for each row**

N = 40

| | Much better | Somewhat better | No significant difference | Somewhat more difficult | Much more difficult | There has been no previous process |
|---|---|---|---|---|---|---|
| NAP | 16 | 17 | 2 | 0 | 0 | 4 |
| IRM | 11 | 15 | 6 | 1 | 0 | 4 |

**Please enter any comments or examples regarding this group of questions:**

- Respondents fell on both sides of the IRM. For some, the IRM is helpful. For others, it isn't at all. One respondent commented that the commitments were good but the implementation was not monitored. "The IRM is not recognized as a source to evaluate the national performance on OGP."
- "The IRM is not very flexible. And if the goals are not met, maybe also because of new insights, the IRM is very critical. And this makes government act very defensive so they don't have to say they failed. This is very counterproductive. There should be an option to adjust the action points to new insights and explain why and how. This is part of the learning experience of making government more open."

**23. Are the following aspects of OGP's rules of engagement in need of change?**
N = 40

| | Yes | No | Don't know |
|---|---|---|---|
| OGP calendar (e.g. NAP, IRM reporting cycles) | 17 | 19 | 4 |

| | | | |
|---|---|---|---|
| Co-creation guidelines | 8 | 24 | 8 |
| Eligibility criteria - fiscal transparency | 7 | 28 | 5 |
| Eligibility criteria - access to information | 8 | 28 | 4 |
| Eligibility criteria - public officials' asset disclosure | 6 | 31 | 3 |
| Eligibility criteria - citizen engagement | 8 | 29 | 3 |
| Response policy addressing actions that contradict the Open Government Declaration | 11 | 18 | 11 |
| IRM reporting process and scoring of NAP commitments | 13 | 20 | 7 |

**If you selected Yes for any item, please briefly indicate the nature, or give an example, of any changes required.**

- Most respondents indicated that the two-year cycle was too short (with the suggestion of a five-year cycle being made the most). Others commented that the cycle should match the country's budgetary calendar.
- "There is also a great need of communication between the OGP steering committee and CSOs."

**Please enter any other comments you would like to make either on OGP or this survey, including comments on your overall experience with OGP:**

- Positive comments on how great OGP is.

# Annex 5: Interview Protocol

***Revised* August 8, 2016**

***Procedure:***

1) The team will send, in advance, a brief introductory note. This will include a description of the Mid-Term Review, the reasons for contacting the interviewees, and statement that the interviewees are being contacted in their official capacity. This document will emphasize the team's independence from OGP.

2) At the start of the interview, the interviewers will:
   a. Identify themselves and their roles.

   b. Inform interviewees that their responses will be recorded in the interview notes and confirm interviewees' consent to their responses being recorded.

   c. Inform the interviewees that the information provided by the interviewee will be used to assist with the mid-term evaluation of the OGP, that there will be no attribution to the interviewee in the evaluation, but that the interviewer will retain his/her records of the interview as part of the data collection supporting the report.

***Questionnaires:***

## A. Global Questionnaire

*[OGP staff or stakeholders working at international or regional level. Specific sub-parts can be used for staff or stakeholders focused on particular areas, e.g. IRM, CSE, Govt Support & Exchange. Shaded questions may also be used for last part of Questionnaire B (Country-Specific)]*

Please be as *specific* as possible in your responses, and please give *examples.*

***OGP Performance and Results***

1) To what extent are National Action Plans (NAP) commitments being implemented?

   a. Is there a pattern here, e.g. increasing rate of completion?

2) To what extent do the NAP processes comply with OGP process guidelines?

3) Are NAPs becoming more ambitious over time?

   a. What evidence is there for this?

4) Are OGP processes/NAP's actually encouraging greater openness and improved governance overall?

5) To what extent is government-civil society dialogue improving overall in OGP Countries?

***OGP's Role: Key Interactions***

High-level political commitment:

6) Is OGP helping to secure high-level political commitment to more open government? If so:

   a. What evidence is there for this?

   b. What are the most effective ways in which OGP is helping to secure such commitment?

   c. Is high-level political commitment translating into more ambition at the country level?

7) To what extent has OGP been successful in setting or influencing global, regional, and/or national norms and expectations on open government?

8) To what extent is there high-level political consensus that OGP/open government is critical for improving government performance?

     a. How is this manifest at global, regional, and/or national level?

     b. Are there particular areas where this is understood, e.g. services, revenue, justice?

9) Do improvements in these areas create momentum for increasingly ambitious open government reforms?

     a. If so, how?

10) Have efforts to build greater openness strengthened or weakened government's ability to make and implement sound policies?

     a. If so, how?

Empowering Mid-Level Government Reformers to Work with Civil Society:

11) Are the design and content of OGP's inputs, such as peer exchange, technical support, and communications materials (or name other relevant examples):

     a. Helping government reformers to *develop and implement OGP commitments*?

     b. Helping government reformers to *build stronger relationships between reformers to learn from each other*?

12) To what extent is OGP helping to institutionalize the open government agenda across different levels and branches of government?

     a. Can you identify factors that contribute here, one way or the other?

13) How broad or narrow is the "ownership" of OGP in government?

     a. Can you identify factors that contribute here, one way or the other?

Engaging Civil Society Actors:

14) Is OGP support (e.g. advocacy tools, partnerships listening post) helping civil society actors to make their demands through the OGP platform?

     a. If so, how?

     b. Does OGP involvement provide other added value?

15) How narrow or broad is the base of civil society engaging with OGP at the national level?

16) Does OGP (e.g. Support Unit, Steering Committee) have values and outlooks on open government that are consistent with those of civil society groups?

17) What could or should be done differently to make OGP work better for civil society?

Holding OGP Countries Accountable:

18) What, if any, incentives, commitment and/or assessment mechanisms are in place to support OGP partner country compliance with the NAPs?

     a. Are they sufficient to support and reward compliance?

     b. If not, how might they be improved?

19) Are countries using IRM reports to learn and improve on OGP processes and the content of NAPs?

20) To what extent do governments or other stakeholders interact directly with counterparts in other OGP member countries about NAPs and their implementation?

   a. If so, how and with what result?

21) How effective are, e.g. report launch events, associated communications strategies, and the format of the IRM reports in enhancing the ambition and completion of NAP commitments?

22) To what extent is the IRM working as an accountability mechanism and affecting policy change at the country level?

   a. How so? How do you define "accountability" in the context of the IRM?

***Rules of the Game***

23) Are OGP processes:

   a. *Designed* in ways that align with OGP's overall objectives and Theory of Change (TOC)?

   b. *Applied* in ways that align with OGP's overall objectives and TOC (formally and de facto)?

   c. Clearly articulated and understood by all participants?

24) How effective are OGP's reward and review mechanisms, such as the IRM reports and the OGP Response Policy in incentivizing positive outcomes or sanctioning negative outcomes?

   a. Are outcomes considered that extend beyond the process-and-compliance level to broader patterns of openness and the quality of government in member countries?

25) Do the OGP eligibility criteria capture the vision of OGP as stated in the OGP declaration?

   a. Is eligibility a useful predictor of (is it correlated with) a country's performance in meeting its OGP commitments?

26) Are OGP's calendar, guidelines (e.g. co-creation process) and rules designed and communicated in ways that encourage more ambition?

27) What local accountability mechanisms shape and enforce the de facto rule system? E.g. –

   a. Parliamentary mechanisms

   b. Civil society mechanisms.

## B. Country-Specific Questionnaire

*[OGP staff or stakeholders working in or with particular OGP member countries]*

Which country is most familiar to you in terms of OGP commitments and activities? Answer the questions below with respect to *that country* (or more than one country, if applicable).

***OGP Performance and Results:*** Please describe relevant changes that have come about since the country entered its first OGP National Action Plan (NAP). In each case, *please explain whether, to what extent, and how OGP may have influenced the result.* Please give *examples.*

1) Have government consultations with civil society, regarding the quality and openness of government, been more (or less) frequent? Discuss both face-to-face and other (e.g. online) consultations.

   a. Have such consultations become more (or less) productive?

   b. Are such changes more evident in some branches of government than others (e.g. policy making, administration, service delivery)?

2) Have interactions between higher-and lower-level officials regarding the quality and openness of government, been more (or less) frequent?

  a. More (or less) productive?

3) Have government decision-making and implementation become more (or less) inclusive?

  a. More (or less) accountable?

4) Has the flow of innovative ideas relating to open government increased or decreased?

5) Who has been the main source of innovative ideas, e.g. government officials at higher or lower levels? Civil society? Private sector?

6) Has there been a trend toward more (or less) open government?

  a. Higher (or lower) quality government?

7) To what extent have reform-minded officials become more (or less) influential?

  a. What about reform-minded groups in civil society?

8) Which of the following aspects of governance has changed the most? In what way?

  • Transparency in administrative processes and policy implementation

  • Broad-based participation in administrative processes and policy implementation

  • Technical competence and capacity

  • Autonomy of government enabling effective decision-making and implementation

  • Regional and international engagement with other governments and organizations.

*Contextual Factors:* Describe the situation during the period of NAP adoption and implementation, especially *factors that may be relevant to OGP outcomes and any significant changes*. Please specify the NAP/period you are talking about (e.g. first NAP, existing one, all NAPs).

9) When the NAP was adopted, how long had the government been in power?

10) Is the same government / ruling party still in power?

  a. Was there an election in the meantime?

11) Has the country's economy (e.g. GDP, overall growth, employment, poverty) been stable over the time period in which the NAP has been in existence?

  a. If not, what changes have there been during that time?

12) Has the country experienced civil unrest, natural or other disasters, and/or any other contingencies over the time period in which the NAP has been in existence? If so, describe.

13) What is the ideological direction of leadership?

  a. Is it supportive of OGP processes and related reform efforts or not?

14) If there have been changes in governance during the NAP (see #8 above), did these begin (or were they discussed) before the NAP was formulated? Or only after?

  a. If before, did this have an impact on performance (e.g. level of ambition in the NAP, implementation of the NAP)?

15) Would you describe the space for civic action as open/opening or closed/closing?

  a. Give examples of decisions, policies, and/or regulations affecting this area.

16) To what extent has OGP / the NAP been discussed in the media, e.g. the press, radio/TV, social media?

       a.   What about public discussion of OGP/NAP by political or civic leaders?

       b.   Can you give examples?

17) What peer pressures, if any, arise from the country's stance in its regional "neighborhood" or foreign relations generally?

       a.   Has this affected the NAP or its implementation? If so, how?

### *OGP's Role and Rules*

As appropriate, adapt and use questions from the Global Questionnaire, especially the following: 6, 10, 12-15, 19, 20, 22, 26, 27.

**Country-level interview questionnaire (please ask respondents to explain / give examples):**

1)
    1) Please tell us about your experience in OGP leadership, particularly within _____ [country].

2) Is there a Permanent Dialogue Mechanism in your country? Please describe. As a result, have government consultations with civil society, regarding the quality and openness of government, been more (or less) frequent? Productive?

3) Have interactions between higher-and lower-level officials regarding the quality and openness of government, been more (or less) frequent? Productive?

4) Has the flow of innovative ideas relating to open government increased or decreased? (Learning to apply new approaches)

5) To what extent have reform-minded officials become more (or less) influential? What about reform-minded groups in civil society?

6) To what extent has OGP / the NAP been discussed in the media, e.g. the press, radio/TV, social media? What about public discussion of OGP/NAP by political or civic leaders? Are these discussions followed widely throughout society or only by a narrow group?

7) How broad or narrow is the "ownership" of OGP in government? In civil society? To what extent is OGP helping to institutionalize the open government agenda across different levels and branches of government? Across civil society?

8) Since your country joined OGP, has there been a trend toward more (or less) open government? Higher (or lower) quality government? Give examples. Were these part of your OGP National Action Plan? Did OGP/NAP have an impact on openness and quality of government (a) in areas addressed by the NAP(s), and/or (b) areas beyond the NAP(s)?

9) What impact, if any, is OGP having on top-level political leadership in your country? How does this impact come about? Is it due to peer pressure / competition from other countries/ leaders? Financial pressure, e.g. from international financial or aid institutions? Pressure from a strengthened civil society (NGOs, associations, unions, parties, movements)? Learning from peers?

10) Which have been most helpful to you and your colleagues in pursuing the goals of open government – Working Groups, OGP materials, IRM reports, global and regional events, other?

11) For CSOs: Is OGP support (e.g. advocacy tools, partnerships listening post) helping civil society actors to make their demands through the OGP platform?

