

INDEPENDENT REPORTING MECHANISM (IRM):

# GHANA PROGRESS REPORT 2015–2016

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Second Progress Report





# INDEPENDENT REPORTING MECHANISM (IRM): GHANA

## PROGRESS REPORT 2015-2016



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# EXECUTIVE SUMMARY

## INDEPENDENT REPORTING MECHANISM (IRM): GHANA PROGRESS REPORT 2015-2016

The action plan contained ambitious measures to implement open-contracting, increase extractives' revenue transparency, and improve online access to information. While several of the commitments were vague, and completion appears low, many commitments saw progress after the period assessed in this report. Moving forward, the Ghanaian government could focus on improving record management as a prerequisite to ensure passage of the long-awaited freedom of information law.

The Open Government Partnership (OGP) is a voluntary international initiative that aims to secure commitments from governments to their citizenry, to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. Ghana began participating in OGP in September 2011. The Independent Reporting Mechanism (IRM) carries out a biannual review of the activities of each country that participates in OGP.

A steering committee (SC), equally comprised of government and civil society (CSO) representatives, is in charge of decision and policy-making for OGP processes. The leading agency for coordinating the OGP process is the Ministry of Public Sector Reform Secretariat (PSRS). The PSRS has little legal power to compel ministries, departments, and agencies (MDAs) to implement the action plan. To ensure implementation of commitments, MDAs in charge of implementation are invited to participate in quarterly meetings with PSRS. At the time of preparing this report, however, no meeting had taken place.

### OGP PROCESS

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

The development of the second action plan took place in three steps including a consultative workshop, a working committee to compile issues identified at the workshop, and a validation meeting. CSOs played key roles throughout the plan's preparation process. However, most CSOs were from the greater Accra region; moving forward, a more diverse group of CSOs could be invited to the drafting process.

*This report was prepared by Nicholas Adamtey,  
Transparency and Accountability Initiative (Ghana)*

### AT A GLANCE

PARTICIPATING SINCE: 2011  
NUMBER OF COMMITMENTS: 6

#### LEVEL OF COMPLETION

COMPLETED:	0 of 6
SUBSTANTIAL:	1 of 6
LIMITED:	5 of 6
NOT STARTED:	0 of 6

#### COMMITMENT EMPHASIS

ACCESS TO INFORMATION:	5 of 6
CIVIC PARTICIPATION:	3 of 6
PUBLIC ACCOUNTABILITY:	3 of 6
TECH & INNOVATION FOR TRANSPARENCY & ACCOUNTABILITY:	1 of 6

#### COMMITMENTS THAT ARE:

CLEARLY RELEVANT TO AN OGP VALUE:	5 of 6
OF TRANSFORMATIVE POTENTIAL IMPACT:	4 of 6
SUBSTANTIALLY OR COMPLETELY IMPLEMENTED:	1 of 6

**ALL THREE (🔄):** 1

While PSRS organised two awareness-raising forums about OGP during the implementation of the action plan, it did not organise a multi-stakeholder forum to discuss ongoing implementation of the plan. PSRS released the midterm government self-assessment report in October 2016. The document reviewed progress made on the commitments but lacked evidence supporting such progress.

## COMMITMENT IMPLEMENTATION

As part of OGP participation, countries make commitments in a two-year action plan. The Ghanaian action plan contains six commitments. The following tables summarize each commitment's level of completion, potential impact, whether it falls within Ghana's planned schedule and the key next steps for the commitment in future OGP action plans. Similar commitments have been grouped and re-ordered for better understanding.

The IRM awards "stars" to commitments that meet several criteria. Commitments must be highly specific, relevant to OGP values, of transformative potential impact, and substantially completed or complete. Some commitments (e.g. Commitment 1) will receive stars at the end of term as they were completed after this assessment period.

**Table 1 | Assessment of Progress by Commitment**

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION			
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE
★ COMMITMENT IS SPECIFIC AND MEASURABLE, CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.								
<b>Theme I: Transparency</b>								
<b>1. Open Contracting</b>								
1.1. Publish all contracts								
1.2. Monitoring of contract execution.								
1.3. Negotiations on legislative amendments								
1.4. Pass the Petroleum Bill (PEnPB)								
1.5. Implementation of anti-corruption plan (NACAP)								
1.6. Prosecution following Public Accounts Committee report								
1.7. Publish contract beneficial ownership								

COMMITMENT SHORT NAME	POTENTIAL IMPACT				LEVEL OF COMPLETION			
	NONE	MINOR	MODERATE	TRANSFORMATIVE	NOT STARTED	LIMITED	SUBSTANTIAL	COMPLETE
★ COMMITMENT IS SPECIFIC AND MEASURABLE, CLEARLY RELEVANT TO OGP VALUES AS WRITTEN, HAS TRANSFORMATIVE POTENTIAL IMPACT, AND IS SUBSTANTIALLY OR COMPLETELY IMPLEMENTED.								
<b>2. Right to Information</b>								
<b>3. Citizen Participation</b>								
<b>Theme II: Accountability</b>								
<b>4. Fiscal Responsibility</b>								
★ <b>5. Revenue Management</b>								
<b>Theme III: Technology and Innovation</b>								
<b>6. Open Data</b>								

**Table 2 | Summary of Progress by Commitment**

NAME OF COMMITMENT	SUMMARY OF RESULTS
<b>Theme 1: Transparency</b>	
<p><b>1. Open Contracting</b></p> <ul style="list-style-type: none"> <li>• OGP Value Relevance: Clear</li> <li>• Potential Impact: Transformative</li> <li>• Completion: Limited</li> </ul>	<p>This commitment aims to limit corruption in three areas:</p> <ul style="list-style-type: none"> <li>• Instituting open contracting:               <ul style="list-style-type: none"> <li>o The Public Investment Division has taken steps to monitor contract execution by submitting the Public Private Partnership Bill to Parliament.</li> <li>o The Public Procurement Authority continued to publish all contracts quarterly online.</li> <li>o The Company Act would broaden disclosure of beneficial ownership of public contracts to all companies. It passed after this assessment period.</li> </ul> </li> <li>• Anti-corruption: Other activities such as prosecuting indicted officials saw limited progress.</li> <li>• The Petroleum Bill did not pass during the first year of action plan implementation. However, it passed in August 2016.</li> </ul>
<p><b>2. Right to Information</b></p> <ul style="list-style-type: none"> <li>• OGP Value Relevance: Clear</li> <li>• Potential Impact: Transformative</li> <li>• Completion: Limited</li> </ul>	<p>The commitment aims to pass a freedom of information bill to ensure citizens' right to access public information. Consultative meetings with Parliament regarding the passage of the bill were not held. In March 2016, Parliament considered a series of amendments to the bill, but at the time of writing this report, the bill had not passed. Observers blamed delays on debate over the scope of exemptions and poor record management.</p>
<p><b>3. Citizen Participation</b></p> <ul style="list-style-type: none"> <li>• OGP Value Relevance: Clear</li> <li>• Potential Impact: Moderate</li> <li>• Completion: Limited</li> </ul>	<p>This commitment seeks to improve public participation in key areas of government:</p> <ul style="list-style-type: none"> <li>• Gender equity in decision-making: The National Commission on Civic Education conducted some adult education and sensitisation programs at the district level. There was scant evidence of the promised twenty workshops on gender sensitisation.</li> <li>• Parliamentary openness: The Parliament has not implemented the promised "Declaration on Parliamentary Openness."</li> <li>• Public services: A number of district assemblies have established Client Service Units to field complaints about public services, but impact was limited as these units cannot ensure full follow-up from different service providers and information is not available in local languages.</li> </ul>
<b>Theme 2: Accountability</b>	
<p><b>4. Fiscal Responsibility</b></p> <ul style="list-style-type: none"> <li>• OGP Value Relevance: Unclear</li> <li>• Potential Impact: Transformative</li> <li>• Completion: Limited</li> </ul>	<p>The commitment aims to enact the Fiscal Responsibility Law (FRL) to address weaknesses in the management of public funds. The law will introduce permanent rules to improve fiscal discipline. The Ministry of Finance (MoF) held a series of meetings with civil society and government stakeholders to discuss the content of the law. However, the law did not pass by the end of the first year of implementation. To ensure full implementation of the law after it passes, MoF will need to prepare a legislative instrument for the FRL.</p>



NAME OF COMMITMENT	SUMMARY OF RESULTS
<p><b>5. Revenue Management</b></p> <ul style="list-style-type: none"> <li>• OGP Value Relevance: Clear</li> <li>• Potential Impact: Transformative</li> <li>• Completion: Substantial</li> </ul>	<p>To ensure transparency and accountability in the management of natural resources this commitment would (1) pass the Minerals Development Fund (MDF) Bill; (2) publish reports on petroleum revenue at the district level and (3) organise sensitisation forums on the content. The MDF Bill passed in February 2016; government did not organise sensitisation forums on its content and did not prepare a legislative instrument on the Petroleum Revenue Management Act.</p>
<p><b>Theme 3: Technology and Innovation</b></p>	
<p><b>6. Open Data</b></p> <ul style="list-style-type: none"> <li>• OGP Value Relevance: Clear</li> <li>• Potential Impact: Moderate</li> <li>• Completion: Limited</li> </ul>	<p>This commitment aims to upgrade Ghana's open data portal to improve citizens' access to government-held data. The National Information and Technology Agency (NITA) also committed to release 50 datasets that have business value and conduct capacity-building workshops. NITA upgraded the open data portal to a new, open (DKAN) version but did not add a promised analytics feature to the website. At the midterm, NITA had neither conducted workshops, nor did it release the 50 datasets.</p>

## RECOMMENDATIONS

All OGP IRM reports include five key recommendations about the next OGP action planning cycle. Governments participating in OGP will be required to respond to these key recommendations in their annual self-assessments. These recommendations follow SMART logic and are Specific, Measurable, Answerable, Relevant, and Timebound. Given these findings, the IRM researcher presents the following key recommendations:

**Table 3: Top Five “SMART” Recommendations**

<b>1</b>	Government should provide necessary financial, human and logistical resources for the OGP secretariat to enable it to function effectively.
<b>2</b>	To ensure effective implementation of a future Right to Information Act, the government will need to prioritize record management (including storage and retrieval).
<b>3</b>	The next action plan can prioritize online asset and income declarations by public officials to minimize the high public perception of political corruption.
<b>4</b>	The next action plan can include commitments to improve fiscal transparency. Specifically, the Ministry of Finance can establish program-level performance reporting in all sector agencies in conformity with the new Public Financial Management Law
<b>5</b>	At the district level, assemblies could ensure elected assembly members and the sub-structures are engaged in community projects through open planning, budgeting and monitoring.

## ELIGIBILITY REQUIREMENTS: 2015

To participate in OGP, governments must demonstrate commitment to open government by meeting minimum criteria on key dimensions of open government. Third-party indicators are used to determine country progress on each of the dimensions. For more information, see Section IX on eligibility requirements at the end of this report or visit [bit.ly/1929F11](http://bit.ly/1929F11).



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

# I | NATIONAL PARTICIPATION IN OGP

## 1.1 HISTORY OF PARTICIPATION IN OGP

The Open Government Partnership (OGP) is a voluntary, multi-stakeholder international initiative that aims to secure concrete commitments from governments to their citizenry to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. OGP provides an international forum for dialogue and sharing among governments, civil society organizations, and the private sector, all of which contribute to a common pursuit of open government.

Ghana began its formal participation in September 2011, when the Embassy of the Republic of Ghana in the United States declared the country's intention to participate in the initiative on behalf of the Ministry of Foreign Affairs.<sup>1</sup>

In order to participate in OGP, governments must exhibit a demonstrated commitment to open government by meeting a set of minimum performance criteria. These criteria are particularly consequential for increasing government responsiveness, for strengthening citizen engagement and for fighting corruption. Objective, third-party indicators are used to determine the extent of country progress within each of these dimensions. See Section IX: Eligibility Requirements for more details.

All OGP-participating governments develop OGP action plans that establish concrete commitments for an initial two-year period. Action plans should set out governments' OGP commitments, which move government practice beyond the status quo. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.

Ghana finalized its second national action plan in July 2015. The effective period of implementation was

officially 1 January 2016 through 31 December 2017. This midterm progress report covers the first six months of implementation of this period, from 1 January 2016 through to 30 June 2016. Beginning in 2015, IRM also publishes End-of-Term Reports to account for the final status of progress at the end of the action plan's two-year period. Any activities or progress made after the first year of implementation will be assessed in the End-of-Term Report.

This report follows an earlier review of OGP performance, "Ghana Progress Report 2013-2014," which covered the development of the first action plan and implementation from January 2013 to June 2014.<sup>2</sup> The government published its midterm self-assessment report in March 2015, six months after the official OGP deadline.

In order to meet OGP requirements, IRM of OGP has partnered with Nicholas Adamtey from the Transparency and Accountability Initiative (TAI), who evaluated the development and implementation of Ghana's second action plan. It is IRM's aim to inform ongoing dialogue around development and implementation of future commitments in each OGP-participating country. Methods and sources are dealt with in Methodology and sources (Section VI) in this report.

To gather the voices of multiple stakeholders, two stakeholder forums were held, one in Accra and the other in Tamale. Ghana Integrity Initiative organised the forum in Accra. TAI organised a stakeholder forum in Tamale (in the northern sector, about 700 kilometres from Accra), which was conducted according to a focus group model along with interviews of public sector institutions and civil society members. TAI also reviewed key documents prepared by the government including Ghana's second action plan as well as media reports.<sup>3</sup> Numerous references are made to the action plan throughout this report.

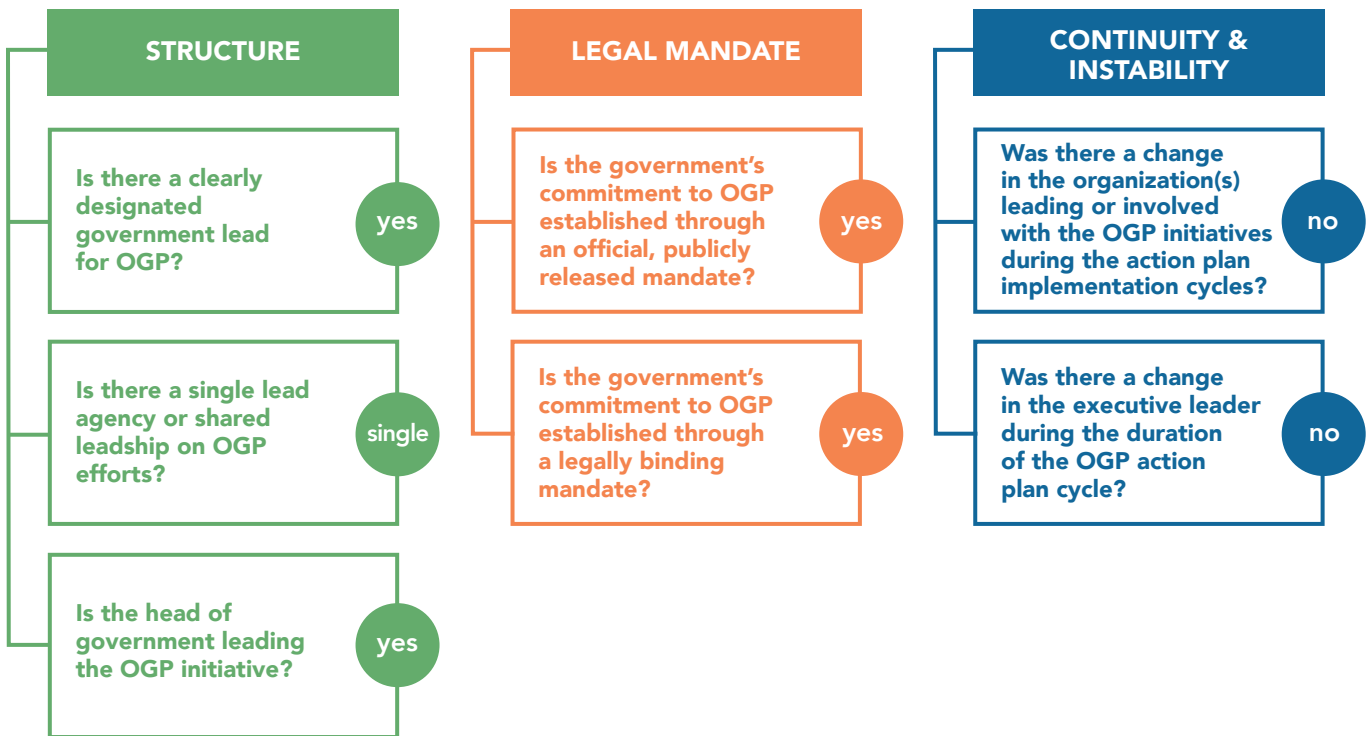
Summaries of these forums are given in Section VI.

## 1.2 OGP LEADERSHIP IN GHANA

This subsection describes the OGP leadership and institutional context for OGP in Ghana. Table 1.1 summarizes this structure while the succeeding narrative section provides additional detail.

participation in the activities of the Open Government Partnership. OGP is now a policy of the Ghanaian Government. Cabinet approval demonstrates the government's commitment and awareness concerning OGP at the highest level.

**Table 1.1 | OGP Leadership in Ghana**



The body in charge of decision and policy making for the OGP process is the Steering Committee (SC). The twenty-member SC has equal representation from government and civil society organizations (CSOs). The OGP Secretariat is housed in the Public Sector Reform Secretariat (PSRS) and is answerable to the SC. PSRS is under the Ministry of Public Sector Reform, a very small ministry in terms of budget.<sup>4</sup> The OGP Coordinator at PSRS is responsible for the activities regarding OGP by the Secretariat.<sup>5</sup> He reports to the Minister for Public Sector Reforms (who is the political head) and the Chief Director (who is the administrative head) of PSRS.

Since the beginning of Ghana's participation in OGP, PSRS has been the leading office responsible for coordinating and facilitating implementation of commitments in the OGP action plan. In October 2015, Ghana's Cabinet approved Ghana's membership and

Despite its coordinating role, PSRS is not necessarily the institution implementing many of the commitments in the action plan. Implementation of commitments is the responsibility of the relevant Ministries, Departments and Agencies (MDAs), as well as CSOs. For example, fiscal transparency falls within the purview of Ministry of Finance.