12) Please comment on the IRM reports and their impact. To what extent is the IRM working as an accountability mechanism and affecting policy change at the country level?

13) To what extent do governments or other stakeholders interact directly with counterparts in other OGP member countries about NAPs and their implementation? Are these interactions useful – and in what way?

14) Does OGP (e.g. Support Unit, Steering Committee) have values and outlooks on open government that are consistent with those of civil society groups?

15) What aspects of OGP have had the most positive impact, and should be continued or deepened? What aspects have not had positive impact, and should be changed? Please address (a) OGP within your country and (b) OGP in general.

# Annex 6: Methodological Justification of Pre-Post Time Series Comparisons

Time-series comparisons are an appropriate quasi-experimental design[116] for estimating the effects of policy interventions – for example, the implementation of seatbelt or breathalyzer laws for motorists -- in situations where other kinds of experimental controls are not feasible. Those controls – such familiar techniques as using serval comparison groups, experimental isolation, double-blind data gathering and analysis, and the like – are ways to minimize threats to *internal validity* and *external validity*. The former are factors undermining the extent to which our findings are valid for the subjects on which we have gathered data; the later threaten the validity of our findings in terms of what they suggest about the broader world.[117] If we cannot be confident of internal validity, there is little point in even raising the question of external validity. Even though we are not directly concerned with generalizing to non-OGP countries, we need to be choose a research strategy carefully.

For example, Campbell and Stanley discuss, and dismiss, what they call the "One-shot case study" and the "One-group pre-test/post-test" designs. The former consists, in effect, of doing something – giving an injection, changing the procedures by which officials consult with civil society – and then trying to judge its effects with a single *post hoc* measurement of whatever trait we hope to affect. The second is similar to the first but includes a pre-test of that attribute as well. Campbell and Stanley represent those designs, respectively, as

$$X \qquad O_1$$

and

$$O_1 \qquad X \qquad O_2$$

where "O" refers to observation – measuring the trait – and "X" is the experimental manipulation, policy change, or other intervention whose effects we wish to assess. For our purposes, X represents an NAP, its component commitments, and such implementation as has taken place.

Those two "pre-experimental" designs are insufficient for reasons that will be clear to all. Essentially, the first offers no evidence of change at all, and thus no basis to claim any sort of effect from X. The second can yield evidence of change in the trait from before X to afterwards, but we have no basis for claiming that X – and not some other outside influence, or a change in the subjects we are observing, or deterioration in our instruments, among other confounding explanations – and X alone is responsible for the observed change. Thus, we might gather data on police encounters among ninth-graders, require all of those students to take part in character-building workshops, and then gather similar data on those students as they leave high school; and if we found that the frequency of police encounters had dropped over time, we might claim our intervention has had positive effects. But, but, but: the students would have matured and changed over four years; some – perhaps those least integrated into their communities – might have dropped out of school or left the area; police department policies for dealing with juveniles,

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[116] Campbell, Donald T., and Julian C. Stanley. 1963. *Experimental and Quasi-Experimental Designs for Research.* Boston: Houghton-Mifflin. Online at https://moodle.technion.ac.il/pluginfile.php/367640/mod_resource/content/1/Donald_T._(Donald_T._Campbell)_Campbell,_Julian_Stanley-Experimental_and_Quasi-Experimental_Designs_for_Research-Wadsworth_Publishing(1963)%20(1).pdf (Viewed 17 August 2016).

[117] A full discussion of internal and external validity, and of common threats researchers must address, appears in *Ibid.,* pp. 5-6.

or for reporting such events, might have changed; the local economy might have improved markedly; and so forth. Without careful controls and comparisons, we cannot claim any effects for our intervention.

In a laboratory experiment there are numerous ways to reduce such complications. But we cannot isolate OGP countries from outside or mutual influences, we cannot establish comparable (ideally, randomly-selected[118]) control groups for comparison, and we cannot regulate or reliably control for internal changes such as the advent of a new government or a national calamity – among other confounding factors. For purposes of assessing the effects of OGP processes and commitments a true experimental design is clearly out of reach.

We can, however, have confidence in a quasi-experimental design that Campbell and Stanley call the Time-Series Experiment.[119] Using the same terminology as above, it is represented as:

$$O_1 \, O_2 \, O_3 \, O_4 \, X \, O_5 \, O_6 \, O_7 \, O_8$$

Superficially this approach might appear no more valid than the one-group pre-test/post-test approach, but in fact it is superior. The strength lies in the relatively long series of pre- and post-intervention measurements (there is no magic in having four of each; rather, I am just following Campbell and Stanley's notation). Those extended observations are likely to reveal any effects of many of the confounding factors mentioned above: maturation of the subjects or cases; effects of external events, and other changes in macro conditions; change or deterioration in measurement techniques; regression toward the mean (the tendency, over time and a large number of observations, for cases with very large or small values at an earlier time to fall closer to the group average later on), and so forth.

The extended time-series approach is also well-suited to show whether or not an intervention, policy change, or experimental manipulation is linked to change that is measurable, significant in size, lasting, and linked chronologically to the intervention itself. Campbell and Stanley illustrate these points with the following schematic graph:[120]

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[118] *Ibid.,* p. 6.

[119] *Ibid.,* pp. 37-42.

[120] *Ibid.,* p. 38
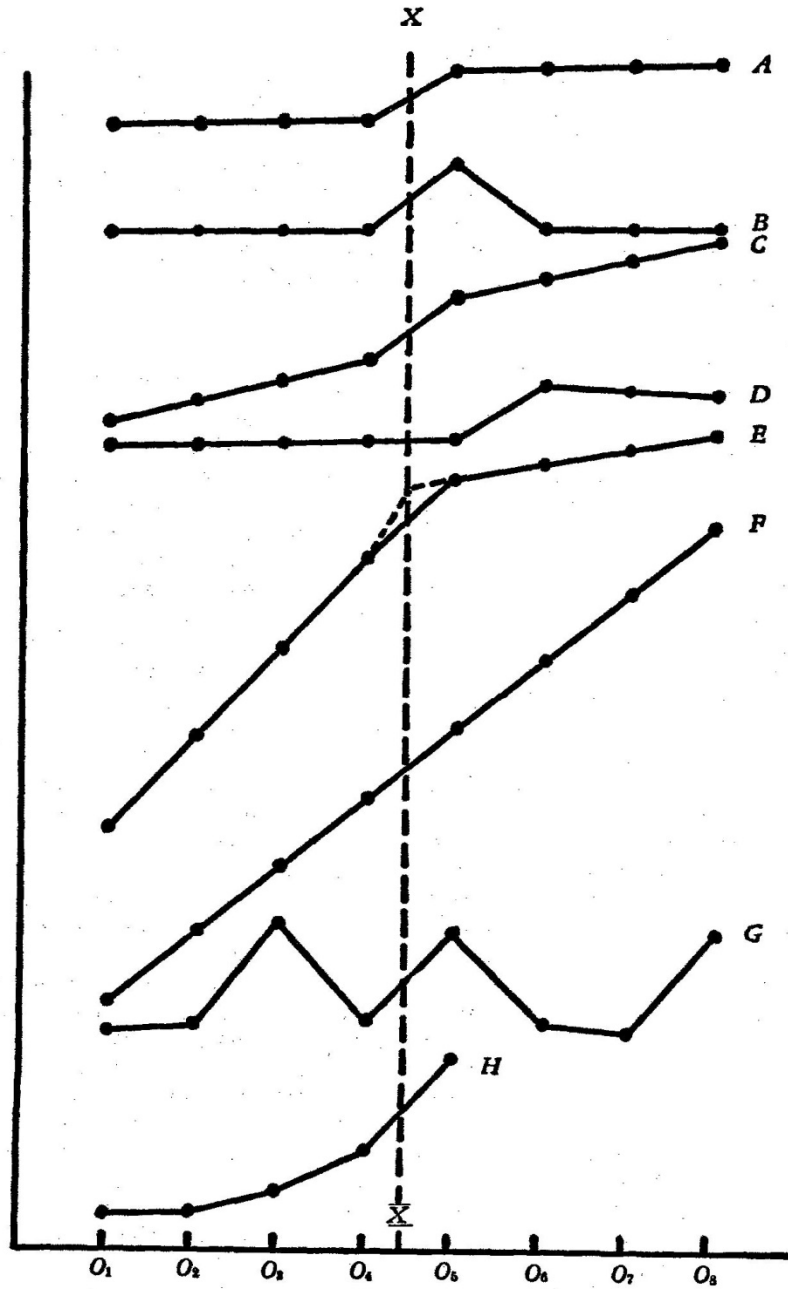
Fig. 3. Some Possible Outcome Patterns from the Introduction of an Experimental Variable at Point $X$ into a Time Series of Measurements, $O_1$—$O_8$. Except for $D$, the $O_4$—$O_5$ gain is the same for all time series, while the legitimacy of inferring an effect varies widely, being strongest in $A$ and $B$, and totally unjustified in $F$, $G$, and $H$.

It will be seen that in every case but one (sequence D) the change between $0_4$ and $0_5$ – that is, what we would observe with a single pretest/post-test design -- is identical. But the longer sequences of observations in these schematic examples reveal qualitatively different results that would not be shown with a simple pre-test/post-test design (*i.e.,* with only $O_4$ and $O_5$ to go on). As

Campbell and Stanley note in their comment at the bottom of the graph, A and B give us the strongest basis for confidence in concluding that intervention X has had a measurable effect: we see an increase after X that is persistent. Only in A is the effect a lasting one; observations in B return to earlier levels in $O_6$. The results in C might be read as indicating a lasting effect, but if so it is modest at best, since measurements were increasing before as well as after X. Does D indicate a delayed effect? Perhaps, but more cases would have to be examined before we could reach that conclusion with confidence. The full sequence E actually suggests that X may have *reduced* a rising trend in observations, rather that supporting the inference of a positive effect that we might have drawn from having only $0_4$ and $0_5$ to go on. Sequences F, G, and G, whose $0_4$ and $0_5$ results are (again) the same as those in A and B, provide no support at all for any clear-cut, lasting effect of X.

Actual time series data will reveal many more patterns, to be sure, and are unlikely to be as neat as the eight hypothetical sequences shown. But they do help make the point that the time-series design is a strong one, and give us clear indications of what we would hope to see if we wish to argue that trends in country-level indicators point to clear positive effects of OGP interventions.

*Validity, reliability, and precision*

A final methodological point – one that will be quite important in the concluding discussion here – has to do with the quality of any measure. Ideally, a measure should be *valid, reliable,* and expressed at an appropriate level of *precision.*[121] <u>Validity</u> refers to the notion that our data measure what we claim they do: thus, I might propose voter turnout rates as a measure of open government, but for many reasons the data would lack validity as that sort of measure. <u>Reliability</u> refers to the need for a measurement technique to return consistent values no matter who applied them, when, or where: if your application of a measurement technique for open government yields a value of 85 out of a hundred while my application of the same technique to the same country produces a value of 37, we have major reliability problems. It is important to note that validity and reliability are independent of each other; our technique might be valid but not reliable, reliable but not valid, neither reliable nor valid, and so forth. In that connection, it is striking how often the architects of some measures claim that their apparent reliability – consistent values, year after year – is evidence of validity, when it fact that is not necessarily the case. (In fact, results that show little if any change over time might well be unreliable if we have good reason to think that the underlying realities are in flux.) Appropriate levels of <u>precision</u> are less often discussed but are also important. A new measure of openness might, realistically speaking, be best reported in terms of "high, medium, and low"; reporting it in numerical form (*e.g.* 37.26 or 85.82) amounts to false precision, however much we might want to plug the data into an equation.[122]

**The Data**

*WGI Voice and Accountability*

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[121] These issues are more fully discussed in a useful way in Babbie, Earl R. 2010. *The Practice of Social Research.* Belmont, CA: Wadsworth, Chapter 5.

[122] Those of us who lament the tendency for rankings of colleges and universities to be expressed out to tenths or hundredths of a point on a composite scale will recognize all three of these problems immediately. University administrators generally do not.

The Worldwide Governance Indicators are a long-term project of the World Bank Institute. Drawing largely upon perception-based data, but also including several other kinds of indicators, they measure six aspects of good governance: Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. Data are reported for 215 societies, biennially for 1996-2002 and annually thereafter. The indices themselves are constructed using sophisticated statistical methods; scores on each of the six indices are reported in a range from -2.5 (poor performance on an index) through +2.5 (excellent performance). The mean for each index is zero and, unlike many other international indicators, the results are normally distributed (or very nearly so), allowing the calculation of confidence intervals and, therefore, estimated margins of error.[123] While not without their substantive and methodological issues[124], the WGI data are generally seen as among the highest-quality international indices, and are widely employed in analysis.

*"Doing Business" Distance-to-Frontier (DTF) indicator*

As the Doing Business website explains,

> The distance to frontier score aids in assessing the absolute level of regulatory performance and how it improves over time. This measure shows the distance of each economy to the "frontier," which represents the best performance observed on each of the indicators across all economies in the *Doing Business* sample since 2005. This allows users both to see the gap between a particular economy's performance and the best performance at any point in time and to assess the absolute change in the economy's regulatory environment over time as measured by *Doing Business*. An economy's distance to frontier is reflected on a scale from 0 to 100, where 0 represents the lowest performance and 100 represents the frontier. For example, a score of 75 in DB 2015 means an economy was 25 percentage points away from the frontier constructed from the best performances across all economies and across time. A score of 80 in DB 2016 would indicate the economy is improving. In this way the distance to frontier measure complements the annual ease of doing business ranking, which compares economies with one another at a point in time.[125]
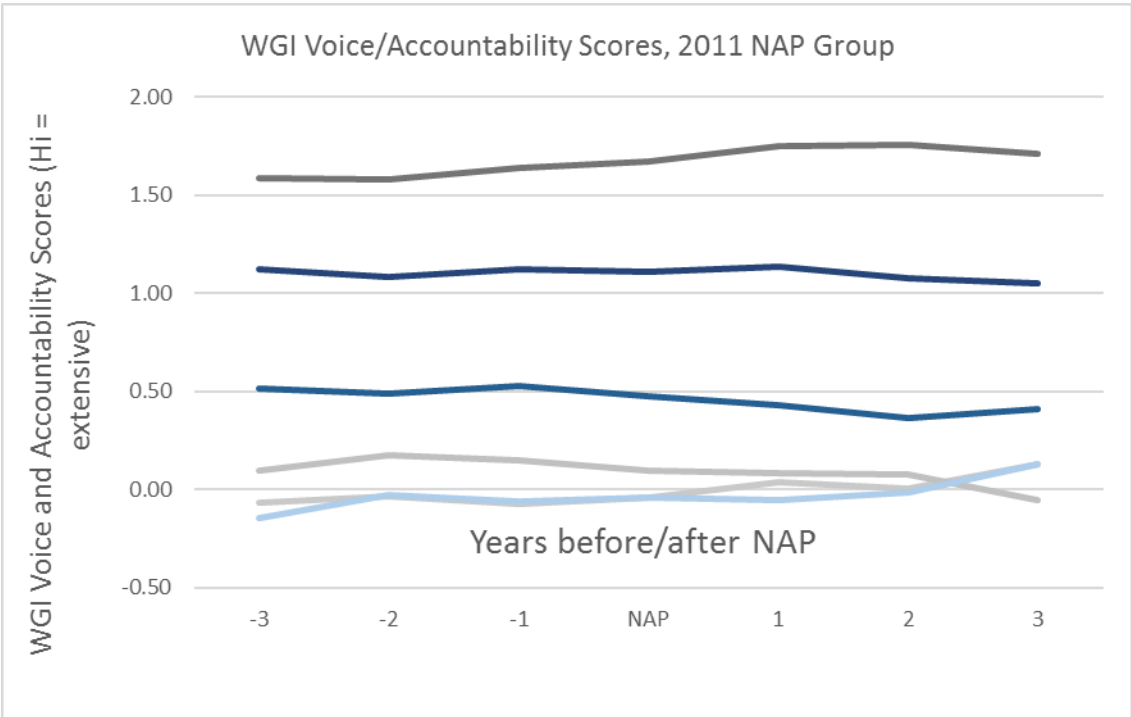
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[123] A variety of methodological issues are explained, and documentation and underlying data can be found, at http://info.worldbank.org/governance/wgi/index.aspx#doc (Viewed 19 August 2016).
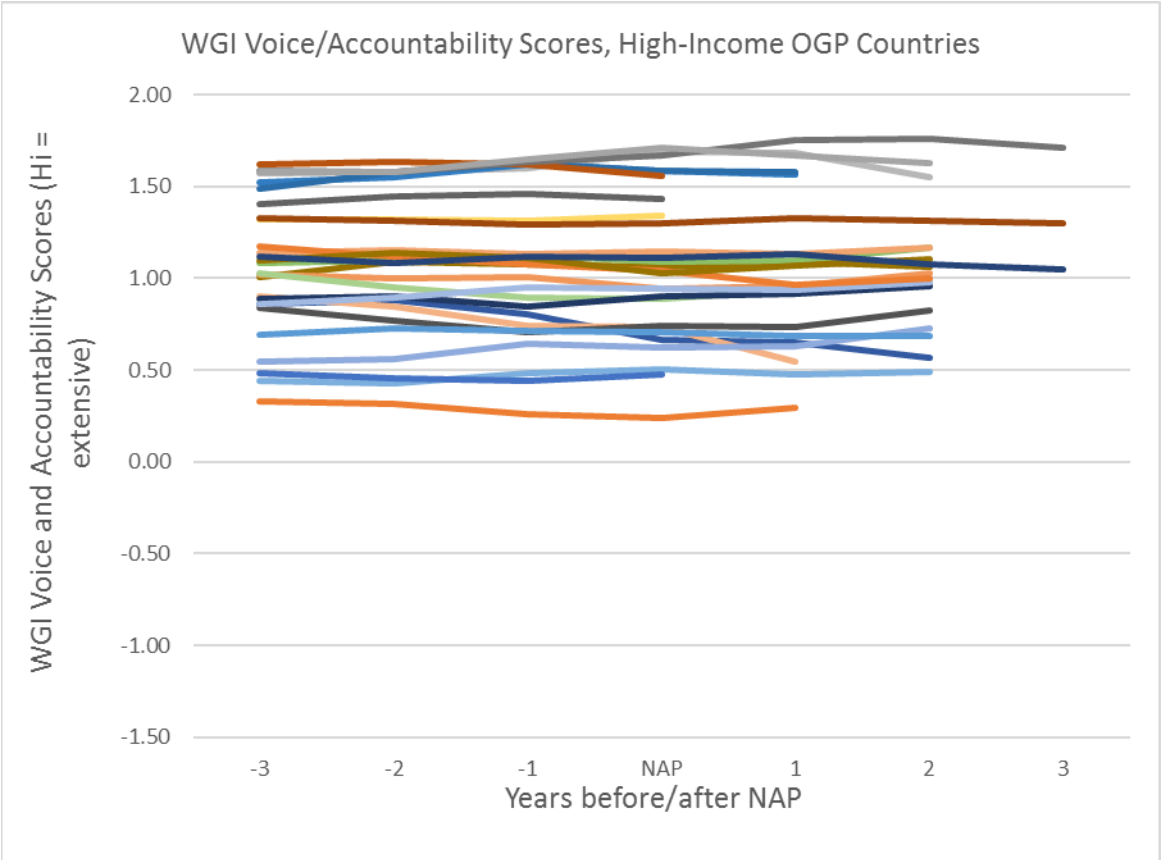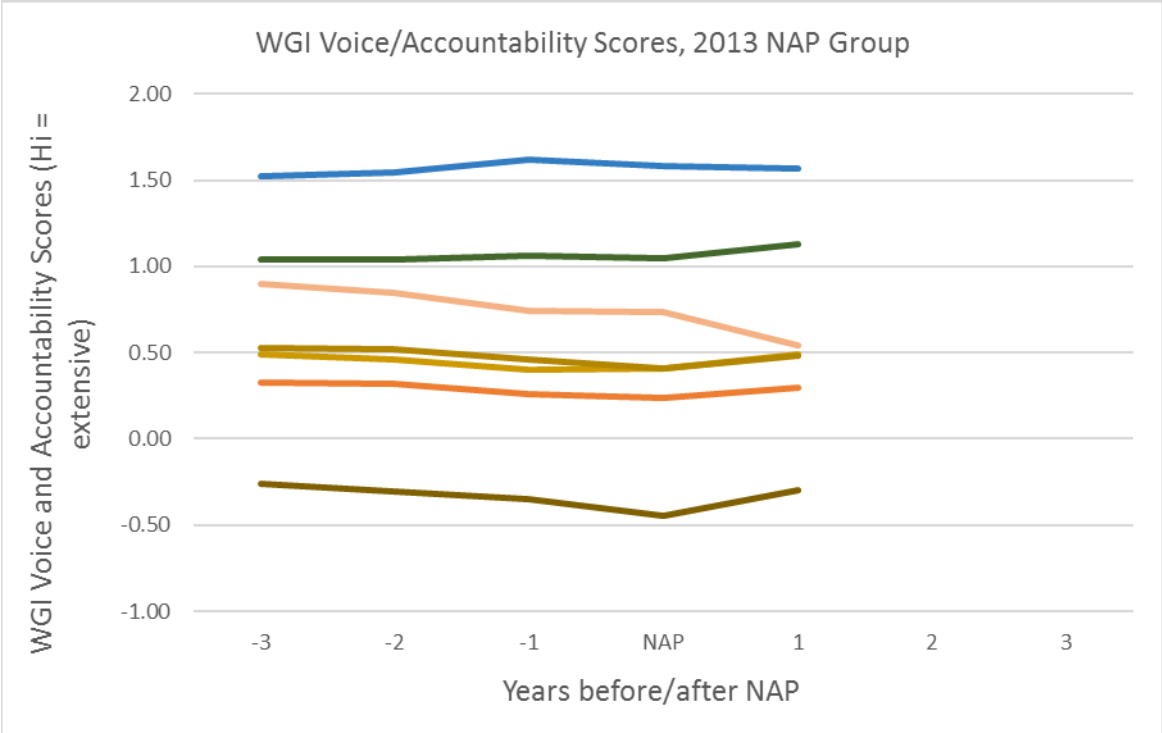
[124] A particularly searching critique appears in Melissa A. Thomas, 2009: "What Do the Worldwide Governance Indicators Measure?" *European Journal of Development Research* (July). Online at http://fsi.stanford.edu/sites/default/files/Thomas_Gov_Indicators.pdf (Viewed 19 August 2016).
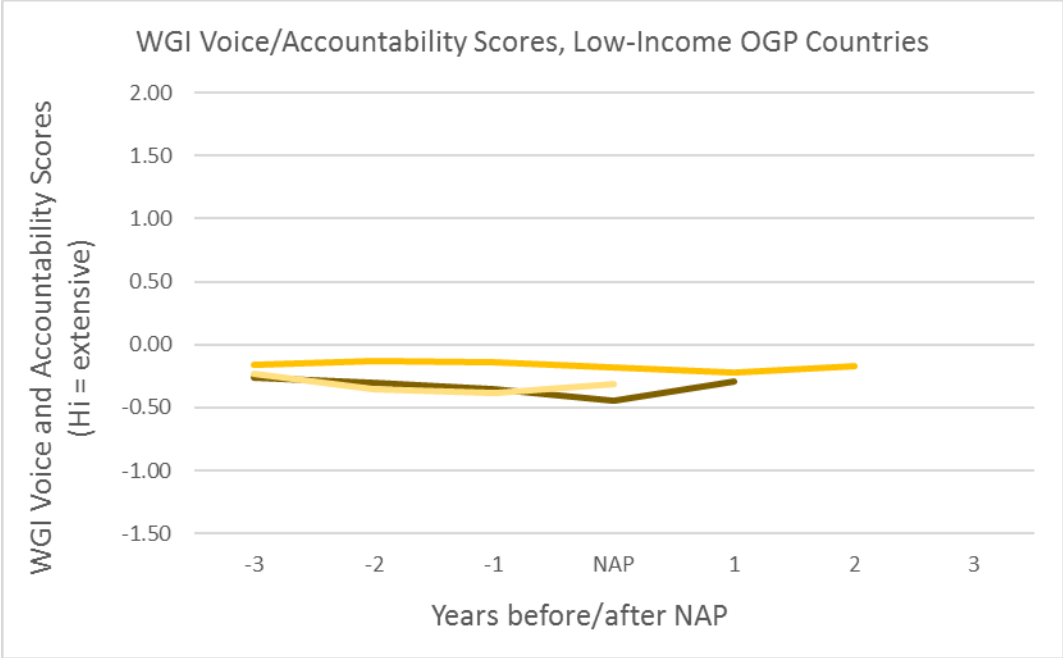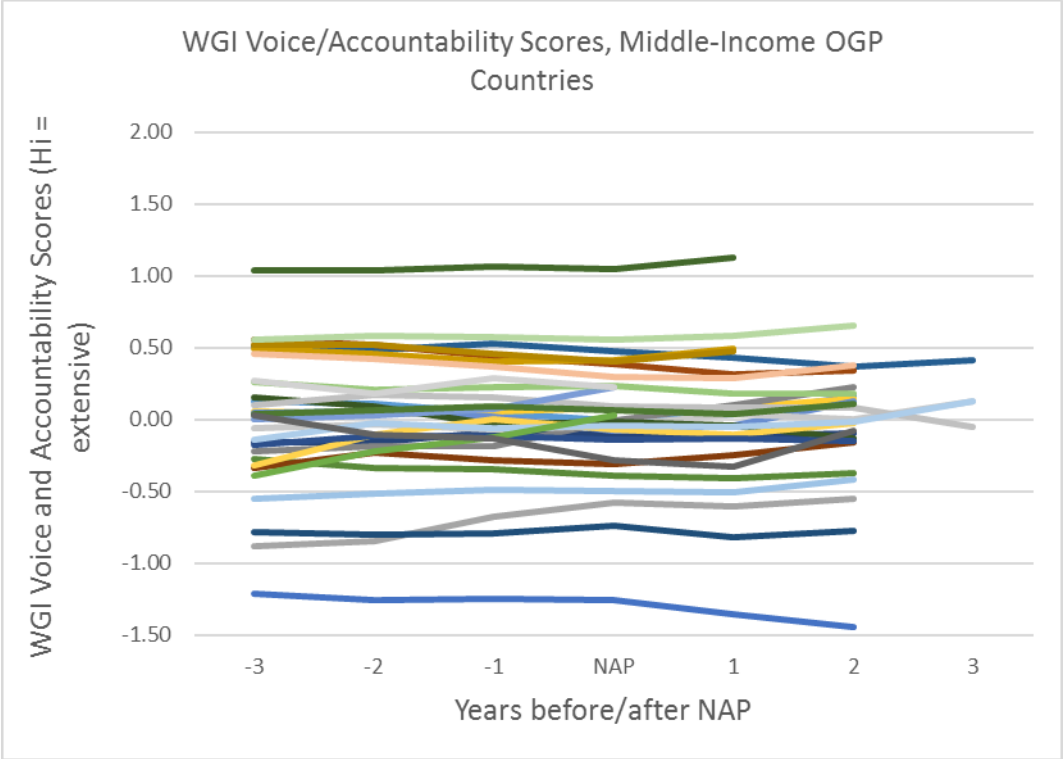
[125] World Bank Group, "Doing Business". Online at http://www.doingbusiness.org/data/distance-to-frontier (Viewed 22 August 2016).