Despite the mandate conferred on PSRS by the Cabinet, PSRS has little legal power to enforce policy changes on other MDAs regarding OGP issues. (See Table 1.1 for the leadership and mandate of OGP in Ghana). As a result of this limited mandate, action plan implementation is heavily dependent on the MDAs responsible for each of the commitments.

To ensure MDAs incorporate their respective commitments into their performance contracts, PSRS

is to partner with the Office of the Head of the Civil Service (OHCS). The action plan requires each lead agency to designate a point of contact (PoC) to participate in quarterly updates held by PSRS. At the time of preparing this report, neither the collaboration between PSRS and OHCS, nor the quarterly meetings with the PoCs had commenced.

While there are some staff in PSRS working on OGP issues, there is no specific unit designated as the OGP Secretariat. The non-existence of a budget line in the executive budget for the OGP Secretariat has resulted in a lack of resources for implementing OGP related activities.<sup>6</sup> CSOs believe the lack of central government funding for PSRS’ OGP work is negatively affecting the PSRS in its facilitation and coordination role.

### 1.3 INSTITUTIONAL PARTICIPATION IN OGP

The following two subsections describe which government, and then non-governmental organizations were involved at various stages in OGP work.

Nine MDAs represented the government institutions participating in the OGP action plan consultation process. Representatives of these MDAs, along with seven CSOs and six media organisations participated in a two-day consultative workshop, held 28-30 May 2015 in Dodowa (see Section II). The national legislature and the sub-national government institutions were not part of the consultative process.

**Table 1.2 | Participation in OGP by government institutions**

HOW DID INSTITUTIONS PARTICIPATE?		MINISTRIES, DEPARTMENTS, AND AGENCIES	LEGISLATIVE	JUDICIARY (INCLUDING QUASI JUDICIAL AGENCIES)	OTHER, INCLUDING CONSTITUTIONAL INDEPENDENT OR AUTONOMOUS BODIES	SUB-NATIONAL GOVERNMENTS
Consult <sup>7</sup>	Number	9 <sup>8</sup>	0	0	0	0
	Which ones?	See endnote <sup>9</sup>			See endnote <sup>10</sup>	
Propose <sup>11</sup>	Number	9	0	0	0	0
	Which ones?	See endnote <sup>12</sup>		Commission on Elections	See endnote <sup>13</sup>	See endnote <sup>14</sup>
Implement	Number	14	1	2	9	10
	Which ones?	See endnote <sup>15</sup>	Parliament	Attorney-General’s Department Commission on Human Rights and Administrative Justice (CHRAJ)	See endnote <sup>16</sup>	Regional Coordinating Councils

One of the objectives of the consultative meeting was to review the previous action plan and use this information to form new commitments. Therefore, according to the organisers, many of the public institutions that were invited to the consultative process were institutions that took part in the implementation of the previous action plan.<sup>17</sup> The public institutions and CSOs discussed and selected subjects for the action plan. The selection of lead agencies and collaborating agencies for the commitments depended upon the area of operations of the MDAs and CSOs concerned with their implementation. After the consultative meeting, there was an Action Plan Working Committee (APWC) meeting and then a validation meeting. The same public institutions that took part in the consultative meeting were invited together with CSOs to validate the action plan (see next section for details).

MDAs are the lead agencies in the action plan implementation. The Legislature is collaborating with some of the MDAs in implementing certain commitments. The judiciary and the quasi-judicial agencies will play a key role in some of the milestones. Several constitutionally independent or autonomous bodies were identified as collaborators in the implementation of some other commitments. At the sub-national level, Regional Coordinating Councils (RCCs) were mentioned as collaborators in one of the commitments. Local government institutions (Metropolitan, Municipal and District Assemblies or MMDAs) were mentioned in one the milestones. Several commitments identified the media agency, Ghana News Agency or GNA, as taking both a supporting and leading role.

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<sup>1</sup> <http://www.opengovpartnership.org/country/ghana>

<sup>2</sup> Independent Reporting Mechanism. "Ghana Progress Report 2013-2014." Available at: <http://bit.ly/2jsVCc9>

<sup>3</sup> *National Action Plan for the Republic of Ghana 2016-2017*, The Open Government Partnership Initiative, [www.opengovpartnership.org/sites/default/files/Ghana%20Plan%203.pdf](http://www.opengovpartnership.org/sites/default/files/Ghana%20Plan%203.pdf).

<sup>4</sup> For budget documents please see "2016 Budget Estimates of Ministries, Departments and Agencies," Ministry of Finance, [www.mofep.gov.gh/?q=budget-statement/30-01-2016/budget-estimates-ministries-departments-and-agencies-0](http://www.mofep.gov.gh/?q=budget-statement/30-01-2016/budget-estimates-ministries-departments-and-agencies-0).

<sup>5</sup> The OGP Coordinator is Mr P K Danyo.

<sup>6</sup> *Ibid.*, 3.

<sup>7</sup> These institutions were invited to or observed the development of the action plan, but may or may not be responsible for commitments in the action plan.

<sup>8</sup> The consultative meeting report did not provide detailed information on other quasi-judicial agencies, constitutional independent or autonomous bodies, etc. that attended the meeting.

However, the PSRS respondent said there was no representative from the sub-national government level

<sup>9</sup> The consultative meeting report did not provide detail of the ministries departments and agencies that attended.

<sup>10</sup> Since the consultative meeting report did not provide detail of the ministries departments and agencies that attended, it was difficult to identify the independent bodies.

<sup>11</sup> These institutions proposed commitments for inclusion in the action plan.

<sup>12</sup> Since the consultative meeting report did not provide detail of the ministries departments and agencies that attended, the IRM researcher could not identify the institutions that proposed commitments for inclusion.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Public Sector Reform Secretariat; Ministry of Communications; Ministry of Finance; Ministry of Lands and Natural Resources; Ministry of Local Government and Rural Development; Ministry of Petroleum; National Commission on Civic Education; National Development Planning Commission; National Information and Technology Agency; Office of the Chief of Staff; Public Procurement Authority; Controller and Accountant General's Department; Ghana Statistical Service; and Information Services Department.

<sup>16</sup> Institute of Local Government Studies; Ghana News Agency; National Association of Local Authorities of Ghana; National Media Commission; and Public Interest and Accountability Committee.

<sup>17</sup> Mr. Pethuel Danyo (OGP Coordinator) interview by IRM researcher on 18 Jul. 2016; Mary Addah (Project Coordinator, Ghana Integrity Initiative) interview by IRM Researcher on 22 Jul., 2016.

# II | NATIONAL OGP PROCESS

Development of the action plan was inclusive of a variety of civil society stakeholders and input received during consultative meetings was incorporated into the action plan. Moving forward, government could keep up this effort during action plan implementation. Government published its midterm self-assessment report with a slight delay.

Countries participating in OGP follow a set of requirements for consultation during the development, implementation and review of their OGP action plan. Table

2.1 summarises Ghana's performance during the 2016-2017 action plan.

**Table 2.1 | National OGP Process**

KEY STEPS FOLLOWED <span style="background-color: #0056b3; color: white; padding: 2px 5px; border-radius: 3px;">4 of 7</span>			
<b>BEFORE</b>	<b>1</b> <b>TIMELINE PROCESS &amp; AVAILABILITY</b>	<b>2</b> <b>ADVANCE NOTICE</b>	<b>3</b> <b>AWARENESS RAISING</b>
	Timeline and process available online prior to consultation <span style="color: red; font-weight: bold;">✗</span>	Advance notice of consultation <span style="color: green; font-weight: bold;">✔</span>	Government carried out awareness-raising activities <span style="color: green; font-weight: bold;">✔</span>
	<b>4</b> <b>MULTIPLE CHANNELS</b>	<b>5</b> <b>DOCUMENTATION &amp; FEEDBACK</b>	
	Consultations held online <span style="color: red; font-weight: bold;">✗</span> Consultations held in-person <span style="color: green; font-weight: bold;">✔</span>	Summary of comments provided <span style="color: green; font-weight: bold;">✔</span>	
<b>DURING</b>	<b>6</b> <b>REGULAR MULTISTAKEHOLDER FORUM</b>		
	Did a forum exist? <span style="color: green; font-weight: bold;">✔</span>	Did it meet regularly? <span style="color: red; font-weight: bold;">✗</span>	
<b>AFTER</b>	<b>7</b> <b>GOVERNMENT SELF-ASSESSMENT REPORT</b>		
	Annual progress report published <span style="color: green; font-weight: bold;">✔</span> Report available in English and administrative language <span style="color: green; font-weight: bold;">✔</span>	Two-week public comment period on report <span style="color: red; font-weight: bold;">✗</span> Report responds to key IRM recommendations <span style="color: green; font-weight: bold;">✔</span>	

The IRM has adopted the International Association for Public Participation (IAP2) Scale of participation in OGP. The table below shows the level of public influence on the action plan. From left to right, features of participation are cumulative. In the spirit of OGP, most countries should aspire for “collaborative.” (OGP countries are generally not expected to reach “empower.”)

28-30 October 2014 with the theme “Sustaining open government, the role of government and civil society.” Despite multiple requests, GII did not provide the IRM researcher with meeting reports or an attendance list. Therefore, the IRM researcher was unable to ascertain who the meeting participants were or why the workshops were held so close to each other. According to the respondent at PSRS, one of the objectives of these two workshops was

**Table 2.2 | Level of public input**



## 2.1 ACTION PLAN DEVELOPMENT

Toward the end of the first action plan (October 2014), the OGP Secretariat in collaboration with the Ghana Integrity Initiative (GII) organised two separate meetings at Koforidua (about 77 kilometres from Accra) for the government and CSO stakeholders implementing the first action plan. The first workshop was held on 15-17 October 2014 with the theme “Strengthening government and CSO engagement to promote transparency and accountability.” The second workshop was held on

to build synergy, sensitize stakeholders, and collaborate with PoCs in implementing institutions toward further engagement in future action plans.<sup>1</sup>

The action plan preparation in Ghana was in three stages. The first stage was in the form of an invitation-only two-day consultative workshop involving government institutions, CSOs and media organizations. GII collaborated with PSRS to organise this workshop that was held on 28-30 May 2015 in Dodowa (about 30 kilometres from Accra).



According to the workshop report, its purpose was “to solicit views from participants to kick-start the series of consultative meetings that will culminate in the development of the second OGP Action Plan.”<sup>2</sup> The workshop also sought to identify commitments for inclusion in the second action plan by reviewing the first action plan. Participants in the consultation process of the action plan included PSRS, Heads of Ministries Departments and Agencies (MDAs) and CSOs. Of the 40 participants invited, 30 participants attended the workshop representing nine MDAs, seven CSOs and six media organisations.

According to the organisers, each participant selected the group where she or he could contribute meaningfully to the discussions based on their own expertise.<sup>3</sup> The groups were: Citizen’s Participation, Fiscal Transparency, Accountability and Anti-Corruption, and Technology and Innovation. Each group, based on the presentations on the first action plan, was charged to discuss their assigned issue and draft specific measures and actions for the action plan. Group members interviewed by the IRM researcher reported discussing the issues in the area they belonged to freely without any hindrance. The selection of commitments and actions by each group was based on consensus agreed to by all the group members.

The outcome of these group discussions formed the commitments in the current action plan. The Citizen’s Participation group identified the need to intensify sensitisation as well as oversight control at the local government level of district assemblies. The Fiscal Transparency group proposed measures on fiscal transparency, right to information and oil revenue management. The Accountability and Anti-Corruption group developed actions concerning fiscal responsibility, anti-corruption and open contracting/contract monitoring. The Technology and Innovation group outlined measures to improve the Ghana Open Data Initiative (E-Transform). Neither anti-corruption nor open contracting/contract monitoring were part of the previous action plan.<sup>4</sup> Based on the IRM researcher’s review of the workshop report, it appears all the proposals from the consultative meeting were incorporated into the action plan.

After the consultative meeting, the OGP Coordinator created an Action Plan Working Committee (APWC) to compile all the issues identified at the consultative forum

into an action plan. The APWC members were selected mainly from the Steering Committee members. APWC had six members comprising of four civil society members, one Parliament representative, and the OGP Coordinator. According to the OGP Coordinator, the selection criteria was strong advocacy experience; diverse expertise on issues of transparency, accountability, and participation; and knowledge of the OGP process in Ghana. APWC met and combined the issues from the consultative meeting report into a draft action plan for validation.<sup>5</sup>

The final stage was the validation of the draft action plan. After APWC had considered the draft action plan, PSRS and GII organised a validation meeting for the draft on 23 July 2015 at Dodowa. Organisers of the validation meeting invited the same institutions that took part in the consultation meeting to ensure correct incorporations of their proposed issues. Out of the 45 invitees, 32 participants attended representing nine MDAs, six CSOs and six media organizations. PSRS provided both the consultation and validation workshop reports.

The researcher talked to a CSO representative who was part of the entire process (consultation, APWC and validation) and he said the process was participatory with attendees freely sharing their views. He said CSOs played a key role in the process.<sup>6</sup>

The researcher noticed one major challenge to the process; representative CSOs were limited to those in the Greater Accra region. There were no broad public consultations involving individuals, citizen groups, the private sector, opinion leaders, religious groups, traditional authorities or vulnerable groups.

## 2.2 ONGOING MULTI-STAKEHOLDER FORUM

As part of their participation in OGP, governments commit to identify a forum to enable regular multi-stakeholder consultation on OGP implementation. This may be an existing entity or a new one. This section summarises that information.

After the development phase, PSRS did not organise a forum to outline the responsibilities required from stakeholders who were delegated to implement the action plan. Since not all these institutions were part of the development phase (see Table 1.2), PSRS missed an

**Table 2.3 | Previous IRM report key recommendations**

RECOMMENDATION 1	RECOMMENDATION 2	RECOMMENDATION 3	RECOMMENDATION 4	RECOMMENDATION 5
The government should modify the current organizational structure of OGP in Ghana to include an implementation mechanism.	At the national level, the government should make budgetary allocation to allow for speedy implementation of OGP activities	The Public Sector Reform Secretariat (PSRS), the agency responsible for coordination of OGP, should give lead agencies a time line for reporting on action plan implementation.	The government should make public institutions (especially those implementing OGP commitments) and other institutions mentioned in the action plan, more aware and sensitized to OGP.	Future action plans should contain more specific and measurable commitments and milestones and clearly articulate their relevance to OGP values.
Addressed?	Addressed?	Addressed?	Addressed?	Addressed?
Integrated into next action plan?	Integrated into next action plan?	Integrated into next action plan?	Integrated into next action plan?	Integrated into next action plan?

opportunity to gather guidance on how best to implement the plan. At a minimum, PSRS could have sent letters to the heads of these institutions outlining their role in the OGP action plan.

Even though PSRS did not organise a regular multi-stakeholder consultation on OGP implementation, there were multi-stakeholder forums that informed participants about the OGP process and activities. On 25 August 2016, PSRS collaborated with the Ghana Integrity Initiative to organise a forum sensitising stakeholders (public institutions, CSOs, and the media) about the OGP.<sup>7</sup> On 26 August 2016, the two organisations held another OGP-sensitisation event exclusively for media members.<sup>8</sup>

The OGP action plan includes two mechanisms to ensure commitment implementation. The first is requiring one of the criteria for the annual assessment of MDA performance to be the extent of implementation of milestones in the action plan. The other mechanism is the establishment of OGP Point of Contacts (PoCs) in all the lead agencies who must provide quarterly updates to PSRS on the implementation of the commitments.

Once in place, these two mechanisms will ensure smooth implementation of the action plan. However, as of the end of the first year of implementation, PSRS had not enforced either measure. The institution should take action to implement these important mechanisms.

### 2.3 SELF-ASSESSMENT

The OGP Articles of Governance require that participating countries publish a self-assessment report three months after the end of the first year of implementation. The self-assessment report must be made available for public comments for a two-week period. This section assesses compliance with these requirements and the quality of the report.

Ghana released its midterm self-assessment report for the second action plan in October 2016. The IRM researcher found no evidence of the report being sent out for public comments. The report considered consultation efforts during action plan development but did not discuss consultation efforts during the plan implementation.

Ghana's self-assessment reviewed implementation progress for all the commitments, however, it failed to provide evidence (documents, participant lists, pictures etc.) to support information on completion levels. It also outlined areas for next steps but said little on implementation challenges.

## 2.4 FOLLOW-UP ON PREVIOUS IRM RECOMMENDATIONS

Starting the second year of implementation, reports shall also include a section for follow-ups on recommendations issued in previous reports. This follow-up process will be carried out in accordance with the principles set out in this document.

The government addressed all five recommendations made in the IRM Progress Report in its self-assessment and integrated four in the second action plan:

Recommendation 1: The action plan mentioned PSRS will collaborate with the Office of the Head of the Civil Service (OHCS) on implementation of the OGP Action Plan. The action plan also mentioned the establishment of OGP Point of Contacts (PoCs) to help with implementation.

Recommendation 2: The action plan mentioned that lead agencies are expected to include their respective commitments in their annual institutional budgets. In addition, the PSRS and the Steering Committee shall secure funds for the purpose of coordinating, monitoring and evaluating the Action Plan. This addressed the OGP funding problem.

Recommendation 3: The action plan indicated that the PSRS will hold quarterly meetings with the PoCs to collect commitment implementation updates. However, after the first fourteen months of implementation, the IRM researcher could find no evidence of meetings between PSRS and the PoCs.

Recommendation 4: On 25 August 2016, after the period of implementation under review in this report, PSRS in collaboration with the Ghana Integrity Initiative organised a forum to sensitise stakeholders (public institutions, CSOs, and the media) about the OGP. On 26 August 2016, the two groups organised another sensitisation event exclusively for media professionals on OGP.

Recommendation 5: The commitments in the second action plan were more specific and measurable than in the first plan.

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<sup>1</sup>P. K. Danyo (OGP Coordinator) interview by IRM researcher, 19 July, 2016.

<sup>2</sup>Public Sector Reform Secretariat (2015) Open Government Partnership Consultative Workshop 28-29 May, 2015, Forest Hotel, Dodowa.

<sup>3</sup>GII and PSRS respondents' interview by IRM researcher, July 22, 2016.

<sup>4</sup>Republic of Ghana (2013) The Open Government Partnership Initiative: Draft National Action Plan for the Republic of Ghana

<sup>5</sup>APWC met at Dodowa but the OGP Coordinator could not provide the exact date of the meeting.