# Annex 7:    More Detailed Breakdowns of Index Data

*WGI Voice and Accountability Scores*

WGI Voice/Accountability Scores, 2013 NAP Group
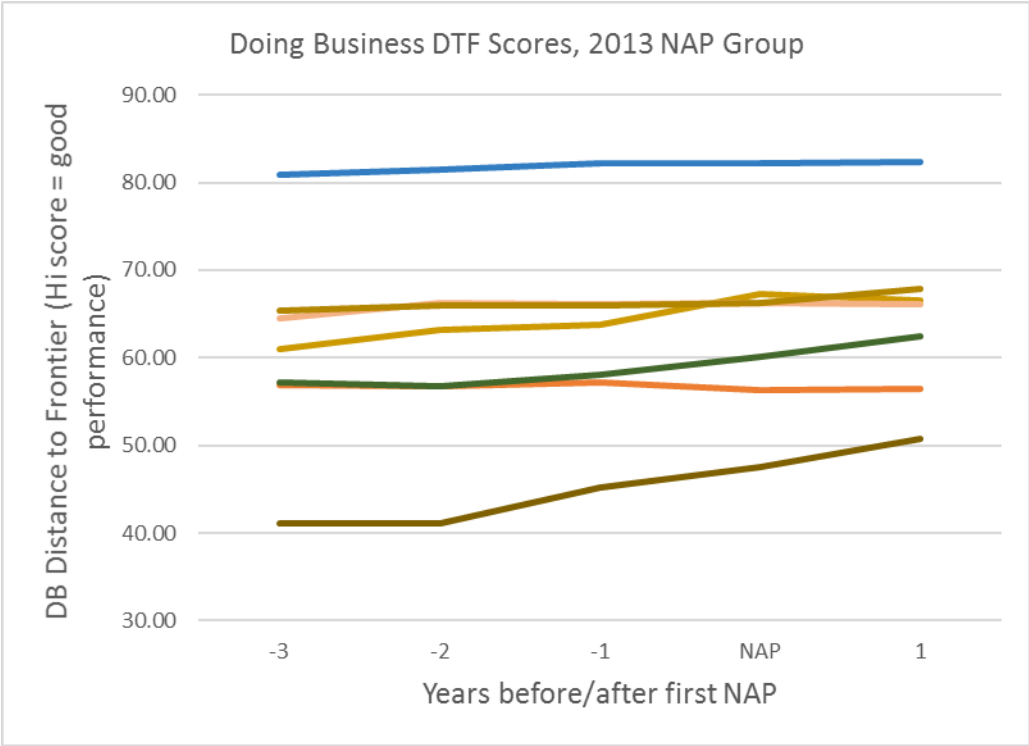
WGI Voice/Accountability Scores, High-Income OGP Countries