<sup>6</sup>IRM Researcher's interview with a CSO representative on September 13, 2016

<sup>7</sup>At the time of preparing this report, the meeting report was not ready with details about the number of participants

<sup>8</sup>Ibid.



# III | COMMITMENTS

All OGP-participating governments develop OGP action plans that include concrete commitments over a two-year period. Governments begin their OGP action plans by sharing existing efforts related to open government, including specific strategies and ongoing programs.

Commitments should be appropriate to each country's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and the Open Government Declaration signed by all OGP-participating countries.

## WHAT MAKES A GOOD COMMITMENT?

Recognizing that open government commitments often involve a multiyear process, governments should, when possible, attach timeframes with benchmarks and annual accomplishments to their commitments. This report details each of the commitments Ghana included in its action plan, and analyzes their first year of implementation.

While most indicators used to assess each commitment are self-explanatory, a number deserve further explanation.

- **Specificity:** The IRM researcher first assesses the level of specificity and measurability with which each commitment or action was framed. The options are:
  - High (Commitment language provides clear, verifiable activities and measurable deliverables for achievement of the commitment's objective);
  - Medium (Commitment language describes activity that is objectively verifiable and includes deliverables, but these deliverables are not clearly measurable or relevant to the achievement of the commitment's objective);
  - Low (Commitment language describes activity that can be construed as verifiable but requires some interpretation on the part of the reader
- **Relevance:** The IRM researcher evaluated each commitment for its relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance of the commitment to OGP values are:
  - Access to Information: Will government disclose more information or improve quality of the information disclosed to the public?
  - Civic Participation: Will government create or improve opportunities or capabilities for the public to inform or influence decisions?
  - Public Accountability: Will government create or improve opportunities to hold officials answerable to their actions?
  - Technology & Innovation for Transparency and Accountability: Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** The IRM is tasked with assessing the potential impact of the commitment, if completed. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem; Establish the status quo at the outset of the action plan; and
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Starred commitments** are considered exemplary OGP commitments. In order to receive a star, a commitment must meet several criteria:
  - It must be specific enough that a judgment can be made about its potential impact. Starred

to identify what the activity sets out to do and determine what the deliverables would be); and

- None (Commitment language contains no measurable activity, deliverables or milestones).

commitments will have “medium” or “high” specificity.

- o The commitment’s language should make clear its relevance to opening government. Specifically, it must relate to at least one of the OGP values of Access to Information, Civic Participation, or Public Accountability.
- o The commitment would have a “transformative” potential impact if completely implemented.<sup>2</sup>
- o Finally, the commitment must see significant progress during the action plan implementation period, receiving an assessment of “substantial” or “complete” implementation.

Finally, the tables in this section present an excerpt of the wealth of data the IRM collects during its progress reporting process. For Ghana’s full dataset and all OGP-participating countries, see the OGP Explorer.<sup>3</sup>

## GENERAL OVERVIEW OF THE COMMITMENTS

Ghana’s action plan focused on four main areas: transparency, citizen’s participation, accountability, and technology and innovation. The government carried over many of the commitments from the previous action plan although it updated all commitment milestones. Open contracting and contract monitoring is a new commitment.

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<sup>1</sup>For an explanation of OGP value relevance, see “IRM Procedures Manual,” *Open Government Partnership*, <http://bit.ly/2k5N5Lp>.

<sup>2</sup>The International Experts Panel changed this criterion in 2015. “IRM to Raise the Bar for Model Commitments in OGP,” *Open Government Partnership* (6 May 2015), [www.opengovpartnership.org/node/5919](http://www.opengovpartnership.org/node/5919).

<sup>3</sup>“OGP Explorer,” *Open Government Partnership*, [bit.ly/1KE2WlI](http://bit.ly/1KE2WlI).

# THEME 1: TRANSPARENCY

## 1 | OPEN CONTRACTING AND CONTRACT MONITORING

### **Commitment Text:**

*Government does most of her businesses through procurement of goods and services. In addition to this, government of Ghana enters other forms of contractual arrangement such as concessions for the sole management of her natural resources or Public –Private Partnerships with the view to efficiently providing public services and managing large public infrastructure.*

*During the Action Plan Period 2016-2017, Government undertakes to adopt Open Contracting and Contract Monitoring to ensure value for money on all transactions and also as a means of providing information to citizens on all contracts entered into by Government. In addition, all stakeholders including Parliament will be brought together with the view to reaching a consensus that all government contracts should be subject to the Public Procurement Act.*

*Within the two year period, Ghana commits to ensuring that officials indicted by the Public Accounts Committee (PAC) are prosecuted by the Attorney-General's Department.*

*Government also undertakes to pass the Petroleum Exploration and Production Bill which commits the country to open competitive bidding and provides for the publication of all petroleum contracts. Further, Ghana commits to monitor and evaluate the implementation of the Ghana National Anti-Corruption Plan (NACAP).*

*As an Extractive Industry Transparency Initiative (EITI) implementing country Ghana is required to open up its contracting processes, publish contract and provide information on the beneficial owners of the contract. The OGP will work with GHEITI to ensure compliance with these requirements.*

**Editorial Note:** Milestones 1.4 and 1.7 were added to the table below from the list of milestones to address the Commitment's language that the "[g]overnment also undertakes to pass the Petroleum Exploration and Production Bill" and "provide information on the beneficial owners of the contract."

**Responsible Institutions:** Ghana Extractive Industry Transparency Initiative (GHEITI), Ministry of Petroleum, Ministry of Lands and Natural Resources, Commission on Human Rights and Administrative Justice (CHRAJ), Public Procurement Authority

**Supporting Institutions:** Ghana Anti-Corruption Coalition (GACC), Ghana Integrity Initiative (GII), Oil and Gas Platform, Africa Centre for Energy Policy

**Start Date:** January 2016

**End Date:** December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				ON TIME?	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	PublicAccountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>1. Overall</b>				X	X		X					X	Yes		X		
1.1. Publish all contracts				X	X				X				Yes			X	
1.2. Monitoring of contract execution		X			X					X			Yes				X
1.3. Negotiations on legislative amendments			X		X					X			Yes	X			
1.4. Pass the PEnPB <sup>1</sup>			X		X							X	Yes		X		
1.5 Implementation of NACAP <sup>2</sup>		X					X			X			Yes			X	
1.6. Prosecution of officials indicted in the PAC <sup>3</sup> report			X				X					X	Yes		X		
1.7 Publish contract beneficial ownership			X		X							X	Yes		X		

## CONTEXT AND OBJECTIVES

Successive Ghanaian governments have not produced national reports monitoring the implementation of public contracts. The absence of such reports hinders public scrutiny of contract implementation. The main objective of this commitment is to promote transparency and accountability in the government's operations and resource use.

The commitment identifies several concrete actions: implementing open contracting, abiding by the Public Procurement Act, monitoring public contracts, prosecuting officials indicted by the Public Accounts Committee (PAC), passing the Petroleum Exploration and Production Bill, and monitoring and evaluating the implementation of the Ghana National Anti-Corruption Plan (NACAP).

**Publishing All Contracts:** In Ghana, public procurement accounts for 50-70% of the national budget.<sup>4</sup> The government has been publishing contracts quarterly since before the second action plan. Because of the lack of specificity of the milestone language, the added value of this milestone is unclear.

**Monitoring of Contract Execution:** This milestone aims to initiate quarterly monitoring of contracts but not does provide specific mechanisms that might accomplish this. Given the lack of clarity of this milestone's language, the IRM researcher found the milestone to have minor potential impact.

**Negotiations on Legislative Amendments:** This milestone seeks to organise six meetings with the Parliamentary Select Committee to pass the Petroleum



Exploration and Production Bill (PEnPB). The IRM researcher coded this milestone as minor because its language did not specify whether these meetings are on the process, content, or timeliness in the passage of the bill.

**Pass the PEnPB:** The passage of the Petroleum Exploration and Production Bill (PEnPB) could have a potentially transformative impact as it will establish open competitive bidding and provides a legal basis to ensure that contractual arrangements managing the country's natural resources (oil and gas) are publicly available. Under current government practice, information about a particular public contract is limited to people within the agency implementing the contract. Some CSOs, such as the Ghana Anti-Corruption Coalition (GACC), have called on government to ensure accountability and transparency in the country's oil and gas industry.<sup>5</sup>

**Implementation of NACAP:** The Parliament of Ghana adopted the National Anti-Corruption Action Plan (NACAP, a ten-year plan) in July 2014 as a main document that outlines the strategy for fighting corruption in Ghana. NACAP is expected to institutionalise accountability, amongst other things, through vigorous enforcement of applicable laws, including effective investigations and prosecution of corrupt conduct.<sup>6</sup> In October 2014, GACC expressed concerns about the government's failure to fully implement NACAP.<sup>7</sup> The Monitoring & Evaluation section of NACAP collects and provides information that assists agencies to track NACAP implementation progress within their respective institutions, to address weaknesses in implementation of the plan, and to promote collaboration among implementing agencies by sharing implementation reports.<sup>8</sup>

The commitment language does not clearly specify which part of the ten-year NACAP plan will be implemented in the two-year OGP action plan and what would be the specific outcomes of this commitment. Given this uncertainty, the IRM researcher coded this milestone as having minor potential impact.

**Prosecution of Officials:** This potentially transformative action seeks to initiate prosecution of public officials identified by the Audit Service as misappropriating public funds. Public officials are not prosecuted

after facing the Public Accounts Committee (PAC) of Parliament. There is the general view that despite extensive media coverage (including live telecast) of PAC examinations, the public officials who have misappropriated funds never face punishments.<sup>9</sup> PAC in 2014 reiterated the need to prosecute public officials who are found to have misappropriated funds.<sup>10</sup> The implementation of this milestone is likely to deter other public officials from misappropriating public funds, improve public financial administration, and help minimise corruption.

**Publish Contract Beneficial Ownership:** This milestone involves publishing information on the beneficial owners of entities winning public contracts as part of EITI requirements. This action resulted from the fact that the identity of the real owners – the 'beneficial owners' – of the companies that have obtained rights to extract oil, gas and minerals is often unknown, hidden by a chain of unaccountable corporate entities. This problem also affects other sectors and often helps feed corruption and tax evasion. At the time of preparing the action plan, there was no law to ensure compliance with this EITI requirement nor did the government effectively publish this information beyond the extractive sector. Disclosing beneficial ownership of entities having government contracts could be potentially transformative by ending such practices.

## COMPLETION

The commitment is coded as having achieved "limited" completion overall. Two of the milestones were completed and two more were substantially completed within the period of implementation under consideration. Other milestones saw limited completion during the period under consideration. An updated completion level will be reflected in the end-of-term report.

**Publish All Contracts:** The Procurement Authority (PPA) respondent said the institution continues to publish all contracts entered into by government on their website.<sup>11</sup> This was being done before the commencement of the current action plan. The IRM researcher verified that contracts as recent as September 2016 were entered on the website. However, at the time of research, the researcher could not find contract information (within

the action plan period) on natural resources and public private partnerships (PPP) on their website. This is why the IRM researcher did not code the commitment as completed.

**Monitoring of Contract Execution:** The respondents at PPA and GHEITI told the IRM researcher that monitoring contracts is not their responsibility but rather the responsibility of the Public Investment Division (PID) of the Ministry of Finance (MOF). PID-MOF is responsible for efficient management and delivery of public investments.

Some of the steps taken by PID-MOF to initiate monitoring of contract execution include the preparation of the National Policy on Public Investment Management (PIM Policy).<sup>12</sup> The vision of the policy is ensuring the efficient delivery of public investments. MOF has also presented the Public Private Partnership (PPP) Bill, 2016, to Parliament and according to media reports it was read for the first time in May 2016.<sup>13</sup> Even though the bill has not yet been passed, MOF has taken the initial action of preparing the policy and presenting the bill to Parliament. The policy sought to provide a clear and consistent process for all aspects of PPP project development and implementation, from project identification, appraisal and selection to procurement, operation, maintenance, performance monitoring and evaluation.<sup>14</sup>

**Negotiations on Legislative Amendments:** The IRM researcher could find no evidence that GHEITI held meetings with the Parliamentary Select Committee on Legal and Subsidiary Legislation on the passage of the Petroleum Exploration and Production Bill.

**Pass the PEnPB:** Government passed the PEnPB in August 2016, after the period of implementation under consideration; therefore the 30 June 2016 level of completion was limited.<sup>15</sup> Calls by ACEP and other CSOs working to ensure efficiency, accountability and transparency in the country's oil and gas industry led to the passage of the PEnPB.<sup>16</sup> A media commentary on the bill said "the bill explicitly acknowledges the importance of transparency as key to good governance, providing that petroleum resources shall be conducted in accordance with principles of transparency."<sup>17</sup>

**Implementation of NACAP:** This milestone required full implementation of the National Anti-Corruption Action Plan (NACAP) by 2017. The language of the commitment is inconsistent with the NACAP timeframe which requires ten years and a completion date of 2024.

According to the Commission on Human Rights and Administrative Justice (CHRAJ) respondent, CHRAJ provided a framework for MDAs to monitor and evaluate the NACAP.<sup>18</sup> CHRAJ uses this framework to prepare the NACAP progress report. While the commission provided the IRM researcher with a hard copy of the NACAP progress report up to September 2015, this document was not available online at the time of preparing this IRM report. The respondent said the commission is up to date with monitoring NACAP implementation and the 2016 annual report will be ready by 9 December 2016. According to the respondent, with the support of the presidency, all public institutions are implementing NACAP based on which CHRAJ is monitoring the implementation.<sup>19</sup> The Ghana Anti-Corruption Coalition (GACC) and Ghana Integrity Initiative (GII) are among the CSOs who worked with the CHRAJ on issues of anti-corruption and NACAP in 2016.<sup>20</sup> The IRM researcher coded the action as substantial based on the submissions from the CHRAJ respondent and CSOs working on NACAP.

**Prosecution of Officials:** This milestone had limited implementation based on the Attorney General's actions. There were different views as to which institution(s) should carry out the milestone to prosecute officials indicted by the Public Accounts Committee (PAC). The Minister for Justice and Attorney General were reported to have said that it is not the responsibility of the Auditor General's Department to investigate; rather, their role is to prosecute. It is also their duty to collaborate with all agencies to ensure that a strong docket is built and prosecuted in the court.<sup>21</sup>

The Speaker of Parliament called for the establishment of an Audit Report Implementation Committee to take up recommendations of the Auditor-General (AG) and sanction individuals cited for gross financial mismanagement.<sup>22</sup> Other CSOs suggested CHRAJ to carry out this mandate.<sup>23</sup> The Deputy Ranking member of the Committee put the responsibility on the Inspector General of Police (IGP).<sup>24</sup> One CSO respondent, who

researches corruption, said that many of the issues were administrative lapses rather than criminal or embezzlement issues, which eventually get rectified. The respondent suspected inadequate record keeping as the main cause of these lapses.<sup>25</sup>

According to the Minister for Justice and Attorney General, a committee has been created to go through the backlog of the Auditor General's Report and identify cases that may be liable for prosecution.<sup>26</sup> The committee is made up of members drawn from the Attorney General's Department, the Economic and Organized Crime Organization (EOCO), the Auditor General's Department, and the Prosecution Department. The new Public Financial Management (PFM) Act, 2016, also sets out the framework regarding the prosecution of officials indicted by PAC. It has a provision for implementing Parliament's recommendations and decisions on the Auditor-General's Report (Section 88). Sections 96, 97 and 98 prescribe penalties for the offenders. PFM bill was passed after the period of implementation under review so it was not considered in the coding but the updated completion level will be reflected in the end-of-term report. Despite the AG's continuing recommendations and the passage of the PFM Act, more needs to be done. The AG has not yet provided information on the previously mentioned cases liable for prosecution, while the Legislative Instrument for implementing PFM Act has yet to be prepared.

**Publish Contract Beneficial Ownership:** The government passed a revised Company Act in August 2016, which broadened the scope of beneficial ownership disclosure of public contracts to all companies both inside and outside the extractive sector. However, as this Act occurred after the period of implementation under consideration, the IRM researcher marked this milestone as having a limited level of completion; the updated completion level will be reflected in the end-of-term report.

By fulfilling this commitment, Ghana is not only meeting the EITI requirements but also complying with other international standards like the global Financial Action Task Force (FATF)'s regional body, the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA).<sup>28</sup>

## EARLY RESULTS (IF ANY)

PPA publishes online any contracts entered into by government. However, contract information concerning management of the country's natural resources between government and private sector is still unavailable. In terms of swift implementation of the milestones, CSO respondents said they were happy about the way the government is implementing NACAP.<sup>29</sup> According to them, the government has been introducing measures to compel all MDAs to report on NACAP implementation. MDAs' compliance with these government directives forms the basis on which CHRAJ is able to prepare its progress report on NACAP.

## NEXT STEPS

The researcher thinks this commitment to open contracting and contract monitoring attempts to cover too many important issues. In the next action plan, drafters should create separate commitments for the following areas:

- Open contracting;
- Contract monitoring;
- Anti-corruption –public forum on NACAP report;
- If the government decides to require information on beneficial ownership, one commitment might focus on fully implementing the Company Act. CSOs could further support this process by advocating for full disclosure of beneficial ownership;
- In addition to publishing the NACAP progress report, CHRAJ could also engage citizens by organising public forums on the report;
- Contract monitoring is an area that needs significant improvement. The next action plan could have a commitment requiring not only PID-MOFs but also all MDAs and MMDAs to publish information on contract monitoring; and
- The passage of the Public Financial Management Act is only an initial step toward the prosecution of officials indicted in the PAC's report. The Ministry of Finance could collaborate with AGD to issue a regulation that will be easily enforceable by all the stakeholders within the financial administration.

<sup>1</sup> PEnPB is the Petroleum Exploration and Production Bill.

<sup>2</sup> NACAP is the Ghana National Anti-Corruption Plan.

<sup>3</sup> PAC is the Public Accounts Committee of Parliament.

<sup>4</sup> *Public Procurement Authority: Electronic Bulletin Vol. 7, Issue 4*, (Republic of Ghana Public Procurement Authority, May-Jun. 2016), 4, [www.ppaghana.org/Documents/Bulletins/PPAE-BulletinJulAug2016.pdf?story\\_id=1248](http://www.ppaghana.org/Documents/Bulletins/PPAE-BulletinJulAug2016.pdf?story_id=1248).