WGI Voice/Accountability Scores, Middle-Income OGP Countries
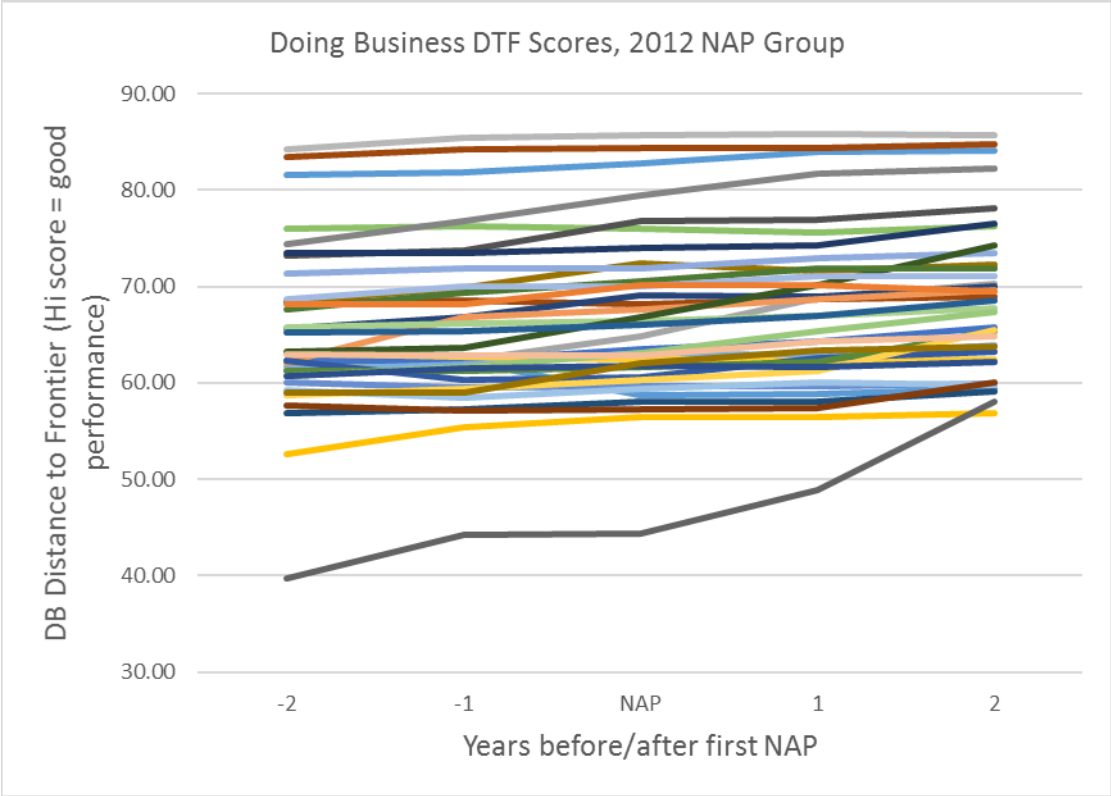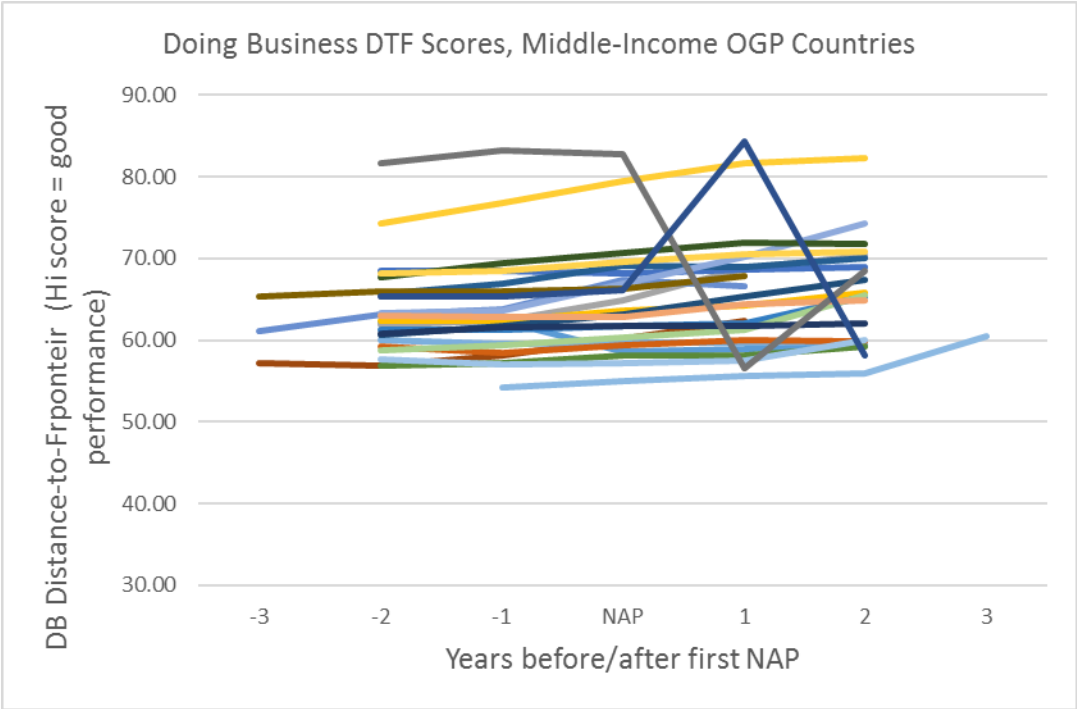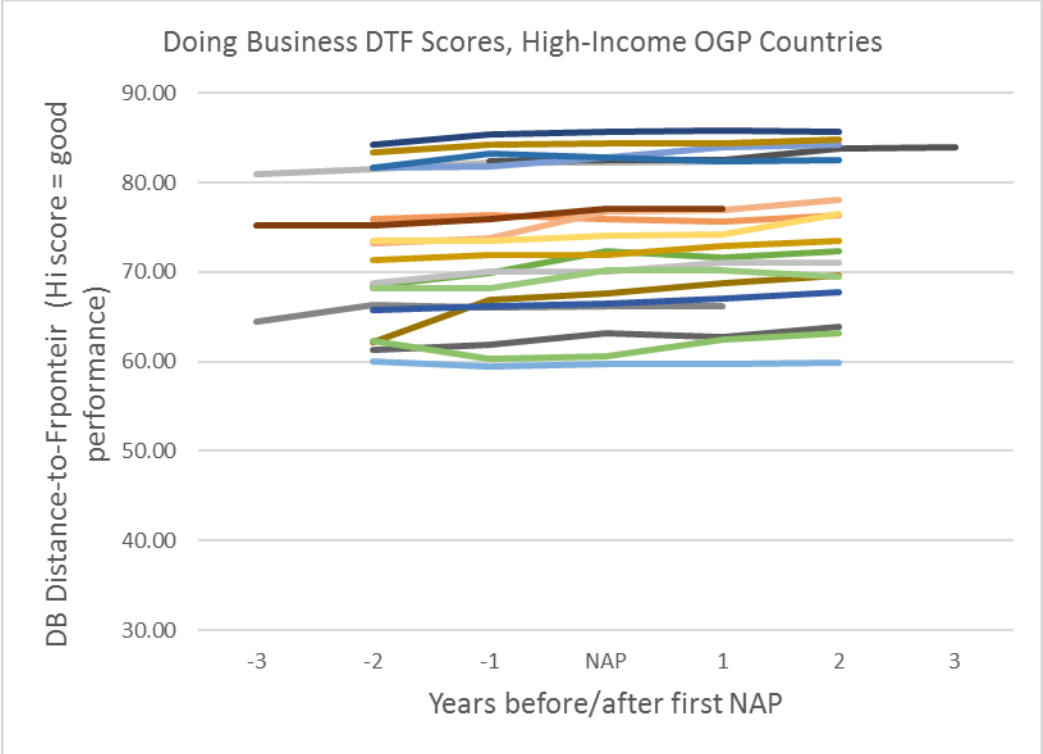
WGI Voice/Accountability Scores, Low-Income OGP Countries
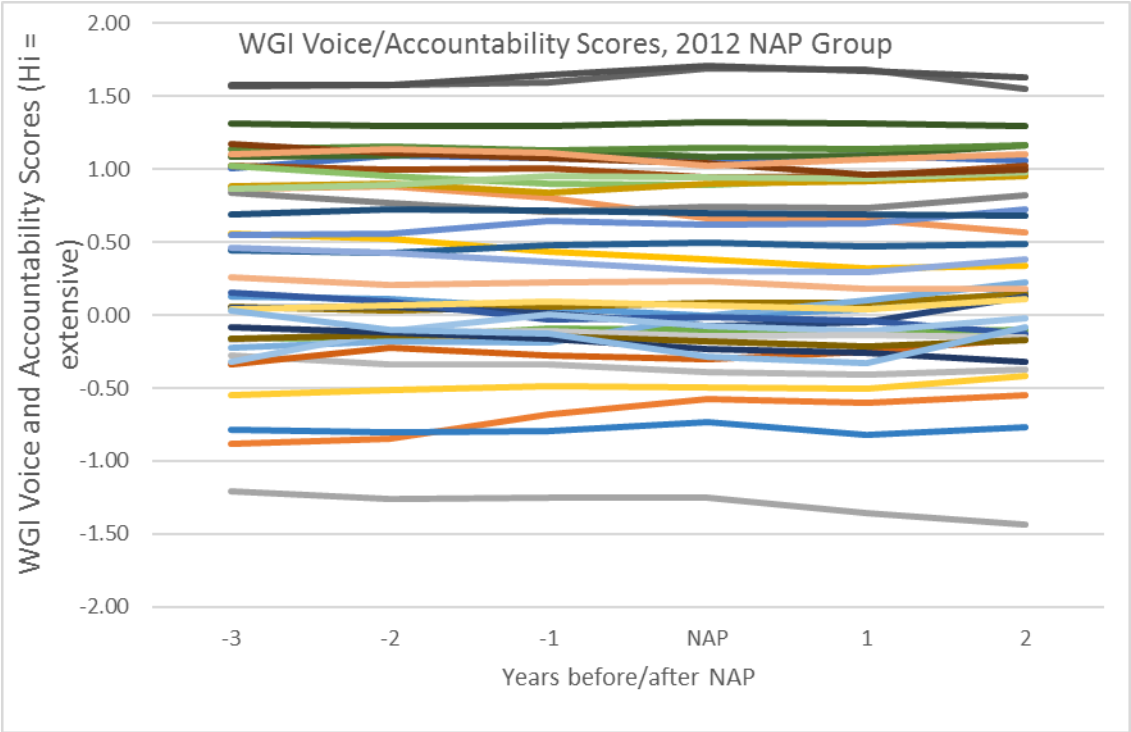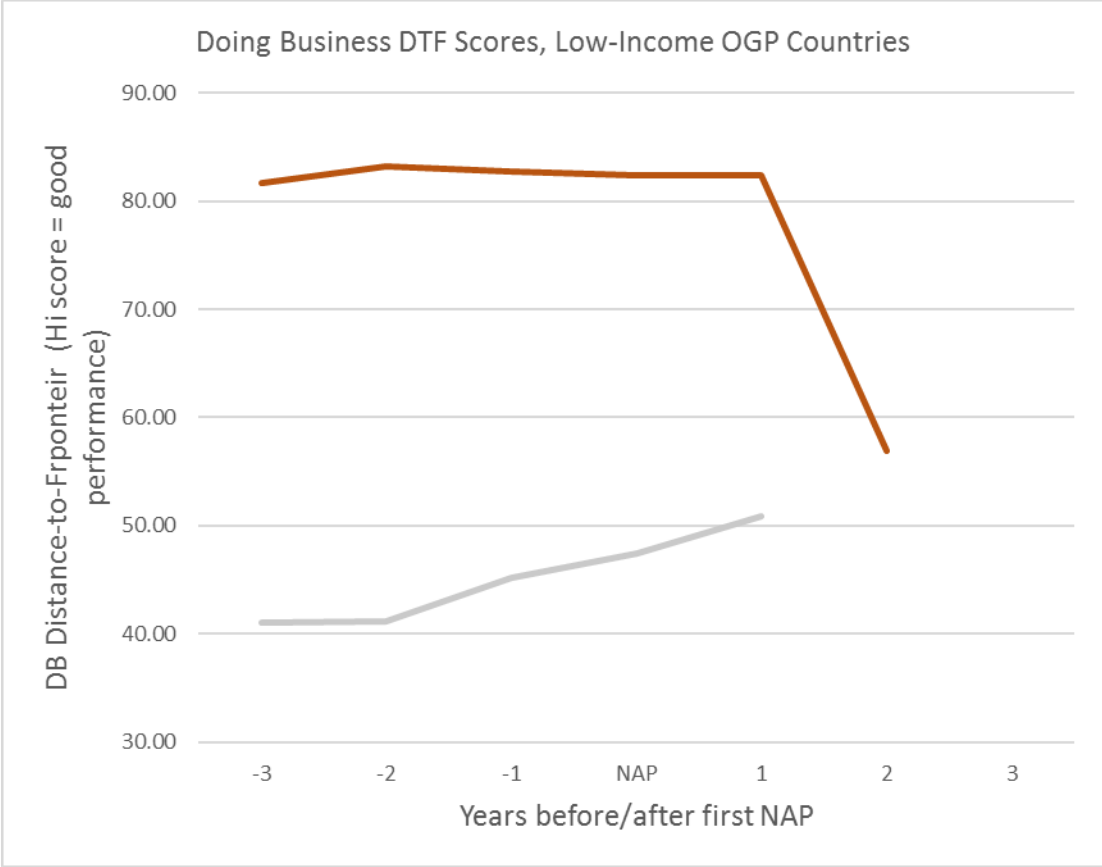
*"Doing Business" Distance-to-Frontier Scores*

"Doing Business" Distance-to-Frontier (DTF) is an estimate of the difference or "distance" between a country's performance on various measures of regulatory quality and the best performance on those indicia in a given year. It is identified by the compilers of the dataset as the best summary variable for overall comparisons. The start date is 2010 because the underlying calculations for DTF were changed as of that date; the most recent data available were for 2014, so OGP countries that devised their first NAPs in 2014 are excluded for lack of post-NAP data. Like any other composite indicator, "Doing Business" data reflect a particular set of values and assumptions – in this instance, regarding relations between government and business, and the "ease of doing business". Assuming for the moment an underlying validity for the index, DB/DTF measures something that is arguably akin to open government, but not necessarily synonymous with it, and not precisely the same attributes that Voice and Accountability data are meant to reflect. Here again we see no broad indications that OGP participation typically improves openness as indicated by ease of doing business ratings:
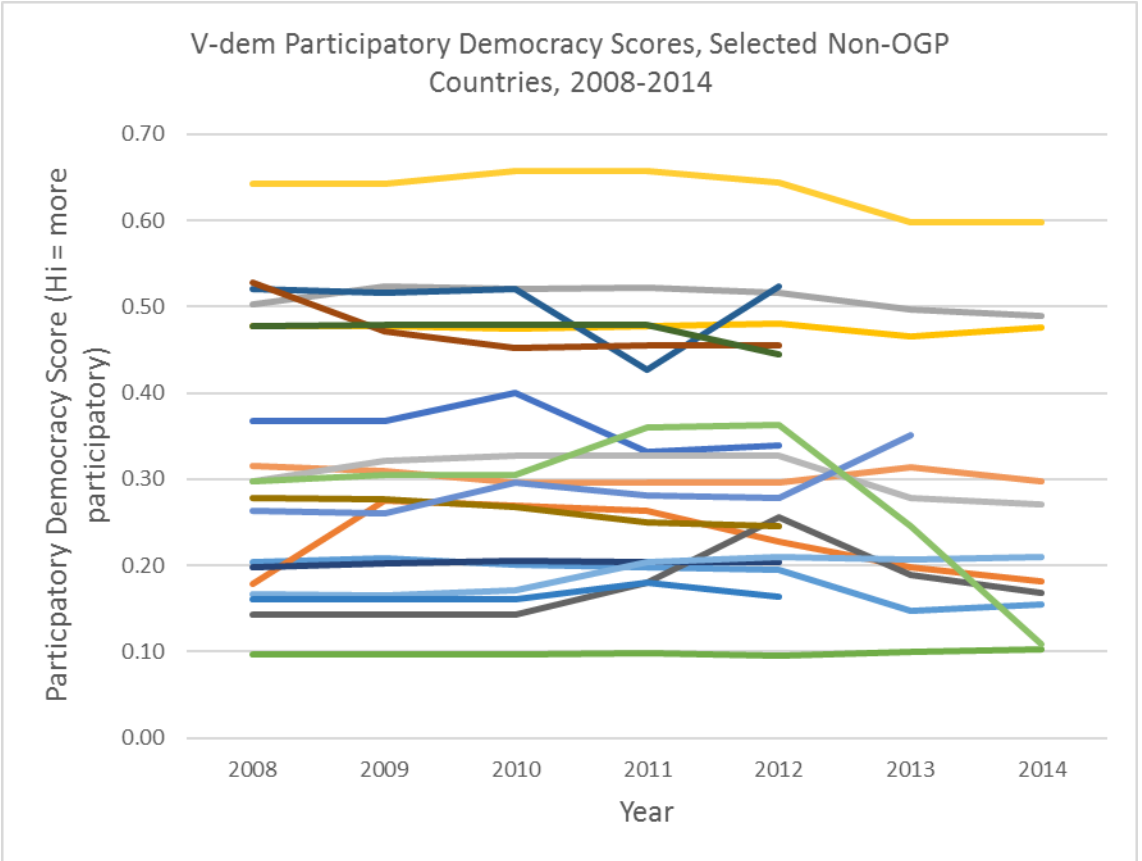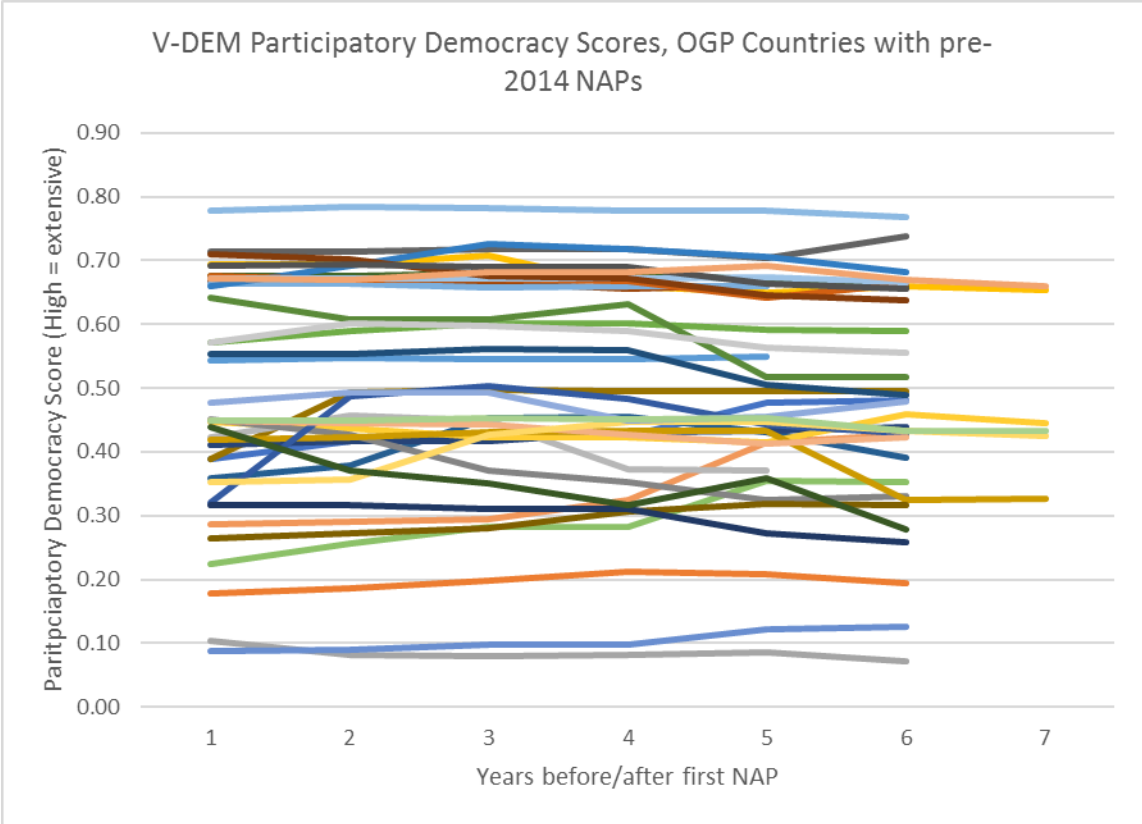
Doing Business Scores, Selected Non-OGP Countries, 2010-2014