<sup>5</sup> "Need for open contracting in Ghana-GACC," *Ghana Anti-Corruption Coalition* (23 Jan. 2016), [www.gaccgh.org/details.cfm?corpnews\\_scetid=7&corpnews\\_catid=7&corpnews\\_scatlid=36#.WHbo5BsrLIW](http://www.gaccgh.org/details.cfm?corpnews_scetid=7&corpnews_catid=7&corpnews_scatlid=36#.WHbo5BsrLIW).

<sup>6</sup> Parliament to Establish Budget Office (accessed Sept. 2016) available from: <http://www.ghana.gov.gh/index.php/investors/884-parliament-to-establish-budget-office>

<sup>7</sup> "Anti-corruption campaigners push for enforcement of NACAP," *Ghana Myjoyonline.com* (12 Oct. 2014), [www.myjoyonline.com/news/2014/october-12th/anti-corruption-campaigners-push-for-implementation-of-action-plan-approved-by-parliament.php](http://www.myjoyonline.com/news/2014/october-12th/anti-corruption-campaigners-push-for-implementation-of-action-plan-approved-by-parliament.php).

<sup>8</sup> Republic of Ghana (2011) National Anti-Corruption Action Plan (2012-2021).

<sup>9</sup> "IEA's Anti-Corruption Communiqué," *Ghana Myjoyonline.com* (5 Jun. 2015) [www.myjoyonline.com/politics/2015/june-5th/ieas-anti-corruption-communique.php](http://www.myjoyonline.com/politics/2015/june-5th/ieas-anti-corruption-communique.php); "Prosecute public officials for embezzlement — PAC" (access 26 Sept., 2016) <http://www.dailygraphiconline.com/news/general-news/prosecute-public-officials-for-embezzlement-pac.html>; and "Public officials to be prosecuted based on Auditor General's [sic] Report," *News Ghana* (2 May 2015), <https://www.newsghana.com.gh/public-officials-to-be-prosecuted-based-on-auditor-generals-report>.

<sup>10</sup> "Prosecute public officials for embezzlement — PAC (access 26 Sept., 2016) <http://www.dailygraphiconline.com/news/general-news/prosecute-public-officials-for-embezzlement-pac.html>.

<sup>11</sup> Public Procurement Authority Ghana, (2014), [www.ppaghana.org](http://www.ppaghana.org).

<sup>12</sup> Available at <http://www.mofep.gov.gh/divisions/pid>.

<sup>13</sup> Ghana rolls out legal framework to back Public-Private Partnership contracts (access 21 Sept. 2016) available from: <http://kasapafmonline.com/2016/07/18/ghana-rolls-legal-framework-back-public-private-partnership-contracts/>.

<sup>14</sup> *Ibid.*

<sup>15</sup> "Petroleum Exploration And Production Bill, 2016 Passed Into Law," *ModernGhana.Com*, (5 Aug. 2016), <https://www.modernghana.com/news/709539/petroleum-exploration-and-production-bill-2016-passed-into.html>.

<sup>16</sup> "ACEP advocates open contracting in Petroleum sector," *Live FM* (26 Sept. 2014), <https://rawgist.com/acep-advocates-open-contracting-in-petroleum-sector/>.

<sup>17</sup> "60 Out Of 95 Clauses To Be Amended In Ghana's E&P Bill," *News Ghana* (9 May 2016) <https://www.newsghana.com.gh/60-out-of-95-clauses-to-be-amended-in-ghanas-ep-bill/>.

<sup>18</sup> CHRAJ interview by IRM researcher, 23 Sept. 2016.

<sup>19</sup> The Chief of Staff chairs the NACAP High Level Implementation Committee (HILIC) and requested all public institutions implement the NACAP.

<sup>20</sup> CHRAJ is a quasi-judicial agency while GII and GACC are CSOs.

<sup>21</sup> "Public officials to be prosecuted based on Auditor General's [sic] Report," *News Ghana* (2 May 2015), <https://www.newsghana.com.gh/public-officials-to-be-prosecuted-based-on-auditor-generals-report/>.

<sup>22</sup> Gilbert Ankrh and Raymond Kwofie, "Parliamentary Calls for Committee to Implemented [sic] AG's Report," <http://www.ghana.gov.gh/index.php/media-center/news/321-parliamentary-calls-for-committee-to-implemented-ag-s-report>.

<sup>23</sup> "IEA's Anti-Corruption Communiqué," *Ghana Myjoyonline.com* (5 Jun. 2015) [www.myjoyonline.com/politics/2015/june-5th/ieas-anti-corruption-communique.php](http://www.myjoyonline.com/politics/2015/june-5th/ieas-anti-corruption-communique.php).

<sup>24</sup> IGP to be dragged to Parliament (access 21 Sept., 2016) available from: <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/IGP-to-be-dragged-to-Parliament-472007>.

<sup>25</sup> GACC respondent interview by IRM researcher, 30 Sept. 2016.

<sup>26</sup> Public officials to be prosecuted based on Auditor General's Report (access 21 Sept., 2016) available from: <https://www.newsghana.com.gh/public-officials-to-be-prosecuted-based-on-auditor-generals-report/>.

<sup>27</sup> Pius Eduku and Duke Opoku, "Parliament passes bill on oil sector regulation," [citifmonline.com](http://citifmonline.com/2016/08/05/parliament-passes-bill-on-oil-sector-regulation/) (5 Aug. 2016), <http://citifmonline.com/2016/08/05/parliament-passes-bill-on-oil-sector-regulation/>.

<sup>28</sup> GIABA is an institution of the Economic Community of West African States (ECOWAS), which is responsible for facilitating the adoption and implementation of Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT) in West Africa.

<sup>29</sup> GII and GNACC interview by IRM researcher on 27 Sept. 2016.

## 2 | RIGHT TO INFORMATION

### Commitment Text:

Under the first Action Plan 2013-2014, Government undertook to enact a Right to Information Law. However, the implementation of this commitment has not been realized. Government still recognizes the importance of unfettered access to information in contributing to stability in governance and therefore commits to passing the Right to Information Bill by December, 2016.

- Hold four (4) meetings with Parliament for the passage of the Right to Information Bill by June, 2016
- Organize 10 regional public sensitization fora on the rights of citizens under the Right to Information Law by 2017

**Editorial note:** Milestone 2.2 was added to the table below to capture the commitment language that the “government...commits to passing the Right to Information Bill by December, 2016.”

**Responsible Institution:** Ministry of Communications

**Supporting Institution(s):** Ghana Journalists Association (GJA), Coalition on the Rights to Information Bill (CRTI), Media Foundation for West Africa (MFA), National Media Commission, Commonwealth Human Right Initiative (CHRI)

**Start Date:** June 2016

**End Date:** December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				ON TIME?	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>2. Overall</b>				X	X							X	No		X		
2.1. Meetings with Parliament			X		X						X		No	X			
2.2. Pass the bill				X	X							X	Yes		X		
2.3. Regional public hearings				X	X						X		Yes	X			

## CONTEXT AND OBJECTIVES

This commitment aims to pass a freedom of information bill, which Ghana has been working on for the past decade and a half. This commitment was in the previous action plan but was not fulfilled. The previous Parliament<sup>1</sup> asked stakeholders (individuals, CSOs, and academia) to submit their views on the bill. CSOs proposed revisions that included exemptions, however, Parliament's term ended before they could complete their review of the bill. In May 2014, the then Parliamentary Committee on Legal, Constitutional and Parliamentary Affairs, convened a forum at Koforidua for all stakeholders with concerns about the bill. The forum discussed each clause and considered proposals on the bill. Recommendations from the forum were forwarded to the Attorney-General's Department for possible review and revision of the bill. CSOs that took part in the above process were happy their views were incorporated in the revised draft bill.<sup>2</sup>

Even with a constitutional provision guaranteeing freedom of information, most public officials and state institutions determine when and at what time to provide information. Some institutions decline requests altogether despite the fact that the requested information may have no security implications and is readily accessible in other jurisdictions.<sup>3</sup> This bill provides for access to official information held by public institutions as well as private entities which perform public functions with public funds. The bill defines the qualifications and conditions under which access to information held by public institutions should be obtained. It establishes the Right to Information Commission to ensure independence of the review process. It also allows for the transfer of the appeal and review processes from the Right to Information Commission's internal Information Review Officers to the High Court.<sup>4</sup>

If passed and implemented, the Right to Information Bill could have transformative potential in ensuring citizens' right to information. CSOs believe that the Right to Information Bill will promote democratic participation, transparency and aid the fight against corruption.<sup>5</sup> Overall, the law would help ensure more transparency in the governance system. It could reduce corruption as the actions of various authorities are made subject to public scrutiny.<sup>6</sup>

The Ministry of Communications (MOC) is the lead agency for this commitment and therefore responsible for all milestones. The first milestone did not mention the format or purpose of meetings in which the Ministry will engage Parliament. It is unclear whether the purpose of these meetings is to influence Parliament to expedite action on the bill or to assist Parliament to come to a consensus on the bill. If it is the former, then MOC is not the right institution to lead; rather CSOs, such as the Coalition on the Rights to Information Bill (CRTI) are better situated to play that advocacy role. CRTI played a role in the bill amendment before it was sent to Parliament. If, however, the goal is to build a consensus, it would be preferable for both CSOs and the Attorney General's Department (AGD) to engage Parliament.<sup>7</sup>

The action to conduct sensitisation forums on the rights of citizen under a right to information law is relevant in the sense that few people are aware of the content and the importance of such a law. Greater awareness about the law will enable more people to know their rights and demand necessary information from institutions. When it comes to potential impact, the researcher ranked the milestone as moderate potential impact because expanded knowledge of the law will lead to more people demanding information from public institutions and opening up government.

## COMPLETION

Despite efforts by both the Executive and Parliament, the bill was not passed and hence the commitment saw limited completion.

President Mahama, the Speaker of Parliament and the Majority Leader expressed some commitment to the passage of the bill. In an interview with the President in October 2015, he stated, "It's taken unduly long and my government is fast-tracking it as quickly as possible...."<sup>8</sup> In November 2015, the Majority Leader gave assurance that the bill would be passed in the first quarter of 2016.<sup>9</sup> In August 2016, the Speaker of Parliament assured the public that Parliament is committed to passing the bill.<sup>10</sup>

According to the President, Cabinet had approved the bill and submitted it to Parliament in March 2016. At the time, media reported that Members of Parliament

(MPs) proposed a long list of amendments on the Bill for consideration.<sup>12</sup> The IRM researcher followed up on the proposed amendments but CSOs working on the bill could not provide information on the content of these amendments.

**Meetings with Parliament:** According to the respondent at MOC,<sup>13</sup> the meetings were not held. The MOC respondent was not clear about the type of meetings to be held. In addition, he said when a bill is in Parliament, it is exclusively for the Speaker and the MPs to decide whom to engage; therefore, it is difficult to execute the first milestone when Parliament has not invited the ministry to discuss the Bill. According to the Parliament respondent, Parliament always carries out public consultation before a bill is passed into law; they invite public comment and invite the relevant stakeholders.<sup>14</sup>

**Pass the Bill:** Parliament took action on the bill within the first part of the year, but it was not passed. According to a press statement by a group of CSOs:

In March 2016, Parliament began the consideration of the Bill with the proposed amendments by the Select Committee. Between March and June, 2016, Parliament was only able to consider 29 out of 157 clauses of amendments. Later parliament suspended the consideration of the RTI Bill without any particular reason and began consideration of other bills some of which have been passed.<sup>15</sup>

In August 2016, the CSOs then appealed to the president to pass the bill as early as possible.

The President has publicly attributed some of the delay to a failed consensus on what the scope of exemption should be. However, the Majority Leader says the delay is due to a lack of accommodation for MPs to work with CSOs and other stakeholders.<sup>17</sup> A ranking member of the Legal and Constitutional Affairs Committee of Parliament said the bill has been delayed due to technicalities, ambiguities, knotty clauses, apprehensions and disagreements associated with some of its provisions.<sup>18</sup> A CSO respondent said that the big issue seems to be the lack of proper record-keeping of government information.<sup>19</sup> According to him, the way public institutions manage and store information makes retrieval very difficult.

As a result, the fear is that when the law is passed, due to the problems of poor records management, government institutions might not be able to release information and people will then resort to the courts which will create problems for government institutions.

At the time of preparing this report, Parliament was on recess. When Parliament resumes in October 2016, it will be difficult for it to go through all the remaining clauses to pass the bill into law before the election campaigns commence in December 2016.

**Regional Public Hearings:** Since the government did not pass the bill, this milestone, aimed at dissemination activities, could not be completed.

## EARLY RESULTS (IF ANY)

The Right to Information (RTI) bill has not been passed during the period of implementation under consideration.

## NEXT STEPS

The IRM researcher shares the views of civil society that the absence of the RTI law and the current delay in its passage means that Ghanaians will continue to struggle in their quest to effectively obtain information and hold their leaders accountable. To ensure passage of the bill into law, the government needs to consider expediting action on this bill. This commitment lacked clear activities to improve records management and provide a framework for institutions to manage information so that they might efficiently provide information when the law is passed. Should the government wish to include this commitment in the next action plan, it should offer effective steps for all institutions to improve their record-keeping.

To proceed on the bill, the IRM researcher is suggesting establishing a working group comprising of MPs, CSOs and other stakeholders to iron out some of the issues identified as “technicalities, ambiguities, knotty clauses and apprehensions concerning some of the provisions.” The Minister of Communications can work with the Select Committee in Parliament in charge of information to expedite action on the passage of the bill.

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<sup>1</sup> 2009 to 2012 Parliament.

<sup>2</sup> One of the findings of the first IRM review: IRM (2015) Ghana Progress Report 2013–14.

<sup>3</sup> The bill here is Right to Information Bill. “Pass The Right To Information Bill Now” access 21 Sept. 2016) available from: <https://www.modernghana.com/news/656396/1/pass-the-right-to-information-bill-now.html>.

<sup>4</sup> “Pass The Right To Information Bill Now” access 21 Sept. 2016) available from: <https://www.modernghana.com/news/656396/1/pass-the-right-to-information-bill-now.html>.

<sup>5</sup> Please see: <https://www.newsghana.com.gh/accounting-to-the-people-must-be-through-the-right-to-information-law/>.

<sup>6</sup> Ibid.

<sup>7</sup> CSOs that the researcher talked on this commitment in the first action plan said these were carried out in consultation with parliament.

<sup>8</sup> Group disagrees with President Mahama on RTI bill (accessed 21 Sept. 2016) available from: <http://www.graphic.com.gh/news/general-news/group-disagrees-with-president-mahama-on-rti-bill.html>.

<sup>9</sup> Right to Information Bill to be passed next year – Majority Leader (accessed 21 Sept. 2016) available from: <http://www.ghananewsagency.org/politics/right-to-information-bill-to-be-passed-next-year-majority-leader-96787>.

<sup>10</sup> Parliament will pass RTI bill - Speaker assures (accessed 21 Sept. 2016) available from: [http://pulse.com.gh/news/right-to-information-bill-parliament-will-pass-rti-bill-speaker-assures-id5348768.html?utm\\_source=facebook&utm\\_medium=social&utm\\_campaign=pulse-ghana\\_web](http://pulse.com.gh/news/right-to-information-bill-parliament-will-pass-rti-bill-speaker-assures-id5348768.html?utm_source=facebook&utm_medium=social&utm_campaign=pulse-ghana_web)

<sup>11</sup> Right To Information Bill Has Suffered Setbacks – President Mahama (access 21 September, 2016) available from : <http://ghanapoliticsonline.com/right-information-bill-suffered-setbacks-president-mahama/>

<sup>12</sup> Ghana's Parliament revives Right to Information Bill (access 21 September, 2016) available from: <https://www.newsghana.com.gh/ghanas-parliament-revives-right-to-information-bill/>

<sup>13</sup> The IRM researcher talked to the staff at Ministry of Communications on 22 Aug., 2016.

<sup>14</sup> The researcher interviewed a team at the Research Department of Parliament on 26 Sept., 2016.

<sup>15</sup> Accounting To The People Must Be Through The Right To Information Law (accessed 21 Sept. 2016) available from : <https://www.newsghana.com.gh/accounting-to-the-people-must-be-through-the-right-to-information-law/>.

<sup>16</sup> Group disagrees with President Mahama on RTI bill (access 21 Sept. 2016) available from: <http://www.graphic.com.gh/news/general-news/group-disagrees-with-president-mahama-on-rti-bill.html>.

<sup>17</sup> Right to Information Bill to be passed next year – Majority Leader (accessed 21 Sept. 2016) available from: <http://www.ghananewsagency.org/politics/right-to-information-bill-to-be-passed-next-year-majority-leader-96787>.

<sup>18</sup> Right To Information Bill in limbo (accessed 21 Sept. 2016) available from: <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Right-To-Information-Bill-in-limbo-455935>.

<sup>19</sup> Meeting with oil and gas CSOs 13 Sept. 2016.