Doing Business DTF Scores, 2011 NAP Group

Doing Business DTF Scores, 2012 NAP Group



Doing Business DTF Scores, 2013 NAP Group

Doing Business DTF Scores, High-Income OGP Countries



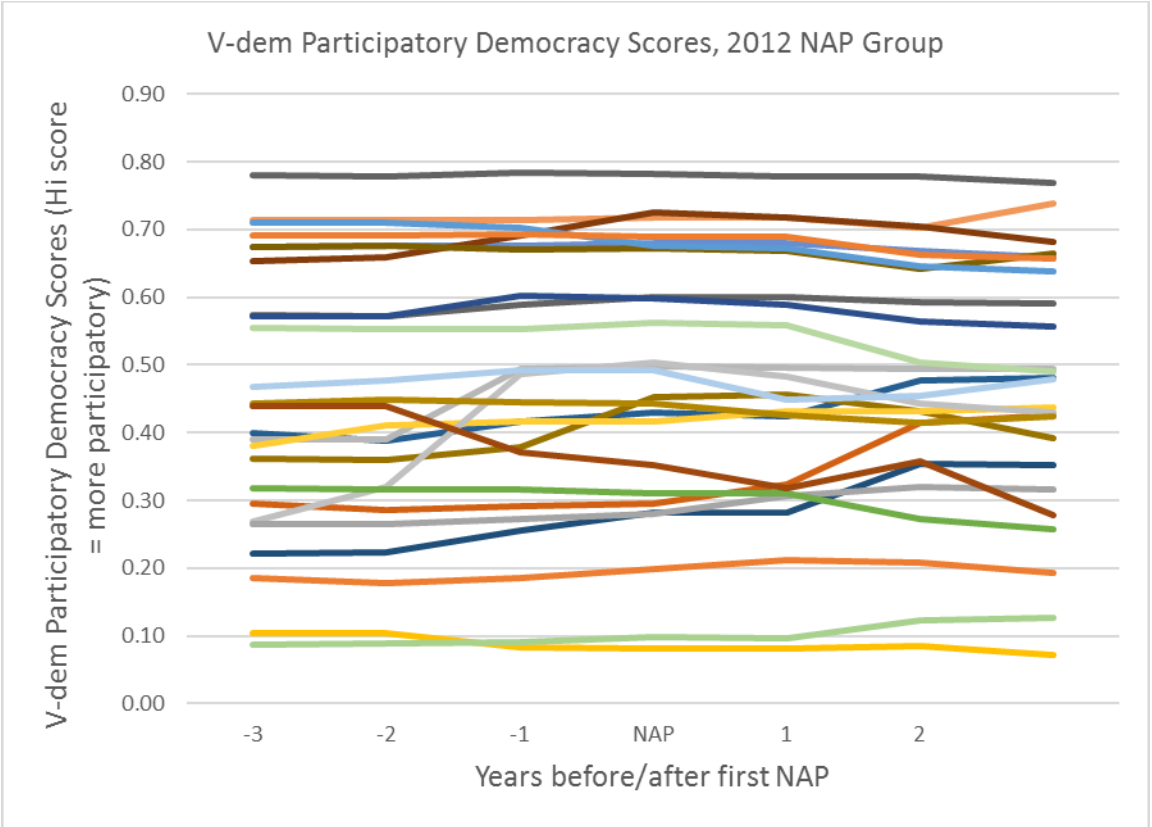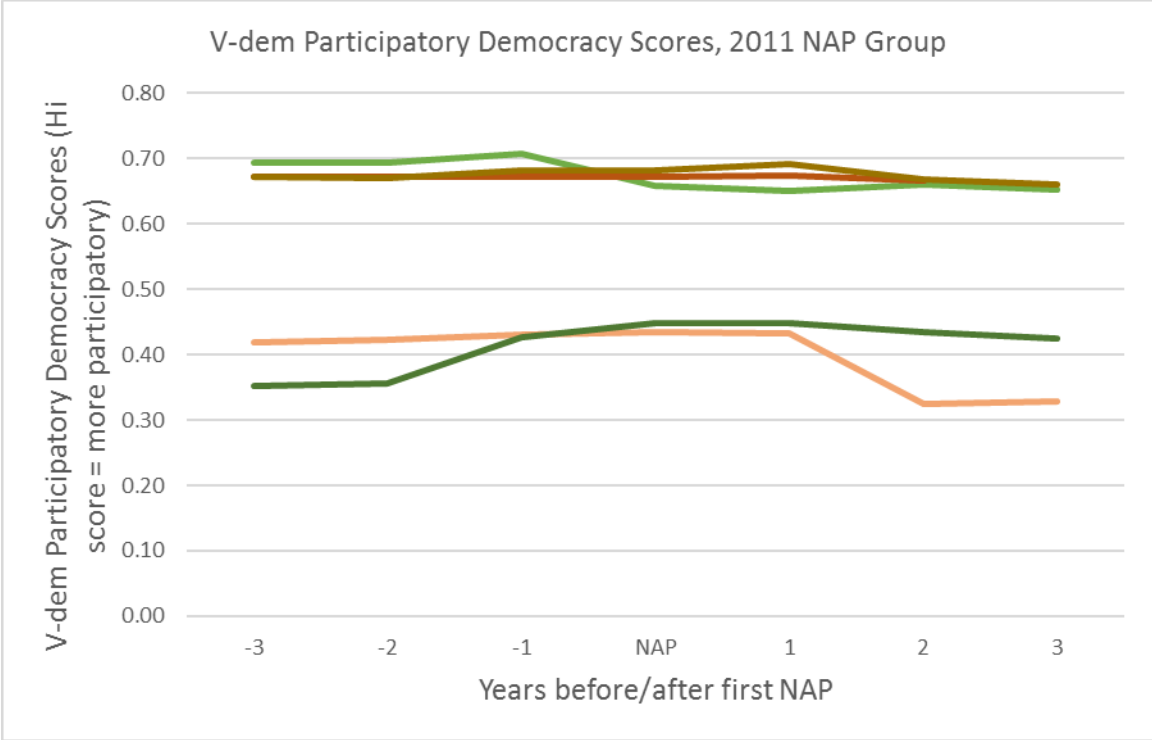Doing Business DTF Scores, Middle-Income OGP Countries
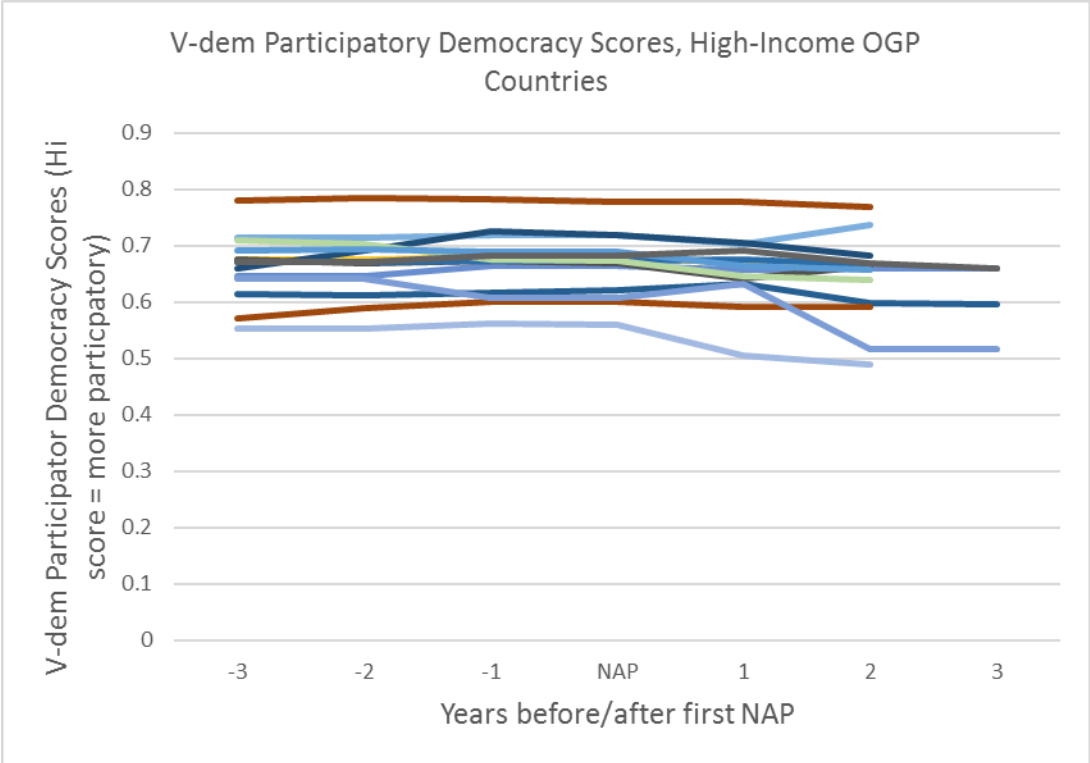