## 3 | CITIZEN'S PARTICIPATION

### **Commitment Text:**

*Ghana's OGP Action Plans, past and current, recognize citizens' participation as an important part of its democracy and the development process and therefore commits to providing opportunities for citizens to participate in both central and local administration.*

*During the plan period, Government of Ghana intends to increase opportunities for citizens' participation in the work of Parliament and the local government structures.*

### **Actions:**

- *Conduct 10 regional Adult Education Programme on the opportunities available for participating in local administration and Parliament by 2017*
- *Advocate for Parliament to develop an action plan on the implementation of the declaration on parliamentary openness*
- *Organize 10 regional outreach programmes with faith based organizations on the opportunities available for participating in local administration and Parliament by 2017*
- *Work closely with the MLGRD and PSRS to ensure compliance with legal requirement to establish Client Service Units in all the District Assemblies by 2017*
- *Develop capacities of District Assembly members by December, 2017*

**Lead Institutions:** Ministry of Local Government and Rural Development, Parliament, Institute of Local Government Studies (ILGS), Public Sector Reform Secretariat (PSRS)

**Supporting Institutions:** National Commission on Civic Education, Commonwealth Human Right Initiative, Center for Democratic Development, Institute of Democratic Governance, National Association of Local Authorities of Ghana (NALAG), Regional Coordinating Councils, Ghana Independent Broadcasters Association (GIBA), Ghana Journalist Association (GJA), Ghana News Agency (GNA), Information Services Department, (ISD)

**Start Date:** Not specified

**End Date:** December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				ON TIME?	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>3. Overall</b>				X	X	X	X				X		Yes		X		
3.1. Public awareness raising on citizen's participation opportunities		X			X					X			Yes		X		
3.2. Parliamentary openness declaration		X				X				X			Yes	X			
3.3 Citizen's participation at the local level		X			X					X			Yes		X		
3.4. Client Service Units in District Assemblies				X	X	X	X				X		Yes			X	
3.5. Capacity building for Assembly members		X			Unclear					X			Yes		X		

## CONTEXT AND OBJECTIVES

This commitment seeks to provide increased opportunities for citizens' participation in the work of Parliament and local government bodies. In particular, it aims to increase opportunities for vulnerable groups, such as women and people with disabilities, to participate in the decision-making process. Gender equity in politics is an issue at the national and local levels. At the local level, too few women are elected. For example in 2010 out of a total of 6,093 elected members, only 412 or seven percent, were women.<sup>1</sup>

**Parliamentary Openness Declaration:** The commitment also seeks to implement the Declaration on Parliamentary Openness. The Declaration on Parliamentary Openness was officially launched at the World e-Parliament Conference 2012 in Rome, Italy, on the International Day of Democracy.<sup>2</sup> The Declaration

is a call by civil society parliamentary monitoring organizations (PMOs) to transnational, national and sub-national legislative bodies for an increased commitment to openness and to citizen engagement in parliamentary work. PMOs are working to create strong, open and accountable parliaments through enhancing citizen participation in the legislative process and bringing parliaments closer to the people they represent. Two CSOs in Ghana, the Ghana Centre for Democratic Development (CDD Ghana) and Penplusbytes, have participated in the development of, or indicated support for, the Declaration.

This milestone does not clearly specify who will do the advocating. The milestone requires effective collaboration between CSOs, the media and public institutions. Because of the Declaration on Parliamentary Openness's goal to bring Parliament closer to citizens, the milestone was coded as relevant

to civic participation. While encouraging citizen participation in the legislative process is laudable, the milestone language was too broadly worded to ascertain its potential impact, therefore the IRM researcher coded its potential impact as minor.

**Regional Education Programmes (Milestone 3.1 and 3.3):** These milestones address concerns about inequity in decision-making regarding women and marginalized groups through awareness creation. The National Commission on Civic Education (NCCE) and Information Services Department (ISD) already conduct adult education and outreach programs. However, these institutions were not mentioned as lead agencies, but rather as collaborating institutions. The two milestones are not clear about the content of the programs, where they will occur or whom they will target. Given that the target group and program content was unclear, the IRM researcher rated these milestones as having minor potential impact.

**Client Service Units in District Assemblies:** This milestone involves MLGRD and PSRS ensuring the establishment of Client Service Units (CSUs) in all the District Assemblies. However, MLGRD is not an implementing agency. The Local Government Service (LGS) is responsible for the establishment of CSUs in the District Assemblies but this institution was neither mentioned as lead agency nor as a collaborating agency. As far back as 2011, Mr. Alhassan Azong, Minister of State in-charge of Public Sector Reforms, criticized poor customer care among public sector institutions.<sup>3</sup> This milestone is to address the challenge recognised by the Minister. CSUs' key functions include facilitating and improving standards of the services delivered by the MDAs/MMDAs, communicating MDA/MMDA services to the public and responding to complaints.<sup>4</sup>

When CSUs are properly functioning, citizens can lodge complaints at these units and service providers will respond, thereby improving service delivery. It is also possible for CSUs to proactively approach citizens for their satisfaction regarding MDA/MMDA services. These units had been established in a number of districts but these units lack a feedback loop to ensure full follow-up from different service providers.<sup>5</sup> Expansion of these units to other district assemblies

could help connect citizens with service providers. However, unless the follow-up mechanism is improved, the impact of this milestone will remain moderate in its scope.

**Capacity Building for Assembly Members:** This milestone to develop the capacities of district assembly members is very broad since there are 216 Metropolitan, Municipal and District Assemblies (MMDAs) each consisting of a large number of assembly members. Neither the type of training, nor capacity-building plans were specified. Given the lack of information about this milestone, the IRM researcher rated the potential impact minor.

## COMPLETION

Many of the milestones were not completed, hence the commitment was coded limited completion overall.

**Regional Education Programmes (Milestone 3.1 and 3.3):** According to the NCCE respondent, the Commission has carried out numerous adult education and sensitisation programs.<sup>6</sup> The NCCE representative stated that it conducted more workshops than those mentioned in the action plan as it carried out the sensitisation not only at the regional level but the district and national levels. The action plan implementation also coincided with local level elections (or District Assembly elections), a period when NCCE embarks upon its mandated sensitisation activities which happen to encompass activities envisaged under these two milestones. The media reported that in February 2016, NCCE organised a workshop for People Living with Disabilities (PLWDs), traditional leaders, religious leaders, youth, and women's groups at the district level to address inequity in decision-making.<sup>7</sup> Despite the above media report, the IRM researcher could find no further information on the number of NCCE workshops. NCCE did not provide the exact number of workshops and at the time of writing this report, had not submitted supporting documentation to the IRM researcher. Given the inadequate evidence of full completion, these milestones were coded substantial.

**Parliamentary Openness Declaration:** The IRM researcher could find no evidence of any advocacy for implementing the Declaration on Parliamentary

Openness. Further, the Parliamentary respondents could not provide any information on the implementation of such a program.<sup>8</sup>

**Client Service Units in District Assemblies:** In June 2015, the Local Government Service (LGS) directed the MMDAs to establish CSUs to receive complaints and petitions from the public.<sup>9</sup> The IRM researcher contacted LGS and the respondent said CSUs have been established in all MMDAs.<sup>10</sup> The respondent did not provide any evidence to support the claim but there were media reports that some of the district assemblies have established the units.<sup>11</sup>

**Capacity building for Assembly members:** The IRM researcher contacted one of the key staff at the Institute of Local Government Studies (ILGS), but the staff did not provide the necessary information by the time of this report. Their website stated the institute organised a training of Presiding Members in the Greater Accra Region in June 2016. Since the milestone was not clearly specified, it is difficult to ascertain the completion level. It is not possible to say whether the milestone is complete since capacity building is an ongoing process.

## EARLY RESULTS (IF ANY)

CSUs were established in the MMDAs. However, some CSO stakeholders stated that these units are not effective in gathering and addressing citizens' complaints. Instead, they act more as basic information providers. One of the CSO participants interviewed by the IRM researcher said, "The CSUs are like reception, they just give directions to people to offices of staffs."<sup>12</sup> Stakeholders noted that CSUs must be able

to respond effectively to citizens' information requests and competently perform their services.

ILGS training for presiding members examined the extent of conflicts among Assembly leaders and taught problem-solving strategies for better conflict management.

## NEXT STEPS

The researcher believes that most of the milestones in this commitment are outreach activities that are more relevant to access to information but less relevant for citizenry participation. Citizen participation efforts could not only employ traditional outreach methods (e.g. community durbars, public information vans and town-hall meetings) but also consider innovative mechanisms for citizens to provide feedback. For example, district assemblies could consider using other technologies like mobile phones to solicit citizen feedback. Mobile phone usage is pervasive throughout Ghana;<sup>13</sup> exploring technologies that are commonly used by the people will be beneficial to all.

Assemblies could also consider summarising their development plans in local languages to facilitate citizen access to development projects and processes within their communities. For illiterate citizens, plans could be illustrated and posted in public areas such as the notice boards of district assembly offices or zone and town offices. In addition, the district assemblies could provide information in structured formats that facilitate analysis and reuse. For example, assemblies might publish financial documents on their respective websites for citizen analysis.

<sup>1</sup> Ghana: Parties urged to increase representation of women in politics," *Agora*, (13 Apr. 2015), <http://www.agora-parl.org/news/ghana-parties-urged-increase-representation-women-politics>.

<sup>2</sup> Please see: <http://www.openingparliament.org/declaration/> for the declaration.

<sup>3</sup> "Minister bemoans poor customer care among public sector institutions," *Ghana Business News*, (10 Mar. 2011), <https://www.ghanabusinessnews.com/2011/03/10/minister-bemoans-poor-customer-care-among-public-sector-institutions/>.

<sup>4</sup> PSRS (2016) Draft Report on Nationwide Assessment of Client Service Units (CSUs) in Selected MDAs & MMDAs.

<sup>5</sup> IncludCity Mid-Term Progress Report: Improving Governance and Services for Ghana's Urban Poor, *Global Communities*, [www.globalcommunities.org/publications/2014-ghana-includcity-report.pdf](http://www.globalcommunities.org/publications/2014-ghana-includcity-report.pdf).

<sup>6</sup> NCCE staff questionnaire by the IRM researcher, 3 Oct. 2016.

<sup>7</sup> "NCCE builds capacity of Women aspirants," *GNA* (26 Feb. 2015), <https://www.modernghana.com/news/601160/1/ncce-builds-capacity-of-women-aspira.html>.

<sup>8</sup> The IRM researcher had discussions with the team at the Research Division of Parliament on 26 Sept. 2016.

<sup>9</sup> "MMDAs asked to establish client services," *GNA* (22 Jun. 2015), <http://www.ghananewsagency.org/politics/mmdas-asked-to-establish-client-services-90928>.

<sup>10</sup> The IRM Researcher talked to one of the key staff at Local Government Service on 30 Sept. 2016

<sup>11</sup> Samuel Sam, "Northern MMDAs sign performance agreements," *BFT Online* (14 Jul. 2015), <http://thebftonline.com/business/economy/14617/Northern-MMDAs-sign-performance-agreements.html#sthash.gOPNIXKp.dpuf>; "Client Service Unit created in Akuapem North Assembly," *GNA* (29 Jan. 2016), <http://www.ghananewsagency.org/politics/client-service-unit-created-in-akuapem-north-assembly-99920>.

<sup>12</sup> This was from one of the respondents at the stakeholder meeting held in Tamale on 17 Aug. 2016.

<sup>13</sup> Dasmani Laary, "Ghana: Mobile phone penetration soars to 128%," *The Africa Report* (9 Mar. 2016), <http://www.theafricareport.com/West-Africa/ghana-mobile-phone-penetration-soars-to-128.html>.

# THEME 2: ACCOUNTABILITY

## 4 | FISCAL RESPONSIBILITY

### **Commitment Text:**

*Prudent management of public expenditure is necessary to avoid budget overruns in a manner that endangers national fiscal stability. Several works have been done by Civil Society Organizations in the area of compiling essential information on the need for a Fiscal Responsibility Bill. Under the 2013-2014 Action Plan, Ghana is committed to enact a Fiscal Responsibility Law that would instill discipline in her fiscal management with the view to determining when expenditures are veering off approved estimates. The implementation of this commitment has not been achieved.*

*The aspiration in the West African Region is that there is the need for a common fiscal and monetary policy that will establish a fiscal ceiling for all member states of the regional body.*

*However within the specific context of Ghana opinion is divided on whether or not there is need for a stand-alone law on Fiscal Responsibility.*

*Therefore, during the planned period, OGP Ghana undertakes to facilitate the building of national consensus on the need for the Law.*

### *Action:*

- *Organize one (1) international conference on international best practice within enacting and implementing a Fiscal Responsibility Law in Ghanaian context by May, 2016*
- *Organize 1 national two-day consultative workshop on the need for and content of a Fiscal Responsibility Act by August, 2016*

**Editorial note:** The first action in the language of the commitment was split into two separate milestones (4.1 and 4.2) in the table below to capture the government's commitment to "enacting and implementing a Fiscal Responsibility Law in Ghanaian context."

**Lead Institutions:** Office of the Chief of Staff, National Development Planning Commission (NDPC), Ministry of Finance (MoF)

**Supporting Institutions:** Parliamentary Select Committee on Subsidiary Legislation, Centre for Economic Policy Analysis, Institute of Economic Affairs, Natural Resource Governance Institute (NRGI)

**Start Date:** Not specified

**End Date:** August 2016

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				ON TIME?	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>4. Overall</b>				X	Unclear							X	No		X		
4.1. International conference/discussing best practices			X		Unclear					X			No	X			
4.2. Pass FRL				X	Unclear							X	Yes		X		
4.3. Consultations on the need for Fiscal Responsibility Act			X		Unclear						X		Yes			X	

## CONTEXT AND OBJECTIVES

The commitment to enact a Fiscal Responsibility Law (FRL) was in the previous action plan but the bill was not passed. The FRL is part of the Public Financial Management (PFM) bill. The PFM bill was designed to address persistent weaknesses and promote discipline, transparency and accountability in the management of public funds. The FRL bill will introduce permanent rules of fiscal discipline. It also contains a requirement for managing fiscal risk by improving the development and execution of fiscal policy and providing a clear budget process map.<sup>1</sup>

**International Conference:** The conference intends to consider international best practices within a Ghanaian context of enacting and implementing the law. Ghana belongs to the West African Monetary Zone (WAMZ). WAMZ members want to introduce a single currency, to be called ECO, and a monetary union. Requirements to the adoption of ECO for all WAMZ countries include attaining a set of primary and secondary criteria, including single digit inflation rate and a fiscal deficit of no more than four percent of the GDP.<sup>2</sup> FRL provides the legal basis or framework for the enforcement of the

criteria and ensuring fiscal discipline. Therefore, it is necessary to hold an international conference to establish a common fiscal and monetary policy that will establish a fiscal ceiling for all member states of the regional body. While sharing best practices for fiscal discipline could contribute toward building support for the FLR, this milestone is of unclear relevance to OGP values.

**Pass FRL:** The government tends to overspend and borrow money from central banks, therefore creating inflationary trends in the country.<sup>3</sup> FRL would set an important legal basis for ensuring prudent management of public spending to avoid budget overruns. From the language of the commitment, it is unclear whether the bill will advance OGP values of better access to information or public accountability. Nonetheless, the potential impact of the law could be transformative in instilling discipline in government spending.

**Consultations on Need for Fiscal Responsibility Act (FRA):** This milestone aims to organise a two-day consultative workshop on the need for FRA but lacks detail on the workshop's attendees. Because the language of the commitment does not specify whether actors outside of government would be invited to the

workshop, the relevance of this milestone to OGP values is unclear. Given the aim of the PFM Act and the efforts to build national and international consensus, the researcher coded the impact moderate because bringing diverse stakeholders together to agree on the Act's content is crucial to the sustainability of such a law.

## COMPLETION

The commitment is coded as having "limited" completion. Within this review period, one milestone was being worked on by the government, and two were not started.

**International Conference:** According to the respondent in charge of implementation of the law, the international conference was not carried out.

**Pass FRL:** The respondent at the Ministry of Finance (MoF) stated Ghana's new PFM Law, Act 921, incorporated fiscal responsibility and hence fulfilled the commitment to enact a fiscal responsibility law. The researcher procured the PFM Act and Sections 13 to 17 do indeed focus on fiscal responsibility. This legislation was passed on 3 August, 2016, after the period of implementation under consideration, but this updated completion level will be reflected in the end-of-term report. Stakeholders such as the Institute of Chartered Accountants unsuccessfully opposed the passage of the bill under a certificate of urgency (as the bill was passed urgently), arguing that it did not give them sufficient time to "contribute to the development of this most important law."<sup>4</sup>

A press statement issued by MOF said with the passage of PFM, fiscal management shall be carried out in accordance with best practices and standards. MoF also gave assurances that timely fiscal information shall be made available to enable effective scrutiny of fiscal policy and public finance management.<sup>5</sup>

**Consultations on Need for FRA:** While MoF did not organise a two-day consultative workshop on the content of the bill, it held a consultative process to build a national consensus on the bill.<sup>6</sup> The respondent at MoF provided evidence of scanned invitation letters for a series of meetings on the bill.<sup>7</sup> The meetings ranged from internal discussions within MoF to inter-sector meetings between heads of government institutions. Additionally, other meetings involved non-state actors like development partners, research institutions, academia, and CSOs. MoF met the following groups to solicit views and comments on the first draft of the PFM Bill: the heads of all public institutions on 3 November 2015; CSOs and academia on 4 November 2015; and all development partners on 5 November 2015.<sup>8</sup> The IRM researcher could not follow up with attendees of the meetings to ascertain their outcomes. The media also reported that two stakeholder meetings were held; "The ministry held two stakeholder engagements with civil society organizations, professional bodies and academia such as the of Chartered Accountants Ghana (ICA), [...] the Trades Union Congress (TUC), the Ghana Employers Association (GEA) and the Ghana National Association of Teachers (GNAT)."<sup>9</sup>

## EARLY RESULTS (IF ANY)

According to some civil society stakeholders, when passed, the law can be used to "punish persons who misuse public funds."<sup>10</sup> However, stakeholders add that the legal framework is not robust enough "deter people from 'stealing from the state.'"<sup>11</sup>

## NEXT STEPS

Moving forward, MOF could give progress reports on fiscal responsibility, including debt management. MOF could begin implementing PFM.

<sup>1</sup> "Ghana needs Fiscal Responsibility Act - Bawumia," GNA (26 Mar. 2014), [www.ghananewsagency.org/economics/ghana-needs-fiscal-responsibility-act-bawumia-72666](http://www.ghananewsagency.org/economics/ghana-needs-fiscal-responsibility-act-bawumia-72666).

<sup>2</sup> These criteria divided into two namely Primary Convergence Criteria (4) and Secondary Convergence Criteria (6). For a full list of Primary and secondary criteria, please see "West Africa's single currency reliant on economic growth" at <http://www.africanreview.com/finance/economy/west-africa-s-single-currency-reliant-on-economic-growth>.

<sup>3</sup> Ibid., 1.

<sup>4</sup> Abu Mubarik, "Fiscal Discipline: Parliament passes Public Financial Management Bill," *Pulse.com.gh* (4 Aug. 2016), [pulse.com.gh/finance/fiscal-discipline-parliament-passes-public-financial-management-bill-id5341709.html](http://pulse.com.gh/finance/fiscal-discipline-parliament-passes-public-financial-management-bill-id5341709.html).