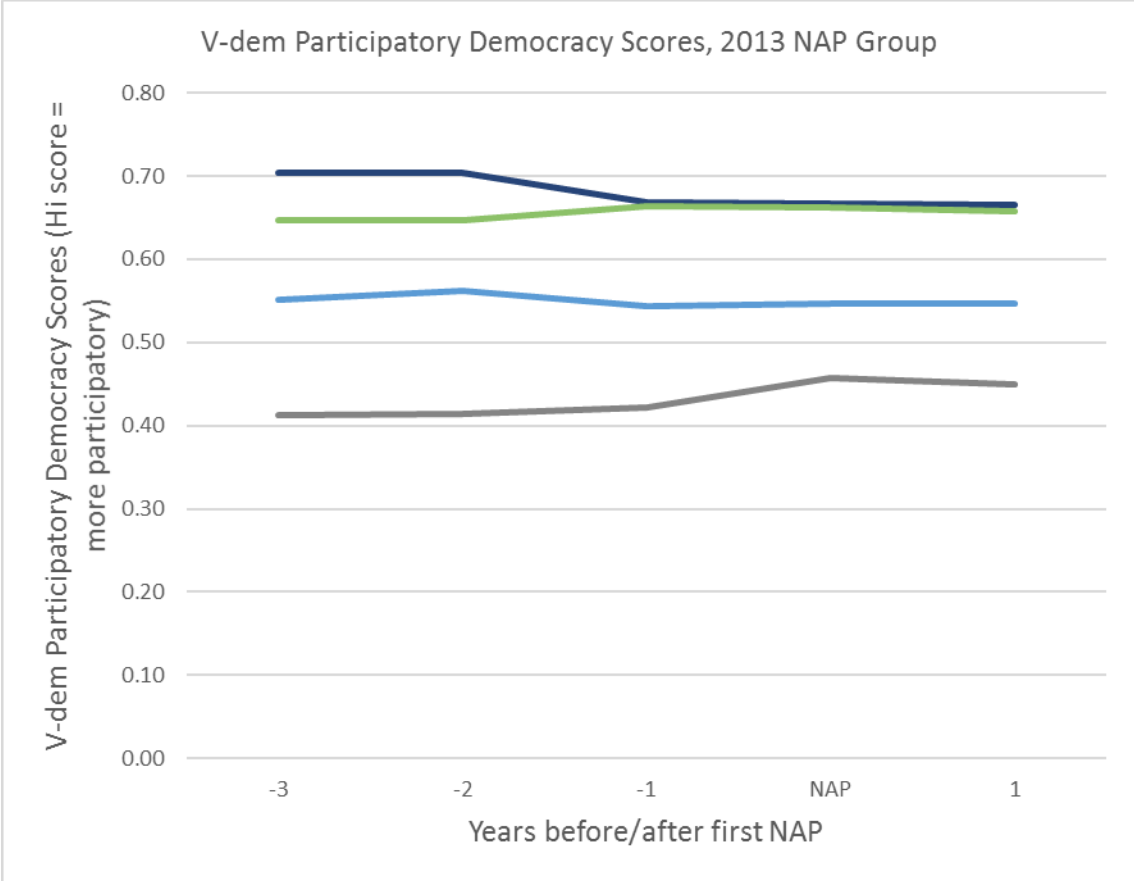Doing Business DTF Scores, Low-Income OGP Countries
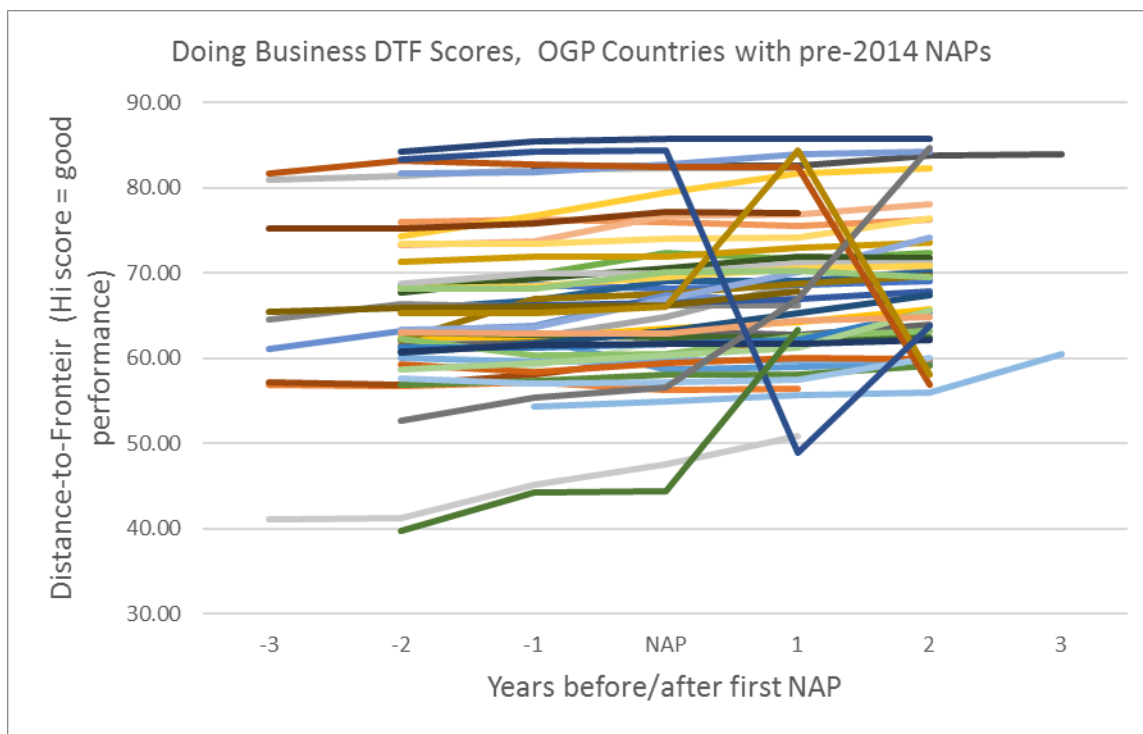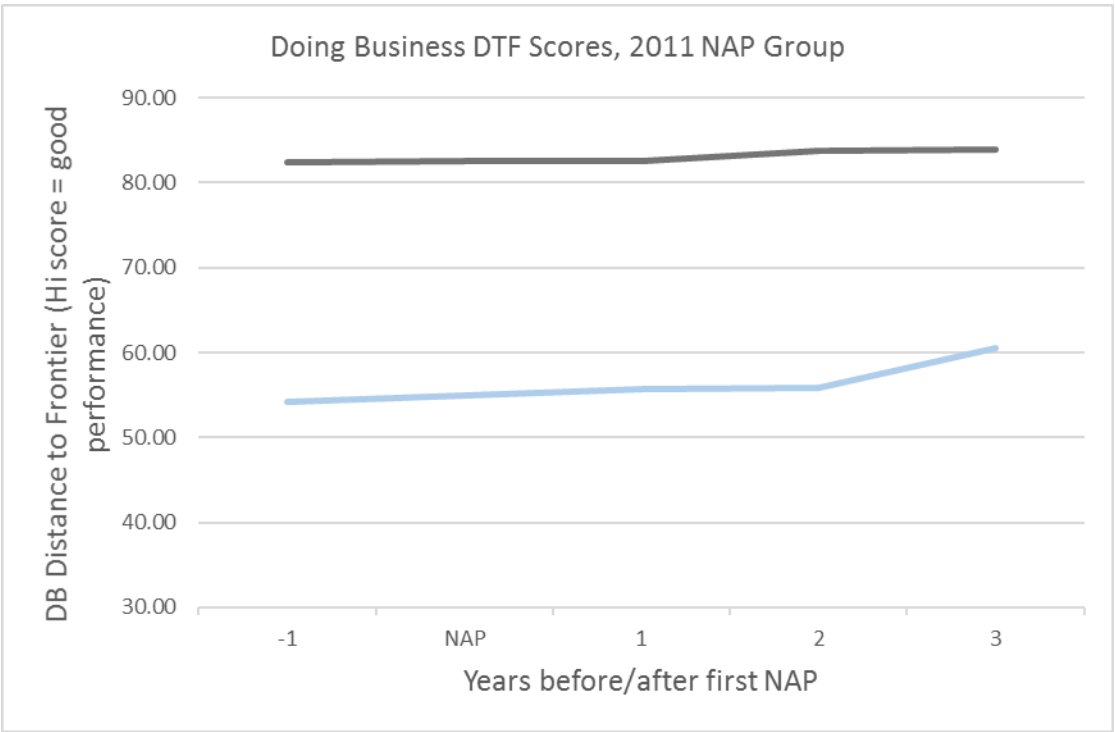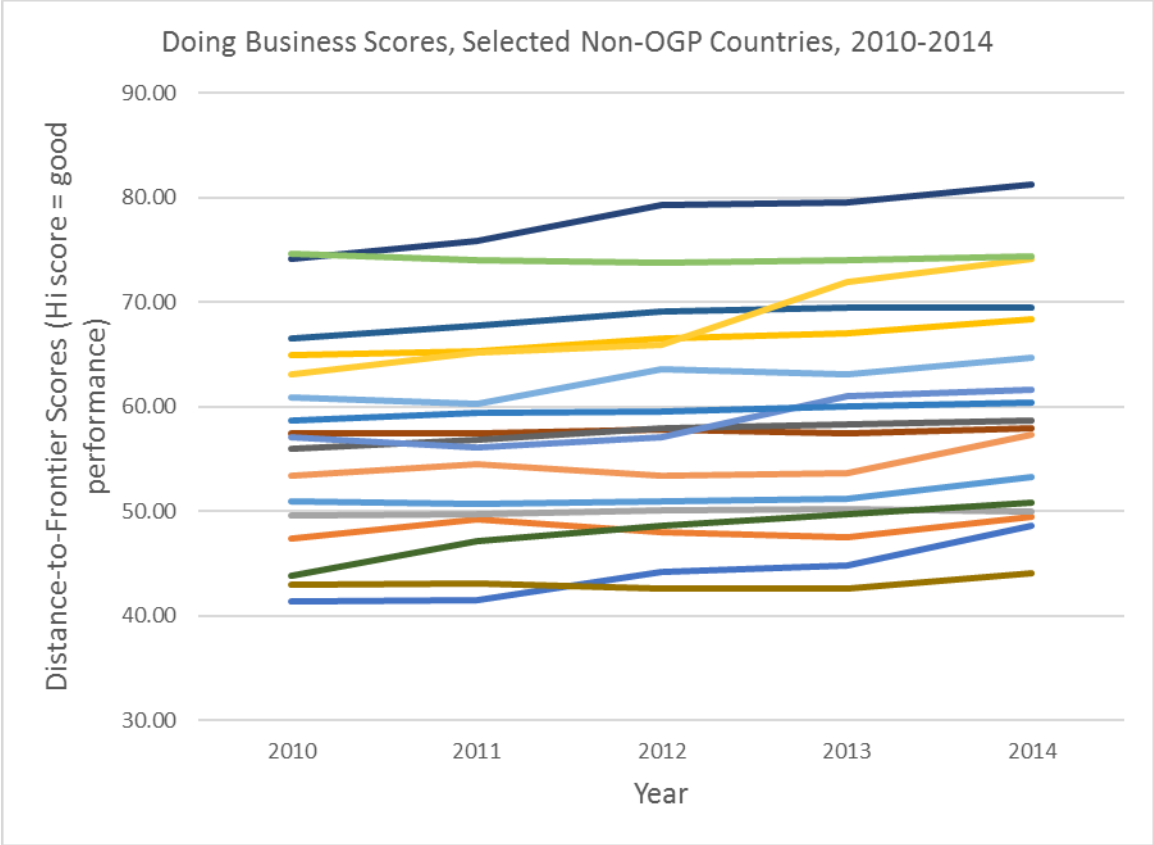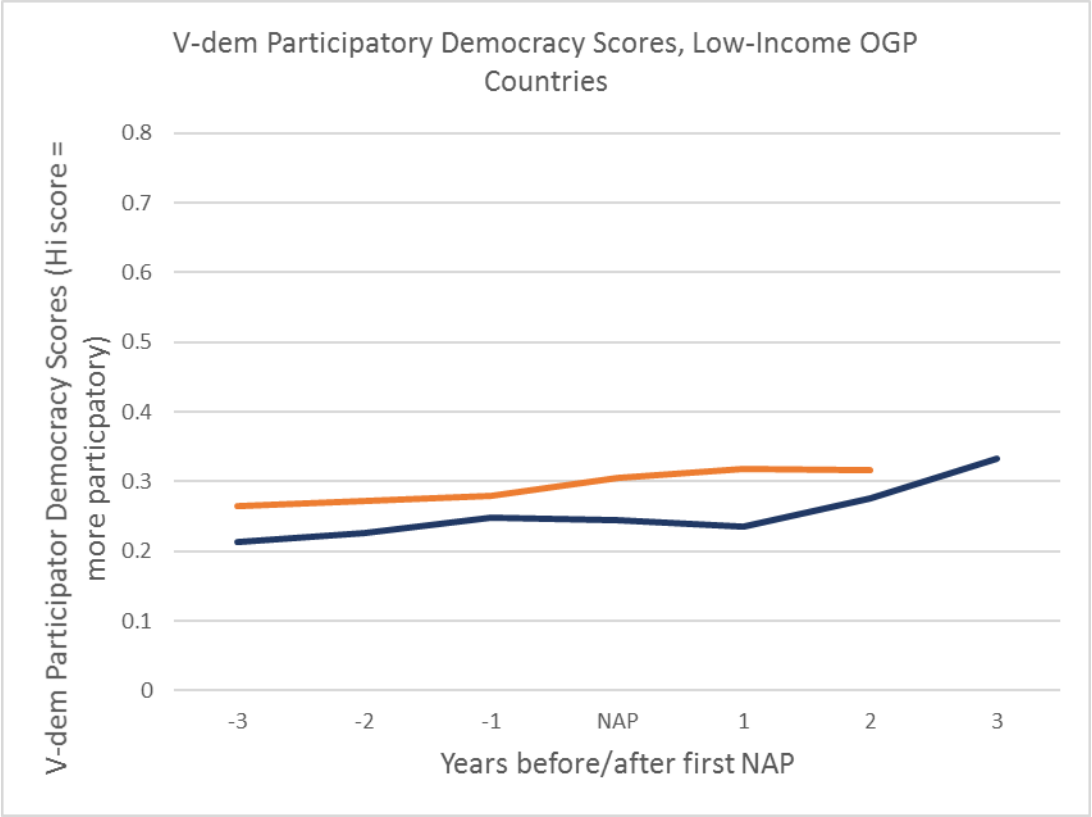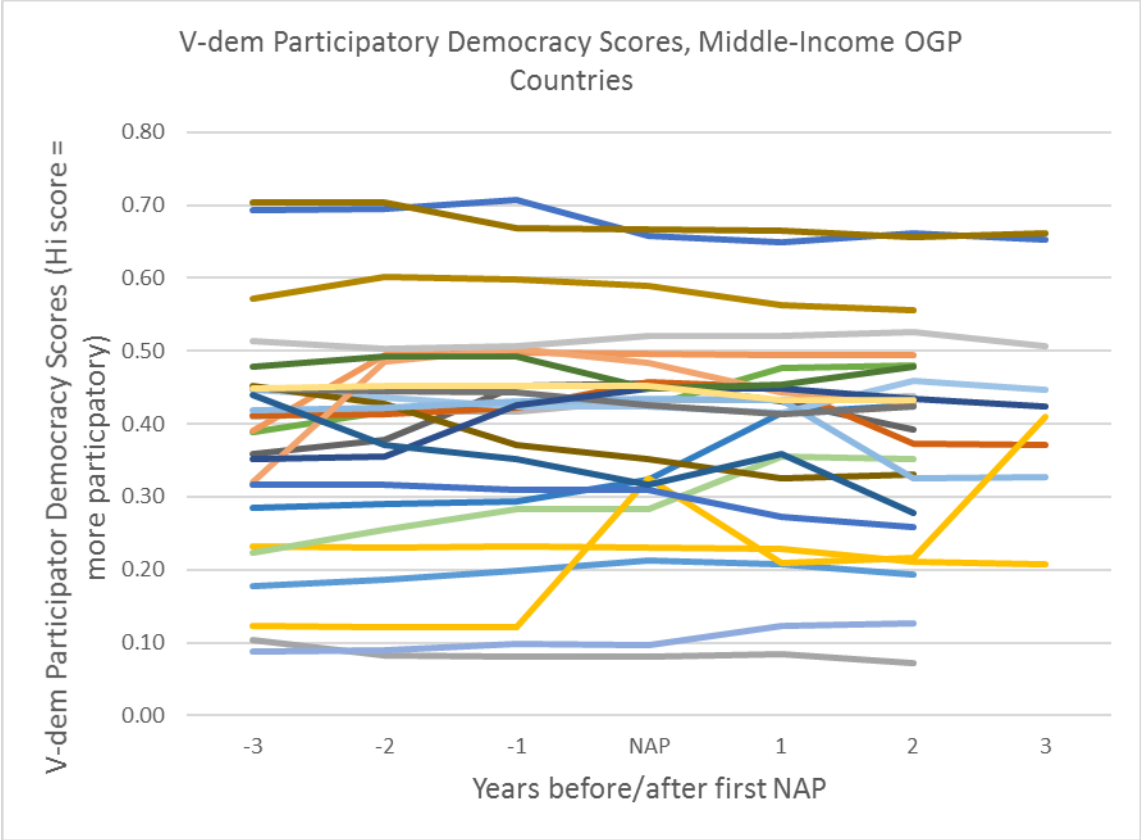
*V-DEM Participatory Democracy Scores*

Our final overall indicator of openness is the Participatory Democracy Index from the V-dem (Varieties of Democracy) dataset. V-dem is a new measurement project, based substantially upon data from expert surveys, that employs rigorous statistical methods. It offers a wide range of sub-indices, such as Participatory Democracy, as well as overall assessments of types, quality, and trends in democracy, in 173 societies with annual results dating from 1900 to the present time.[126] As parts of the dataset are still under construction, some countries' Participatory Democracy results run only through 2012, which unfortunately results in leaving some OGP countries out of the analysis to follow. Still, the V-dem data reflect yet another set of theories and underlying values, having to do with the nature of and variations in democracy, and reflect both sophisticated techniques and careful design.

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[126] https://www.v-dem.net/en/data/data-version-6-2/ (Viewed 22 August 2016).

V-DEM Participatory Democracy Scores, OGP Countries with pre-2014 NAPs



V-dem Participatory Democracy Scores, Selected Non-OGP Countries, 2008-2014

V-dem Participatory Democracy Scores, 2011 NAP Group

V-dem Participatory Democracy Scores, 2012 NAP Group

V-dem Participatory Democracy Scores, 2013 NAP Group



V-dem Participatory Democracy Scores, High-Income OGP Countries

V-dem Participatory Democracy Scores, Middle-Income OGP Countries



V-dem Participatory Democracy Scores, Low-Income OGP Countries

*Ambition, and Completion Rates, of OGP Commitments and Trends in Openness Indices*

The following four plots, similar to the ones in IIc for Voice and Accountability data, compare trends in "Doing Business" and Participatory Democracy scores to ratings of the ambition and completeness of OGP commitments in first NAPs. Once again, we do not see evidence of significant positive trends:



Pearson r = -.179 p= .289



Pearson r = .010, p=.954

Change, V-dem Participatory Democracy, 2008-14, by Mean Impact per OGP Commitment

Pearson r = .324, p = .114



Change, V-dem Participatory Democracy Score 2008-14, by Mean Completion Score per OGP Commitment
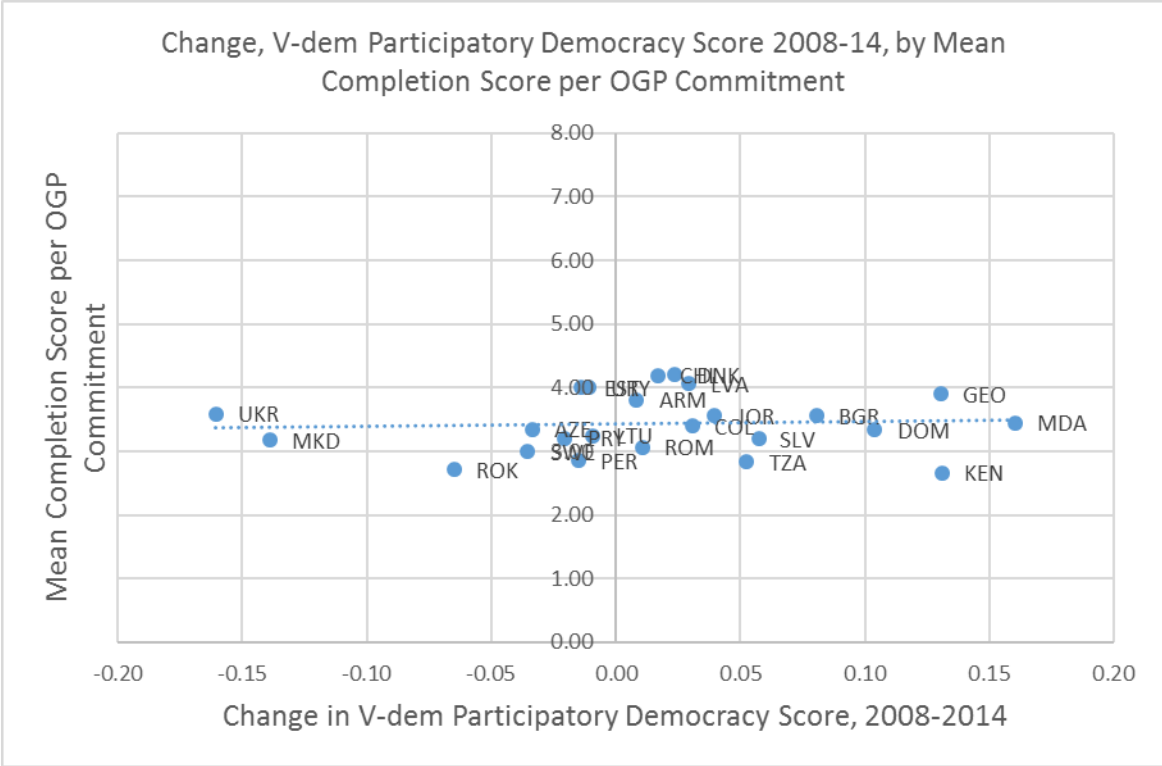
Pearson r = .077, p = .720

# Annex 8:  OGP Structure

**Steering Committee**

The Steering Committee (SC) is OGP's executive decision-making body. Its main role is to develop, promote and safeguard OGP's values, principles and interests. It also establishes OGP's core ideas, policies, and rules and oversees the functioning of the partnership.[127] Specifically, its functions include:

- Setting OGP's agenda and direction

- Managing stakeholder membership, including eligibility and participation;

- Conducting ongoing outreach with both governments and civil society organizations;

- Providing intellectual and financial support, including through in-kind and human resource support; and

- Setting and securing OGP's budget.

The SC is comprised of equal numbers of government and civil society representatives. SC leadership consists of a revolving four-member co-chairmanship team, elected by the entire SC, including a lead government chair, a support (or incoming) government chair, and two civil society chairs. SC membership terms are for three years, with a maximum of two consecutive terms. There are no permanent seats on the SC. The SC meets at least three times annually Decisions are taken by consensus or by simple majority when consensus cannot be reached (with the exception of decisions on continued eligibility for which a special procedure exists).[128]

**Steering Committee Sub-Committees**

The SC has three standing subcommittees to support its work consisting of the Governance and Leadership Sub-Committee; the Criteria and Standards Sub-Committee; and the Peer Learning and Support Sub-Committee, each of which is comprised of equal numbers of government and civil society representatives drawn from the larger SC.[129]

a. Governance & Leadership

The Governance and Leadership Subcommittee (GL) serves as OGP's executive committee. It has four members, consisting of the four SC chairs. It oversees the Support Unit and the SC subcommittees and compiles the agenda for SC meetings, and appoints the Executive Director of the Support Unit.[130]

b. Criteria & Standards

The Criteria and Standards Subcommittee (CS) recommends to the SC the eligibility criteria for OGP governments and develops guidelines for government self-assessment reports and other best practices. It also maintains a watching brief over the Independent Reporting Mechanism (IRM) and is primarily responsible for application of the Response Policy in the first instance.

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[127] OGP Articles of Governance, Section II

[128] OGP's Articles of Governance, Section IV.

[129] OGP Articles of Governance, Section II.

[130] OGP Articles of Governance, Section IV.

c.  Peer Learning & Support

The Peer Learning and Support Subcommittee (PLS) oversees OGP's strategy for country support and peer learning, and peer exchanges across OGP countries.

**Executive Director of the Support Unit**

The Executive Director of the Support Unit (ED) is responsible for carrying out a work plan developed in close coordination with the Governance and Leadership Sub-Committee of the SC and reports to the SC through that Sub-Committee. The ED is appointed by the GL.

**Support Unit (SU)**

The SU provides a permanent secretariat function for all participating countries. Its responsibilities include maintaining institutional contacts and memory, managing brand and communications, and ensuring the continuity of organizational relationships with core OGP institutional partners and donors.[131] SU staff report to the SU Executive Director. In addition, the SU provides targeted support to OGP participating governments to help connect them with the expertise, resources, and technology they need to develop and implement their OGP commitments. This may include, *inter alia,* partnering with the private sector, civil society, academics, governments, and others to develop tools and frameworks to assist OGP participating countries in developing and implementing commitments.

a.  Civil Society Engagement Team

The main role of this Team is to coach civil society and to provide useful examples of what has worked well. It engages Regional Coordinators in various parts of the world to help coordinate and inform civil society groups on OGP, perform outreach, and coordinate regional civil society events.

b.  Country Support Sub-Unit

The Country Support Team is the Support Unit's primary interface with participant countries.

c.  Operations Sub-Unit

The Operations Unit runs internal operations and financing matters.

**Independent Expert Panel (IEP)**

The International Experts Panel (IEP) is a panel of Technical Advisors with expertise relevant to open government, broadly representative of OGP countries, and appointed by the SC Criteria and Standards Sub-Committee to provide peer review of IRM reports to ensure that the highest standards of research and due diligence have been applied.[132]

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[131] OGP Articles of Governance Section

[132] OGP Articles of Governance, Section VI