<sup>5</sup> "Ghana's New Public Financial Management (PFM) Law Act 921," Ministry of Finance (Press Conference: 20 Sept. 2016), [www.mofep.gov.gh/sites/default/files/news/Presentation%20on%20the%20New%20PFM%20Act%20-%20media.pdf](http://www.mofep.gov.gh/sites/default/files/news/Presentation%20on%20the%20New%20PFM%20Act%20-%20media.pdf).

<sup>6</sup> Ministry of Finance official in charge of the PFM law, discussion with IRM researcher, 19 Sept. 2016.

<sup>7</sup> The respondent provided about sixteen different invitation letters on the consultation process.

<sup>8</sup> Information obtained from the copies of the scanned invitation letters provided by the Ministry of Finance.

<sup>9</sup> "Parliament Passes Public-Financial Management Bill," (access 21 Sept. 2016), <http://www.graphic.com.gh/news/general-news/parliament-passes-public-financial-management-bill.html>.

<sup>10</sup> "Kan Dapaah calls for fiscal responsibility" (access 21 Sept. 2016), <http://www.ghanaiantimes.com.gh/kan-dapaah-calls-for-fiscal-responsibility/>.

<sup>11</sup> "Kan Dapaah calls for fiscal responsibility" (access 21 Sept. 2016), <http://www.ghanaiantimes.com.gh/kan-dapaah-calls-for-fiscal-responsibility/>.





## ★ 5 | OIL REVENUE MANAGEMENT AND MINERAL DEVELOPMENT FUND

### Commitment Text:

*Ghana intends to continue to ensure transparency and accountability in the management of her natural resources, particularly mining, oil and gas. Pursuant to this commitment, the country has amended its Petroleum Revenue Management Act of 2011 (Act 815) to address some major challenges identified in the course of its implementation in the last four years.*

*To effectively operationalize the amended law, there will be the need to develop regulations (Legislative Instruments) that will detail out how the various clauses are to be interpreted and applied. The Ghana OGP's interest in ensuring the quick passage of the regulations arises out of the tendency for regulations to primary laws to be unduly delayed, thereby impeding their smooth implementation.*

*The commitment to strengthen transparency and accountability in the management of the country's oil and gas revenues is to be pursued additionally through the effective oversight of the Public Interest and Accountability Committee (PIAC), a citizens' oversight body established by the Petroleum Revenue Management Act (PRMA). PIAC has had challenges with funding, and the necessary institutional support for its work. These are issues that are currently being addressed following the amendment of the PRMA and with support from some of the country's development partners.*

*In the wake of the relatively impressive achievements made by Ghana in managing its petroleum revenues judiciously and in accordance with the law, calls are being made on the government to replicate this arrangement in the mining sector too. In partial response to the suggestion, the government is inclined to expedite action in passing a Minerals Development Fund Bill which has been in the works for a decade and more. The bill, when passed will stipulate how 20 percent of mineral royalty set aside is distributed and spent. It will further provide legislative backing for the practice of disbursing 10 percent of mineral royalty to mining host districts.*

### Actions:

- *Organize quarterly sensitization fora on the content, government's and citizens' obligations under the Petroleum Management Act by December, 2017*
- *GHEITI and Ministry of Lands and Natural Resources should hold at least 4 consultative meetings with the Finance Committee of Parliament and the Parliamentary Select Committee on Legal and Subsidiary Legislation on the passage of the Mineral Development Fund Bill by December, 2016*
- *GHEITI should organize 2 public fora on the contents of the Mineral Development Fund Bill by June, 2016*
- *PIAC to organize dissemination fora on its M & E reports on oil revenue management 2017*
- *PIAC and the Ministry of Finance should work together to organize two public consultation on the draft Legislative Instrument of the Petroleum Revenue Management Act by September, 2016*
- *Ministry of Finance should work with Parliament to develop a Legislative Instrument of the Petroleum Revenue Management Act by 2017*

**Editorial note:** Milestone 5.4 was added to the table below to capture the commitment language that "the government is inclined to expedite action in passing a Minerals Development Fund Bill which has been in the works for a decade and more."

**Lead Institutions:** Ministry of Finance, GHEITI, Ministry of Petroleum, Ministry of Lands and Natural Resources

**Supporting Institutions:** National Commission on Civic Education, Public Interest and Accountability Committee (PIAC), Oil and Gas Platform

**Start Date:** Not specified

**End Date:** December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				ON TIME?	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative		Not started	Limited	Substantial	Complete
<b>5. Overall</b>				X	X	X	X					X	Yes			X	
5.1. Public awareness raising on Petroleum Management Act		X			X					X			Yes	X			
5.2. Consultations with Parliament on the passage of MDF			X		X						X		Yes	X			
5.3. Public consultations on contents of MDF Bill				X	X	X					X		Yes	X			
5.4. Pass MDF Bill				X	X							X	Yes				X
5.5. Public consultations on PIAC M & E reports		X			X					X			Yes			X	
5.6. Public consultation on the draft Legislative Instrument				X		X					X		Yes		X		
5.7. Developing a Legislative Instrument of the Petroleum Revenue Management Act			X				X				X		Yes		X		

**Editorial note:** This commitment is clearly relevant to OGP values as written, has transformative potential impact, and is substantially or completely implemented and therefore qualifies as a starred commitment.

## CONTEXT AND OBJECTIVES

This commitment aims to ensure transparency and accountability in the management of extractives, particularly mining, oil, and gas. The commitment has two main areas: Minerals Development Fund (MDF) and oil revenue management.

Stakeholders in the mining sector have been calling for a bill to help track revenues from the sector and enable Ghanaians to appreciate its contribution to the economy.<sup>1</sup> The MDF Bill has been pending for over a decade. Ghana's MDF was established in 1991 to earmark a portion of mineral royalties for the direct benefit of mining communities, such as conducting research.<sup>2</sup> However, the MDF lacked sufficient guidelines and as a result, its funds were used primarily for recurrent expenses by the district assemblies who are tasked with the responsibility to ensure social, economic, and environmental development at the local level.<sup>3</sup>

### **Public Awareness Raising on Petroleum Management Act (PMA):**

The government did not assign an agency to organise quarterly sensitisation events on the PMA. The extent of the sensitisation activities is not clear nor whether they are to be conducted at the national, regional, district or community level. The sensitisation public awareness campaign could help give information to communities about what benefits the community should receive from extractive revenue. This could ultimately build citizens' capacity to demand accountability on the use of petroleum revenue. However, given the lack of information about this activity, the potential impact is coded as minor.

**Consultations with Parliament on the Passage of the MDF:** This milestone did not specify whether the meetings were to discuss the bill's expedited adoption, legal provisions or both. Since the bill has been pending for over a decade, thorough consultations could consolidate support to ensure prompt passage.

**Public Consultations on Contents of MDF Bill:** This milestone intends to organise two public forums to solicit views on the content of the MDF bill. GHEITI and the relevant ministry were to engage Parliament on the bill after having held the public consultation. Gathering public feedback, including views of the relevant CSOs and practitioners, could strengthen the draft.

**Pass MDF Bill:** The commitment mentions that the government will ensure the passage of the MDF bill. The bill could have a transformative impact considering its potential of promoting transparency in the mining sector. The bill will help mitigate abuse of mining funds, as it will stipulate how mining revenue should be spent.

**Public Consultations on PIAC M&E Reports:** This milestone concerns the monitoring and evaluation (M&E) of oil revenue management. PIAC is a citizens-led statutory body established under Section 51 of the Petroleum Revenue Management Act (PRMA- Act 815) established in 2011. Its functions include monitoring and evaluating compliance with the PRMA by government and relevant institutions in the management and use of petroleum revenues and investments, among others. Since its establishment, PIAC has been publishing reports on petroleum revenue management (often referred to as M&E reports). While PIAC has been publishing M&E results before the preparation of the second action plan, these reports were disseminated only at the regional level (mainly two regions) without any feedback. However, this milestone extends the M&E report to the district level.

PIAC solicits views from citizens and sends these views to the national level as inputs into the national budget. At the district level, PIAC also obtains information from citizens about projects implemented with petroleum revenue. Information obtained on these projects can help minimize misappropriation of funds. It also brings about transparency in the use of oil revenue. A member of a CSO working on oil and gas issues expressed his delight about the new locations in which PIAC will hold forums.<sup>4</sup> This milestone could have a moderate potential impact in bringing transparency to the usage of petroleum revenue funds. However, given the uncertainty resulting from the lack of reference to the expanded scope of the consultation in the commitment language, the commitment received minor potential impact.

### **Developing a Legislative Instrument of the PRMA:**

This milestone seeks to develop a Legislative Instrument (LI) to clarify the interpretation and application of clauses in the PRMA. This milestone came about as a result of some inconsistencies and operational challenges in the implementation of the PRMA.<sup>5</sup> A 2015 amendment sought to address these challenges and provide a legal framework for the collection, allocation and management

of petroleum revenue in a responsible, transparent, accountable and sustainable manner for the benefit of Ghanaians in accordance with Article 36 of the 1992 Constitution.<sup>6</sup> This milestone was coded moderate because the LI will lead to the full realization of the broad aim of the MDF law. Milestone 5.6 commits MOF to hold public consultations on the Legislative Instrument (LI). This process captures input from other stakeholders who were not part of the drafting phase.

## COMPLETION

The commitment has demonstrated limited implementation progress. While the MDF bill was passed and the Legislative Instrument was substantially completed, a number of milestones were not started after the first year of implementation.

### **Public Awareness Raising on Petroleum Management Act:**

The government did not organise quarterly sensitisation forums on the content or government and citizen obligations under the Petroleum Management Act. The researcher contacted both CSOs and public institutions in the extractive sector but found no evidence of any public awareness activities. According to a GHEITI respondent, his outfit, Ghana Chamber of Mines, Ministry of Lands and Natural Resources, and the Minerals Commission are planning a forum on the Act which will bring together all the stakeholders, including citizens, in November 2016.<sup>7</sup>

### **Consultations with Parliament on the Passage of MDF:**

There is no publicly available information on the consultative meetings on the passage of the MDF bill. The researcher contacted Parliament to inquire about consultative meetings with the two parliamentary committees. The Parliament respondent stated that common practice is to carry out consultations before a bill is passed into law.<sup>8</sup>

**Public Consultation on Contents of MDF Bill:** GHEITI provided some of their reports on their dissemination activities to the researcher but there was no evidence that this milestone has been carried out.

**Pass MDF Bill:** In February 2016, Parliament passed the Mineral Development Fund Bill into law.<sup>9</sup>

**Public Consultations on PIAC M&E Reports:** PIAC's M&E dissemination activities were limited to only two

regions. In 2016, PIAC extended their forums to 60 districts. At one of the district forums, a media report quoted the PIAC Coordinator saying that PIAC was "organizing 'Districts Dissemination' fora on its report and to solicit public inputs on the next selection of priority areas for the 2017/2019 annual budget in accordance with the National Petroleum Management Act (Act 815) 2011."<sup>10</sup> These forums were ongoing at the time of preparing this report. PIAC is also inspecting projects funded with the oil revenue to ascertain whether the money was used for the purpose for which it was disbursed.

### **Public Consultation on the Draft Legislative Instrument:**

Regarding the preparation of the LI for PRMA, both CSOs working on oil and gas and officials at MOF indicated that MOF is in the process of developing the LI.<sup>11</sup> The process involved elaborate consultation with key stakeholders. MOF established three technical committees to consider the regulations and provide their recommendation to Attorney General's Department. One of the CSO respondents belonged to one of these technical committees.

**Developing a LI of the PRMA:** According to MOF, the LI was placed before Attorney General's Department (AGD) in March 2016. In July 2016, the AGD came back to MOF for some clarification which MOF has provided. According to respondents working on the LI, it will be sent to Parliament after the AGD has finished working on it.

## EARLY RESULTS (IF ANY)

Regarding consultations on PIAC reports, the researcher has not found evidence of CSOs working on the M&E report or using the reports to ask questions.

Given the lack of progress on the other milestones, there are no early results available yet.

## NEXT STEPS

If the government is to include this commitment in its next action plan, it should consider structures to ensure that royalties transferred to the mining communities are effectively monitored. This could be accomplished by establishing a mechanism where the amount transferred to the communities is communicated to those citizens

so they might hold authorities responsible. In addition, government could consider capping district assemblies' use of mining royalties for recurrent expenses. As is being done for the district assembly common fund (DACF), there could be a policy for the assemblies to use mining royalties mainly for development projects in consultation with the community members.

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<sup>1</sup> "Minerals Development Fund to be developed to track mining benefits to the economy," (accessed 21 Sept. 2016), <http://en.africatime.com/ghana/articles/minerals-development-fund-be-developed-track-mining-benefits-economy>.

<sup>2</sup> "Chamber of Mines proposes 30 percent royalties for communities," *GNA* (accessed 21 Sept. 2016), <http://www.mofep.gov.gh/?q=news/060511>.

<sup>3</sup> "Frequently Asked Questions on the Mining Industry," *Chamber of Mines*, [ghanachamberofmines.org/wp-content/uploads/2016/11/Frequently\\_Asked\\_Questions\\_-\\_August\\_2014.pdf](http://ghanachamberofmines.org/wp-content/uploads/2016/11/Frequently_Asked_Questions_-_August_2014.pdf).

<sup>4</sup> The IRM Researcher talked to a key staff at CSO Platform on Oil and Gas on 13 Sept. 2016.

<sup>5</sup> Ghana's Petroleum Revenue Management Act amended Bill (access 21 Sept. 2016) available from: <https://www.newsghana.com.gh/ghanas-petroleum-revenue-management-act-amended/>.

<sup>6</sup> Parliament Passes Petroleum Revenue Management (Amendment) Bill into Law

(Bill access 21 Sept. 2016) available from: <http://www.ghana.gov.gh/index.php/media-center/news/1595-parliament-passes-petroleum-revenue-management-amendment-bill-into-la>.

<sup>7</sup> The IRM Researcher talked to a key staff at the Ghana Extractive Industry Transparency Initiative (GHEITI) at Ministry of Finance on 29 Aug. 2016.

<sup>8</sup> The researcher interviewed a team at the Research Department of Parliament on 26 Sept. 2016.

<sup>9</sup> Government of Ghana. "Parliament Passes Mineral Development Fund Bill." Nd. Web. <http://www.ghana.gov.gh/index.php/media-center/news/2445-parliament-passes-mineral-development-fund-bill>.

<sup>10</sup> Half-Assini, "Jomoro indigens unhappy with oil fund disbursement," *GNA* (25 Aug. 2016), [www.ghananewsagency.org/social/jomoro-indigenes-unhappy-with-oil-fund-disbursement-107185](http://www.ghananewsagency.org/social/jomoro-indigenes-unhappy-with-oil-fund-disbursement-107185).

<sup>11</sup> The meeting with the CSOs on oil and gas platform occurred on 13 Sept. 13, 2016 while the meeting with MOF (oil and gas unit) was on 22 Sept. 2016.



# THEME 3: TECHNOLOGY AND INNOVATION

## 6 | GHANA OPEN DATA 2.0

### **Commitment Text:**

*During the Action Plan Period, GODI will work towards improving the efficiency of the Open Data portal (data.gov.gh), data collection capabilities of data controllers and focus on showing impact in four sectors – health, education, energy and agriculture – by ensuring that full benefits of open data can be shown in these sectors.*

### *Actions:*

- *Upgrade Ghana Open Data portal to enhance data management features and incorporate open data standards in order to meet global standards*
- *Infuse analytic engines into the Ghana Open Data portal platform to help users of the portal do more data analysis (correlation of datasets) and make evidence-based decisions*
- *Establish data standards and do four collections and management capacity building workshops in each of the four selected sectors*
- *Put up 50 dataset that has business value for economic empowerment of open data entrepreneurs, journalists and developers*
- *Organize four Hackathons (or boot camps) every quarter for each of the sectors over the two (2) year period to develop citizen-centric free application for use by citizens*
- *Put in place an effective impact monitoring system to measure economic and social impact*
- *In collaboration with other open data stakeholders, GODI will establish the Ghana Open Data Alliance*

**Editorial Note:** Milestone 6.3 encompasses two of the actions in the commitment text: (1) Establish data standards and do four collections and management capacity building workshops in each of the four selected sectors and (2) put up 50 dataset that has business value for economic empowerment of open data entrepreneurs, journalists and developers.

**Lead Institutions:** NITA, GNA, PSRS

**Supporting Institutions:** Ghana Statistical Service, Data Controllers, Research Institutions, CSOs with interest in Open Data, MDAs, CAGD, YES-Ghana

**Start Date:** Not specified

**End Date:** December 2017

COMMITMENT OVERVIEW	SPECIFICITY				OGP VALUE RELEVANCE				POTENTIAL IMPACT				ON TIME?	COMPLETION			
	None	Low	Medium	High	Access to Information	Civic participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Yes	Not started	Limited	Substantial	Complete
<b>6. Overall</b>			X		X	X		X			X		Yes		X		
6.1. Upgrade Open Data portal		X			X			X		X			Yes		X		
6.2. Technical improvement of Open Data portal		X			X			X		X			Yes	X			
6.3. Data standards, capacity building, and 50 datasets for the portal			X		X			X		X			Yes	X			
6.4. Organize Hackathons			X		X			X			X		Yes	X			
6.5. Impact monitoring system		X			X			X		X			Yes	X			
6.6. Ghana Open Data Alliance			X		X	X		X			X		Yes		X		

## CONTEXT AND OBJECTIVES

The main focus of the commitment is to improve data collection and management in the health, education, energy, and agriculture sectors, as well as to enable people to access Ministries, Departments, and Agencies (MDA) data online. In 2011, Ghana joined the global Open Data Initiative (ODA) which led to the establishment of the National Information and Technology Agency (NITA) and the Ghana Open Data Initiative (GODI). The purpose of GODI is to create a community of government, CSOs, developers, academia, journalists and citizenry to develop an open data portal that could bring about efficiency and transparency in government. The portal provides datasets that can be downloaded free of charge. In Ghana, internet users increased from 10.6% in 2012 to 18.9% in 2014, and it is estimated to be 28.4% in 2016.<sup>1</sup>

Assessing these milestones has proven difficult due to their technical nature and the lack of comprehensive information available from NITA. Efforts to contact YES Ghana, one of the CSOs mentioned in the action plan, went unanswered. Hence the researcher did not have any third party sources for assessment of this commitment.

None of the milestones clearly specify the implementing institutions. Since there are three institutions mentioned as lead agencies, it is difficult to know which institution is implementing which milestone.

**Upgrade Open Data Portal:** This milestone commits the government to upgrade the open data portal to enhance data management but does not specify which new features would be added nor which international open data standards are being considered by the government. As a result, the IRM researcher coded the potential impact as minor since it is difficult to estimate how this



milestone would improve the existing portal.

**Technical Improvement of Open Data Portal:** Similarly to Milestone 6.1, this milestone does not detail the steps NITA will take to improve data analysis.

**Data Standards, Capacity Building, and 50 Datasets for the Portal:** This aims to build capacity and train those in charge of data management in the four sectors involved in this commitment. The milestone also targets entrepreneurs, journalists and developers to ensure the information released by NITA meets their needs. However, the lack of information regarding the content of the training makes the potential impact of the milestone difficult to assess.

**Organize Hackathons:** The ultimate goal of the four Hackathons is to create applications that are relevant to citizens and free to use. Depending on the outcome of these hackathons, the applications could increase access to information or allow citizens to report issues in their community.

**Impact Monitoring System:** This milestone aims to establish an impact monitoring system. However, the milestone was broadly stated making it difficult to know the sectors involved, ascertain the areas within the sectors for impact monitoring, or estimate the indicators of the milestone.

**Ghana Open Data Alliance:** This anticipates NITA's establishment of the Ghana Open Data Alliance (GODA). The purpose of GODA is to bring together public and private stakeholders to create common standards for collecting, producing, sharing and using open data.<sup>2</sup> GODA extends beyond the four sectors mentioned earlier to incorporate stakeholders to advocate for open data. This participatory platform could help ensure open data sharing in the country.

## COMPLETION

The implementation of this commitment is limited but many of the milestones are in the process of being carried out.

**Upgrade Open Data Portal:** According to a NITA representative, the GODI team upgraded the portal to a DKAN version with enhanced data management features.<sup>3</sup> DKAN is an open-source data management

platform that allows users to publish, manage and maintain open data content. Under a program implemented by NITA called e-transform, the institution prepared the terms of reference (TOR) and hired a consultant to further update the portal to global best practices. The procurement process and implementation may take up to six months. While the portal appears to have been upgraded with the DKAN feature, NITA did not provide a copy of the TOR and the second part of the milestone remains unfulfilled.

**Technical Improvement of Open Data Portal:** Regarding infusing analytics into the portal, NITA said the current portal has the ability to do co-relations of two datasets and technically has the analytics feature. According to the respondent, this feature will be enhanced further after the upgrade is done. However, the IRM researcher could not find the analytic features on the portal website.

**Data Standards, Capacity Building, and 50 Datasets for the Portal:** According to the NITA respondent, the institution developed the relevant TORs for establishing data standards but did not provide copies of the TORs to the IRM researcher. In addition, NITA developed the TOR for establishing standards and business-centric datasets and the procurement process will commence soon. The NITA respondent did not specify a timeline.

**Organize Hackathons:** No hackathons have occurred. NITA plans to organize hackathons for 2017.

**Impact Monitoring System:** According to NITA, the monitoring program has not started but will commence before the close of 2016. The focus of impact monitoring will be on four key sectors: Education, Energy, Agriculture, and Nutrition and Health.

**Ghana Open Data Alliance:** In July 2016, there was a forum on Open Data, Open Science and Open Access in Agriculture in Ghana during which participants agreed to establish a multi-actor platform to advocate for open data in the country.<sup>4</sup> The researcher was not able to solicit participants' views on the importance of GODA. NITA indicated that a draft version of GODA's bylaws are in place but these were not on NITA's website.<sup>5</sup> The NITA respondent mentioned that discussions with stakeholders are in progress and the bylaws should launch by close of 2016.

## EARLY RESULTS (IF ANY)

It is too early to assess results on the portal as many of the milestones are still in progress.

## NEXT STEPS

The researcher believes that expanding GODI to cover all the public institutions will help address the challenges associated with public institutions' release of information. Even before the Right to Information bill passes, GODI can serve as a platform for providing the necessary systems for implementing RTI law.

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<sup>1</sup> "Ghana Internet Users," *Internet Live Stats* (2016), [www.internetlivestats.com/internet-users/ghana/](http://www.internetlivestats.com/internet-users/ghana/).

<sup>2</sup> Justin Chisenga, "Multi-actor platform to advocate for open data in Ghana on the way," *Blogger* (13 Jul., 2016), <http://justinchisenga.blogspot.com/2016/07/multi-actor-platform-to-advocate-for.html>.

<sup>3</sup> The respondent did not provide details of the best practice standards.

<sup>4</sup> *Ibid.*, 2.

<sup>5</sup> The bylaws are currently not available on the internet.

# IV | COUNTRY CONTEXT

Ghana benefits from a stable democracy and vibrant civil society. The country is improving governance by working toward more transparency in the extractive sector and implementing a national anti-corruption plan. Remaining challenges include inadequate public participation at the local level and limited proactive asset disclosure by officials.

After gaining independence between 1957 and 1992, Ghana had a chequered political history comprising of periods of authoritarianism interspersed with brief periods of democratic government. In the early 1990s, the country moved from political authoritarianism and instability to a path of sustained democratization. After the 1992 Constitution, Ghana has practiced a stable, peaceful democratic system of government gaining the country an enviable reputation of being one of Africa's most democratic and best governed countries.<sup>1</sup>

Ghana's constitution and other legal documents establish pluralism and enable citizen participation. The Constitution and the legal framework provide equal participation in political life for the various ethnic and religious communities. The multiparty system allows meaningful representation of various political parties in the political process. Ghana has experienced competitive elections since 1992 and two peaceful democratic transfers of power in 2000 and 2008.<sup>2</sup>

The civil society landscape is vibrant and CSOs play important roles in holding government accountable. One of their efforts to open up government was the establishment of the National Governance Program (NGP) in 1997 to facilitate interactions between actors and institutions within state and non-state entities. It was intended to focus on critical alternative sources of power to the Executive and provide a system of checks and balances as well as capacity-building within institutions like Parliament, Electoral Commission, Media Commission, CHRAJ, and the National Commission on Civic Education.<sup>3</sup> The program was designed to empower CSOs to claim their legitimate political space and assume their rightful role in the policy making process.

Ghana has a diverse media landscape that includes state and privately owned television and radio stations,

and several independent newspapers and magazines. However, as pointed out by the Freedom House report, "government agencies occasionally restrict press freedom through harassment and arrests of journalists, especially those reporting on politically sensitive issues."<sup>4</sup>

In the last two decades, the country has signed a number of international legal instruments and established an institutional framework necessary for good governance. In December 2004, Ghana ratified the United Nations Convention Against Corruption (UNCAC). Ghana joined the African Peer Review Mechanism (APRM) in 2005 with commitments in the area of open, transparent and accountable government.<sup>5</sup> In 2003, Ghana agreed to the Extractive Industry Transparency Initiative (EITI) with the objective of making its extractive sector more transparent and accountable. In 2011, Ghana joined the global Open Data Initiative (ODI), an initiative for transparency in government transactions and creating business opportunities for reusing open government data.<sup>6</sup> That same year, Ghana joined the Open Government Partnership (OGP).<sup>7</sup>

Through these initiatives, Ghana has established institutions and policies to promote transparency and accountability in the country. The Ghana Extractive Industries Transparency Initiative (GHEITI) is working with stakeholders, including CSOs, to promote transparency and accountability in the extractive sector.<sup>8</sup> In 2016, "Ghana has been acclaimed an exemplary implementer of the Extractive Industries Transparency Initiative (EITI), and honoured for its strict implementation of the recommendations of the Ghana EITI (GHEITI) leading to far-reaching policy, regulatory, and institutional reforms in its mining, oil and gas sectors."<sup>9</sup> The Ghana Open Data Initiative (GODI) is

publishing online information from sector agencies which might otherwise be difficult to obtain. Some of the institutions and policy documents Ghana has developed through these earlier initiatives have been the basis of many laws and also the commitments in the OGP action plan.

Following up on UNCAC, Ghana has developed a holistic, ten-year action plan, the National Anti-Corruption Action Plan (NACAP), to tackle corruption. In 2009, Ghana began the development of a national anti-corruption strategy. At a 2012 forum organised by a CSO, the Institute of Economic Affairs (IEA), political parties pledged their support for the strategy. Later in 2014, the Parliament of Ghana unanimously adopted NACAP (2015 - 2024) as a non-partisan blueprint for fighting corruption in the country.<sup>10</sup> In March 2015, the President went further and issued directives to all public institutions to implement NACAP, which will form part of performance appraisals for Ministers, Chief Directors and CEOs of state institutions. Implementing institutions are also required to submit quarterly reports to CHRAJ with copies to the Office of the President (OOP).<sup>11</sup> NACAP also has a monitoring and evaluation committee (MONICOM) to monitor and track the progress of NACAP implementation and present periodic and annual reports on implementation progress.

Despite positive developments, there are serious shortcomings in a number of areas and OGP could serve as an appropriate platform for addressing these challenges.

For many years, Transparency International representatives in Ghana, the Ghana Integrity Initiative (GII), has cited the judiciary as one of the most corrupt institutions in the country. In September 2016, an investigative journalist released a video exposing widespread corruption in the judiciary with 180 officials of the Judicial Service caught on camera taking bribes and extorting money from litigants. Thirty-four of the suspected culprits were said to be judges at the High, the Circuit and the District courts.<sup>12</sup> Based on the information provided by this whistleblower, the government has started taking action. In March 2016, the Judicial Council dismissed nineteen judicial service workers who were indicted in the scandal.<sup>13</sup> By August 2016, 26 of the 34 judges had been fired after being

found guilty of the charges proffered against them following evidence gathered from this video.<sup>14</sup>

The Constitution guarantees to all the right to information. Successive governments from the 1990s made some efforts to pass a Right to Information Bill. However, two decades later, the law still has not been passed. Lack of proper record management in public institutions, a pre-requisite for implementing access to information legislation, seems to be a major hindrance for enacting the law.

The Constitution provides for an elaborate system of local government and decentralized administration. The local government system is supposed to be one of the principal political mechanisms for ensuring popular participation in decision-making at the local level. However, many of the sub-district structures (Unit Committees, Town and Area Councils) are not functioning effectively.<sup>15</sup> The two main engagements regarding citizens' participation at the national level are meet-the-press sessions (where MDAs brief the public through the press about their respective activities and receive feedback) and meet-the-people forums (where the Ministry of Communications engages the public at regional levels on national level issues and receives feedback). On civic engagement, a political analyst aptly stated, "There is also limited or no interaction between citizens and their elected leaders, such as Members of Parliament and assembly members after elections, very little lawful citizen collective action as well as sustained demand for public official accountability."<sup>16</sup> Government could use the OGP platform more effectively to make commitments which could meaningfully engage citizens both at the national and local level through creating feedback mechanisms on government services using mobile technology.

Ghana scored 51% on the 2015 Open Budget Survey (OBS).<sup>17</sup> While the Ministry of Finance is proactive in releasing fiscal data, it needs to do more by separating sector-level fiscal data by individual programs.<sup>18</sup> The lack of detailed expenses within "key policy programmes have been identified as challenges to budget transparency, monitoring and evaluation."<sup>19</sup> The new Public Financial Management Act, 2016, (Act 921) which is part of the OGP action plan, requires public institutions to prepare performance reports on budget

implementation. This will enable public institutions to report on their use of public funds and promote transparency and accountability.

Reports by Transparency International and the World Bank show a high perception of political corruption and corruption among key public officials. Public disclosure is still not designed to minimize the perception of corruption among key public officials.<sup>20</sup> On public disclosure, Ghana's first action plan states: "Government commits to make public officers more accountable to the public by encouraging Parliament to effect the speedy passage of the Code of Conduct for Public Officers Bill and initiate action for immediate implementation." This commitment was not implemented and was also not carried forward in the second action plan. The Constitution, Article 286 (1), requires all public officeholders to submit to the Auditor-General written declarations of all property, assets and liabilities owed by them; these officials include the President, the Vice-President, the Speaker, the Deputy Speaker of Parliament, ministers, deputy ministers of state, ambassadors, the Chief Justice and managers of public institutions in which the state has interest. However, *public* disclosure by these officials is not required unless demanded as evidence by a court of competent jurisdiction, a commission of inquiry appointed under Article 278 or before an investigator appointed by the Commissioner for Human Rights and Administrative Justice (CHRAJ). The Public Officers Assets Declaration Act, Act 550 seeks to provide the framework and guidelines for asset declaration in Ghana as a tool to combat corruption among public office holders; however the deputy minority leader considers this act inadequate.<sup>21</sup> The still-pending Conduct of Public Officers Bill, 2013, seeks to ensure harmony and coherence among the various pieces of anti-corruption legislation and provides for asset declaration but does not go beyond the Constitution to mandate publication of asset declaration.

Ghana is rich in minerals as well as other natural resources. The discovery of oil in 2010 requires an improved system of governance to ensure the country does not experience the "natural resource curse." There were earlier efforts to promote good governance in the country. However, these efforts were not coordinated to bring about the desired results. Ghana's OGP

action plans have been working to harmonize good governance efforts. For example, a commitment in the second action plan not only meets an EITI requirement but also initiates compliance with other international standards like the global Financial Action Task Force (FATF), a regional body of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA).

Over the years, the country has not been able to meet its rising electricity demands, leading to supply gaps and causing load shedding. The energy crisis reached its peak in 2014 and early 2015. In February 2015, Ghana's largest opposition party, the New Patriotic Party, led a mass demonstration against the worsening electricity shortages that it alleges are caused by corrupt Ministry of Energy officials.<sup>22</sup> In the State of the Nation Address to Parliament, President Mahama promised to "fix" the energy crisis.<sup>23</sup> By the end of December 2015, the government announced an end to load shedding.<sup>24</sup>

Based on efforts by successive governments to promote transparency, accountability and participation, Ghana has a chance to integrate these efforts and ensure these goals through constitutional provisions. OGP action plan preparation is an opportunity for citizens, private sector, faith based groups, civil society, media, and government to suggest commitments that will improve the existing approach to transparency, accountability and participation. During action plan preparation, all stakeholders must cooperate to form commitments that will stretch government practice. Structures and resources for implementing the action plan must be carefully outlined to ensure smooth implementation of the plan.

## STAKEHOLDER PRIORITIES

Many of the civil society actors interviewed by the IRM researcher said that they are satisfied with the content of the second action plan. They think the commitments in the action plan cover important areas that need action. None of the respondents complained about any of the commitments or suggested new areas to be included in the next action plan. However, at the stakeholder meeting in Tamale, one issue raised was that the focus of open data actions revolved around internet availability. While internet access in Ghana is

increasing quickly, future action plans should address other innovative ways for accessing information. For example, mobile phone usage is widespread and might be utilized for disseminating information.<sup>26</sup>

Civil society members expressed concern about the government's commitment to OGP. At a stakeholder forum in Accra, a key concern raised was that the government is not dedicating enough resources to fund the OGP process. A common claim by these stakeholders is that the OGP Secretariat is placed under an orphaned ministry. They believe the Public Sector Reform Secretariat, under the Ministry of Public Sector Reforms is not well resourced and the Minister does not have a cabinet position through which he might bring OGP issues to cabinet. They also called the OGP Secretariat a "one man" secretariat meaning that the secretariat does not have enough staff to function effectively. Both CSO and government respondents think the secretariat should be placed under the Office of the President headed by the Chief of Staff as is being done for NACAP High Level Implementation Committee (HiLIC).<sup>27</sup> They suggested the government must replicate NACAP structure for OGP.

One presenter at the Accra forum, who is also the civil society representative on the OGP steering committee, claimed many government institutions represented on the steering committee fail to attend OGP meetings regularly and that CSO members are more frequent attendees. However, some government institutions such as the Ministry of Communications and the National Information and Technology Agency (NITA) were mentioned as active participants at OGP steering committee meetings.

## SCOPE OF ACTION PLAN IN RELATION TO NATIONAL CONTEXT

The action plan covered some areas of concern for Ghanaians such as extractive sector transparency and contract monitoring. However, other areas for improvement remain. These include misuse of public funds, perception of public official corruption, and lack of participation in decision-making at the local level.

Given reports of widespread perception of corrupt public officials, passing the Conduct of Public Officers Bill could be a priority area under the next action plan.<sup>28</sup>

The current draft could go beyond the constitutional requirement and mandate publication of asset declaration. The question is whether the bill should be passed the way it is or revised for increased relevance.

Open contracting and contract monitoring are additional tools to tackle the misuse of public funds and corruption. In addition, tracking government investments was a commitment from the first action plan that was not implemented. Contract monitoring and tracking government investment could be combined in a commitment in the next action plan.

Much of the focus of the RTI bill was placed on the bill's passage instead of ensuring storage and retrieval of information by institutions. Whether the RTI bill is passed or not, it is necessary to initiate steps to ensure the relevant institutions are managing information effectively. These steps were absent in the two action plans and should be considered in the next action plan.

To promote effective citizen participation in decision-making processes, the government needs to strengthen mechanisms for ensuring citizens can receive feedback from the elected officials (both Members of Parliament and Assembly Members). This can be accomplished through innovative ways to ensure citizen engagement and open civic space, such as providing feedback mechanisms through mobile phones.

Fiscal transparency was a starred commitment in the first action plan yet this was left out in the second action plan. The country has made improvements toward budget transparency by passing the Public Financial Management (PFM) Act. Further improvements might include the Ministry of Finance requiring disaggregation of sector-level fiscal data by programs.

- <sup>1</sup> Constitution of the Fourth Republic of Ghana, available online at <http://www.parliament.gh/assets/file/Acts%202016/CONSTITUTION%20OF%20THE%20FOURTH%20REPUBLIC%20OF%20GHANA.pdf>.
- <sup>2</sup> "Ghana," Freedom House (2016), <https://freedomhouse.org/report/freedom-world/2016/ghana>.
- <sup>3</sup> Alan Doig, David Watt and Robert Williams, Measuring 'success' in five African Anti-Corruption Commissions - the cases of Ghana, Malawi, Tanzania, Uganda and Zambia, (2005) pp 56-60. Report by U4 Anti-Corruption Resource Centre.
- <sup>4</sup> Ibid., 2.
- <sup>5</sup> Please see African Peer Review Mechanism, [aprm-au.org](http://aprm-au.org).
- <sup>6</sup> Please see Ghana Open Data Initiative, National Information Technology Agency, [data.gov.gh](http://data.gov.gh).
- <sup>7</sup> Please see "Ghana," *Open Government Partnership*, [www.opengovpartnership.org/country/ghana](http://www.opengovpartnership.org/country/ghana).
- <sup>8</sup> GHEITI, a local component of EITI, is a multi-stakeholder group comprising three public institutions (Ministry of Petroleum, Ministry of Lands and Natural Resources and Ministry of Food and Agriculture) and civil society organizations. GHEITI is hosted at the Ministry of Finance.
- <sup>9</sup> "Ghana wins global extractive industry transparency award," *GHEITI* (Feb. 2016), [http://www.gheiti.gov.gh/site/index.php?option=com\\_content&view=article&id=224:ghana-wins-global-extractive-industry-transparency-award&catid=1:latest-news&Itemid=29](http://www.gheiti.gov.gh/site/index.php?option=com_content&view=article&id=224:ghana-wins-global-extractive-industry-transparency-award&catid=1:latest-news&Itemid=29).
- <sup>10</sup> Daniel Batidam "Fighting corruption: Moving from rhetoric to action (1)" *graphic.com.gh* (22 April 2015) <http://www.graphic.com.gh/features/opinion/fighting-corruption-moving-from-rhetoric-to-action-1.html>
- <sup>11</sup> Ibid.
- <sup>12</sup> Albert Buabeng, "Bribery scandal 34 judges cited for corruption," *pulse.com.gh* (10 Sept. 2015), [pulse.com.gh/news/bribery-scandal-34-judges-cited-for-corruption-id4149472.html](http://pulse.com.gh/news/bribery-scandal-34-judges-cited-for-corruption-id4149472.html).
- <sup>13</sup> Godwin A. Allotey, "Anas' exposé: 19 judicial service staff sacked," *Citifmonline.com* (18 Mar. 2016), <http://citifmonline.com/2016/03/18/anas-expose-19-judicial-service-staff-sacked/>.
- <sup>14</sup> "GJA in contempt of court for awarding Anas – Lawyer," (accessed 18 Oct. 2016), <http://ghonetv.com/2016/08/29/gja-contempt-court-awarding-anas-lawyer/>.
- <sup>15</sup> David Forkuor and Prince Osei Wusu Adjei, "Analysis of Prospects and Challenges of Sub-District Structures under Ghana's Local Governance System," (2016).
- <sup>16</sup> Asmah, Kobby. "Don't leave civic space to politicians alone." 10 May 2016, <http://www.graphic.com.gh/features/civic-realities/don-t-leave-civic-space-to-politicians-alone.html>.
- <sup>17</sup> "Ghana," International Budget Partnership (Apr. 2016), <http://www.internationalbudget.org/opening-budgets/open-%20budget-initiative/open-budget-%20survey/country-info/?country=gh>.
- <sup>18</sup> Ministry of Finance website, <http://www.mofep.gov.gh/>.
- <sup>19</sup> "Lack of fiscal data stalls budget transparency," *GhanaWeb* (26 Sept. 2014), [www.ghanaweb.com/GhanaHomePage/business/Lack-of-fiscal-data-stalls-budget-transparency-327589](http://www.ghanaweb.com/GhanaHomePage/business/Lack-of-fiscal-data-stalls-budget-transparency-327589).
- <sup>20</sup> Dr. Kwaku S. Afesorgbor, "The causes, consequences and control of corruption in Ghana," *MyJoyOnline* (5 Jan. 2016), [www.myjoyonline.com/opinion/2016/January-5th/the-causes-consequences-and-control-of-corruption-in-ghana.php](http://www.myjoyonline.com/opinion/2016/January-5th/the-causes-consequences-and-control-of-corruption-in-ghana.php).
- <sup>21</sup> "Current asset declaration law useless -Deputy Minority Leader," *MyJoyOnline* (21 Jul. 2015), [www.myjoyonline.com/politics/2015/july-21st/current-asset-declaration-law-useless-deputy-minority-leader.php](http://www.myjoyonline.com/politics/2015/july-21st/current-asset-declaration-law-useless-deputy-minority-leader.php).
- <sup>22</sup> Dasmani Laary, "Ghana opposition leads protest against power crisis," *The Africa Report* (10 Feb. 2015), [www.theafricareport.com/West-Africa/ghana-opposition-leads-protest-against-power-crisis.html](http://www.theafricareport.com/West-Africa/ghana-opposition-leads-protest-against-power-crisis.html).
- <sup>23</sup> Dr. Kwame Ampofo, "State of the Nation Address; Matters arising on energy," *Ghana Web* (15 Mar. 2016), [www.ghanaweb.com/GhanaHomePage/features/State-of-the-Nation-Address-Matters-arising-on-energy-423558](http://www.ghanaweb.com/GhanaHomePage/features/State-of-the-Nation-Address-Matters-arising-on-energy-423558).
- <sup>24</sup> Dumsor ends: report (accessed 21 Sept. 2016) available from: <http://www.graphic.com.gh/news/general-news/dumsor-ends.html>
- <sup>25</sup> "Ghana: Internet Usage Stats and Market Reports," Internet World Stats (2 May 2016), [www.internetworldstats.com/af/gh.htm](http://www.internetworldstats.com/af/gh.htm).
- <sup>26</sup> Dasmani Laary, "Ghana: Mobile phone penetration soars to 128%," *The Africa Report* (9 Mar. 2016), <http://www.theafricareport.com/West-Africa/ghana-mobile-phone-penetration-soars-to-128.html>.
- <sup>27</sup> Those working on anti-corruption (both CSOs and government) claimed NACAP is working effectively because the Chief of Staff is leading the process.
- <sup>28</sup> Ibid., 20.





# V | GENERAL RECOMMENDATIONS

The government could consider building capacity of the OGP Secretariat in Ghana to allow it to effectively conduct oversight of the OGP process. In addition, the government might consider adding new policy areas in the next action plan such as fiscal transparency.

The cross-cutting recommendations are:

- To ensure effective implementation of commitments, the government could place the OGP secretariat directly under the Chief of Staff as is being done for NACAP High Level Implementation Committee. This could help foster a better supervision of commitment implementation by the lead agencies. In addition, the OGP secretariat could work with Ministry of Finance to include OGP in the national budget;
- During action plan implementation, the Steering Committee should convene at least every three months to monitor progress. Meeting outcomes should be communicated publically so all interested stakeholders can be kept apprised of progress;
- The next action plan could ensure implementation of the relevant provisions of laws passed under the current action plan, such as the new Company Act, Public Financial Management Act, and Mineral Development Fund Act. In cases where regulations have not been prepared for these laws, the action plan could ensure that legislative instruments are created to make the laws operational; and
- Some milestones in the action plan were not well developed. For example, some specified incorrect implementing institutions while others left out the institutions entirely. In the future, those responsible for developing the action plan must ensure the lead agencies are correctly specified, the date on commencement of the action plan is provided, and the milestones are specific and measurable. Additionally, a list of points of contact within the lead agencies should be included as an annex in the next action plan.

**Table 5.1: Top Five “SMART” Recommendations**

1 SUSTAINABILITY	2 QUALITY, INCLUSIVENESS	3 PERMANENCE	4 OPEN DATA FOR ALL	5 CONSENSUS BEYOND 2016
Government should provide necessary financial, human, and logistical resources for the OGP secretariat to enable it function effectively.	To ensure effective implementation of a future Right to Information Act, the government will need to prioritize record management (including storage and retrieval).	The next action plan can prioritize online asset and income declarations by public officials to minimize the high public perception of political corruption.	The next action plan can include commitments to improve fiscal transparency. Specifically, the Ministry of Finance can establish program-level performance reporting in all sector agencies in conformity with the new Public Financial Management law.	At the district level, assemblies could ensure elected assembly members and the sub structures are engaged in community projects through open planning, budgeting and monitoring.



# VI | METHODOLOGY AND SOURCES

The IRM midterm report is written by well-respected governance researchers based in each OGP-participating country. All IRM reports undergo a process of quality control to ensure the highest standards of research and due diligence have been applied.

Analysis of OGP action plan progress is a combination of interviews, desk research, and feedback from nongovernmental stakeholder meetings. The IRM report builds on the findings of the government's own self-assessment report and any other progress assessments produced by civil society, the private sector or international organizations.

Each IRM researcher carries out stakeholder meetings to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested or affected parties. Consequently, the IRM strives for methodological transparency, and therefore where possible, publishes stakeholder engagement in research (detailed later in this section). In those national contexts where anonymity of informants—governmental or nongovernmental—is required, the IRM reserves the prerogative to protect informant anonymity. Additionally, because of inevitable methodological limitations, the IRM strongly encourages commentary on public drafts of each national document.

Each report undergoes a four-step review and quality control process:

1. Staff review: IRM staff review the report for grammar, readability, content and adherence to IRM methodology.
2. International Experts Panel (IEP) review: IEP reviews the content of the report for rigorous evidence to support findings; evaluates the extent to which the action plan applies OGP values; and provides technical recommendations for improving the implementation of commitments and realization of OGP values through the action plan as a whole.
3. Pre-publication review: Government and select

civil society organizations are invited to provide comments on content of the draft IRM report.

4. Public comment period: The public is invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.<sup>1</sup>

## INTERVIEWS AND FOCUS GROUPS

Each IRM researcher is required to hold at least one public information-gathering event. Care should be taken to invite stakeholders outside of the “usual suspects” list of invitees already participating in OGP processes. Supplementary means may be needed to gather stakeholder input in a more meaningful way (e.g. online surveys, written responses or follow-up interviews). Additionally, researchers perform specific interviews with responsible agencies when the commitments require more information than provided in self-assessments or accessible online.

Primary information for this report was obtained through two stakeholder meetings, individual interviews, and questionnaires when interviews were not possible.

- Given the limited time, the researcher could not organise stakeholder meetings in all ten regions of the country. The country was therefore divided into two sections: the Northern sector (the Ashanti, Brong Ahafo, Northern, Upper East and Upper West regions) and the Southern sector (the Western, Central, Greater Accra, Eastern, and Volta regions). A regional capital was randomly selected in each of the two zones: Tamale was the regional capital for the North and Accra was the regional capital for the South. The Ghana Integrity Initiative organised the Accra forum while the Transparency and Accountability Initiative organised the Tamale meeting.

- The researcher did not request permission to publish participant or respondent names and therefore, respondents were kept anonymous. The researcher thinks this is necessary as this allows free expression.
- The first stakeholder meeting was held in Tamale on 17 August, 2016. The second stakeholder forum was held in Accra on 25 August, 2016.
- CSOs, faith based organizations and the media were invited to the stakeholder meetings at Tamale (seventeen institutions were invited but only thirteen people attended the meeting). The media did not attend so participants were mainly faith-based organizations and CSOs. The stakeholder forum in Accra was attended by public institutions, CSOs, and the media.
- The stakeholder meeting in Tamale was a focus group discussion with thirteen participants. All the commitments and their respective actions were printed for each participant. Participants were allowed to read the commitments and the milestones before discussing each element. Participants shared their views freely without hindrance. Participation in the Accra forum included a special invitation to OGP stakeholders within public institutions, CSOs and the media. The general public was also invited through banners. The Accra forum featured three presentations, two by CSOs and one by the OGP Coordinator. Questions and answers ensued after the presentations. Participants expressed their views freely. The Accra forum was broadcast live online and included the ability for non-attendees to contribute.
- The main objective of the Tamale stakeholder meeting was to enable participants to freely share their views on the OGP, its implementation, and commitments. During the discussion, it became clear that few of the participants were aware about the OGP (only two out of the thirteen participants). However, some of the participants were part of public forums on open data (Commitment 6) and right to information (Commitment 2). Issues raised at the Tamale meeting included finding innovative ways to improve citizen participation, make client

service units more functional, and increase awareness of OGP outside Accra. The Accra forum sought to promote stakeholders' understanding of, and share viewpoints on, the OGP, its implementation, and other issues relevant to OGP. Accra participants were more aware of OGP in comparison with their Tamale counterparts. Issues raised by participants at the Accra forum included challenges in OGP implementation like funding the OGP Secretariat, non-attendance of meetings by some representatives of public institutions represented at the OGP steering committee, and the placement of the OGP Secretariat among others.

Individual interviews were conducted in various institutions. When interviews were not possible, the IRM researcher sent respondents questionnaires.

Institutions that provided information were:

- Commission on Human Rights and Administrative Justice (CHRAJ)
- Civil Society Platform on Oil and Gas
- Integrated Social Development Centre
- Ministry of Finance
- Ministry of Finance –Ghana Extractive Industry Transparency Initiative (GHEITI)
- Ministry of Petroleum
- Parliament of Ghana
- Ghana National Anti-Corruption Coalition (GACC)
- National Information and Technology Agency (NITA)
- Public Sector Reform Secretariat (PSRS)
- Local Government Service
- Ghana Integrity Initiative(GII)
- Ministry of Local Government and Rural Development
- Ministry of Communication
- Commonwealth Human Rights Initiative
- Public Procurement Authority
- Public Interest and Accountability Committee (PIAC)
- Ministry of Lands and Natural Resources
- Information Service Division
- National Commission on Civic Education (NCCE)

## DOCUMENT LIBRARY

The IRM uses publicly accessible online libraries as a repository for the information gathered throughout the course of the research process. All the original documents, as well as several documents cited within this report, are available for viewing and comments through the IRM Online Library in Ghana, at <http://bit.ly/2fjUad2>.

## ABOUT THE INDEPENDENT REPORTING MECHANISM

The IRM is a key means by which government, civil society, and the private sector can track government development and implementation of OGP action plans on a bi-annual basis. The design of research and quality control of such reports is carried out by the International Experts' Panel, comprised of experts in transparency, participation, accountability, and social science research methods.

Current membership of the International Experts' Panel includes:

Hazel Feigenblatt  
Mary Francoli  
Hille Hinsberg

Anuradha Joshi

Ernesto Velasco

Brendan Halloran

Jeff Lovitt

Showers Mawoma

Fredline M'Cormack-Hale

Cesar Nicandro Cruz-Rubio

A small staff based in Washington, DC shepherds reports through the IRM process in close coordination with the researcher. Questions and comments about this report can be directed to the staff at [irm@opengovpartnership.org](mailto:irm@opengovpartnership.org).

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<sup>1</sup>"IRM Procedures Manual," *Open Government Partnership*, [webcache.googleusercontent.com/search?q=cache:ksXepIG35yoJ:www.opengovpartnership.org/sites/default/files/IRM%2520Procedures%2520Manual%2520v%25202.0%2520PUBLIC\\_0.docx+&cd=1&hl=en&ct=clnk&gl=gh](http://webcache.googleusercontent.com/search?q=cache:ksXepIG35yoJ:www.opengovpartnership.org/sites/default/files/IRM%2520Procedures%2520Manual%2520v%25202.0%2520PUBLIC_0.docx+&cd=1&hl=en&ct=clnk&gl=gh).



# VII | ELIGIBILITY REQUIREMENTS

In September 2012, OGP decided to begin strongly encouraging participating governments to adopt ambitious commitments in relation to their performance in the OGP eligibility criteria.

The OGP Support Unit collates eligibility criteria on an annual basis. These scores are presented below.<sup>1</sup> When appropriate, the IRM reports will discuss the context surrounding progress or regress on specific criteria in the Country Context section.

**Table 7.1: Eligibility Annex for Ghana**

CRITERIA	2011	CURRENT	CHANGE	EXPLANATION
Budget transparency <sup>2</sup>	4	4	No change	4 = Executive's Budget Proposal and Audit Report published 2 = One of two published 0 = Neither published
Access to information <sup>3</sup>	3	3	No change	4 = Access to information (ATI) law in force 3 = Constitutional ATI provision 1 = Draft ATI law 0 = No ATI law
Asset Declaration <sup>4</sup>	2	2	No change	4 = Asset disclosure law, data public 2 = Asset disclosure law, no public data 0 = No law
Citizen Engagement (Raw score)	3 (10.00) <sup>5</sup>	3 (10.00) <sup>6</sup>	No change	EIU Citizen Engagement Index raw score 1 > 0 2 > 2.5 3 > 5 4 > 7.5
<b>Total/Possible (Percent)</b>	12/16 (75%)	12/16 (75%)	No change	75% of possible points to be eligible

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<sup>1</sup>For more information, see <http://www.opengovpartnership.org/how-it-works/eligibility-criteria>.

<sup>2</sup>For more information, see Table 1 in <http://internationalbudget.org/what-we-do/open-budget-survey/>. For up-to-date assessments, see <http://www.obstracker.org/>.

<sup>3</sup>The two databases used are Constitutional Provisions at <http://www.right2info.org/constitutional-protections> and Laws and draft laws at <http://www.right2info.org/access-to-information-laws>.


<sup>4</sup>Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "Disclosure by Politicians," (Tuck School of Business Working Paper 2009-60, 2009), <http://bit.ly/19nDEfK>; Organization for Economic Cooperation and Development (OECD), "Types of Information Decision Makers Are Required to Formally Disclose, and Level Of Transparency," in *Government at a Glance 2009*, (OECD, 2009), <http://bit.ly/13vGtqS>; Ricard Messick, "Income and Asset Disclosure by World Bank Client Countries" (Washington, DC: World Bank, 2009), <http://bit.ly/1clokyf>. For more recent information, see <http://publicofficialsfinancialdisclosure.worldbank.org>. In 2014, the OGP Steering Committee approved a change in the asset disclosure measurement. The existence of a law and de facto public access to the disclosed information replaced the old measures of disclosure by politicians and disclosure of high-level officials. For additional information, see the guidance note on 2014 OGP Eligibility Requirements at <http://bit.ly/1EjLJ4Y>.

<sup>5</sup>"Democracy Index 2010: Democracy in Retreat," The Economist Intelligence Unit (London: Economist, 2010), <http://bit.ly/eLC1rE>.

<sup>6</sup>"Democracy Index 2014: Democracy and its Discontents," The Economist Intelligence Unit (London: Economist, 2014), <http://bit.ly/18kEzCt>.







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