



**OGP Steering Committee
Working Level Meeting**

**June 27 & 28, 2017
Washington, DC**

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**OGP Steering Committee
In-person Working Level Meeting
June 27 and 28, 2017
Washington, DC**

Individual SC Subcommittee Meetings

Monday, June 26

1. Criteria & Standards (1-5pm, OG Hub - Manila)
2. Governance and Leadership (2-5pm, OG Hub - Rome)
3. Peer Learning and Support (12-5pm, OG Hub - Sydney)
4. Civil Society Caucus (5-9pm, OG Hub - Sydney/Manila)

All subcommittee meetings will be held at the Open Gov Hub. The city names next to the time indicate the room names where the meetings will be held. More information, including the individual subcommittee agendas will be shared with the members of the subcommittee ahead of the meetings.

Steering Committee Meeting Agenda

Day 1: Tuesday June 27

9:00 - 10:30

State of the Partnership

- Presentation of progress on implementing OGP's strategic refresh, including:
 - Priority Country support (including latest IRM findings and subnational progress)
 - Global advocacy strategy
 - Advancing thematic leadership

Background Materials: 2017 Support Unit/IRM Implementation Plan; OGP 2017-2018 Global Advocacy Strategy; OGP Spin-off Process Update

10:30 - 10:45

Coffee Break

10:45 - 11:45

Building a Steering Committee coalition - A discussion led by a selection of new OGP Envoys

- OGP Envoys on lessons learned from founding Steering Committee - and how we can build a stronger Steering Committee with an "esprit de corps" to help drive forward the next phase of OGP?
- Q+A



11:45 - 2:45 (including lunch)

Building a Steering Committee coalition continued (3 Breakouts facilitated by OGP Envoys)

- OGP Steering Committee members break out into 3 pre-assigned groups. Each group will rotate to three tables, hosted by different OGP Envoys, to discuss the role of the Steering Committee to advance the following three priorities in the OGP implementation plan
 - *Table 1: Priority country support*
 - *Table 2: Global advocacy strategy*
 - *Table 3: Advancing thematic leadership*
- The objective is to have a deep discussion on the role of the Steering Committee and generate a set of concrete actions for each priority. These actions will be written up overnight with help from the Support Unit and presented to the full Steering Committee the next morning.

2:45 - 3:00

Coffee Break

3:00 - 5:00

Deep dives on emerging priority topics in OGP (Breakout sessions)

- Session 1 - What are the options for a “A State of Open Government” report from OGP?
- Session 2 - Private sector engagement: Discussion based on scoping paper by the Basel Institute for Governance
- Session 3 - The future of subnational engagement in OGP
- Session 4 - Legislatures engagement in OGP

Background materials: Background briefs for each breakout session

Day 2: Wednesday June 28, 2017

9:00 - 9:15

Welcome and review of the agenda (15 minutes)

- Welcome to incoming Steering Committee members (mixture of full participants and observers)

9:15 - 10:00

Day 1 highlights:

A. Report back on action items from the Steering Committee coalition sessions

- *Members from each breakout group to circulate and present a one page list of actions discussed in the breakout sessions (Support Unit to help collate) - and then present top ideas to main group.*

B. Subnational engagement in OGP



- *Full Steering Committee update on progress with the subnational pilot program and report back on discussions of future options for the program.*
- *Background materials: Subnational Program Update Note*

10:00 - 11:30

Governance and Leadership (1.5 hour)

- A. Review candidates to serve as new Steering Committee co-chairs
 - **Decision point:** Steering Committee votes on incoming co-chairs starting October 1st 2017
 - Background materials: Candidate statements
- B. Review current list of OGP Ambassadors
 - **Decision Point:** Steering Committee approves list of ambassadors proposed by GL.
 - Background materials: Shortlist of OGP Ambassadors
- C. UNGA Discussion
 - **Decision Point:** Heads of State/Government and civil society leaders from Steering Committee to confirm interest in attending and/or speaking at OGP's UNGA event
 - Background materials: UNGA concept note
- D. OGP Trust Fund (MDTF)
 - **Decision Point:** Steering Committee agrees on two Steering Committee members who will serve on the MDTF Council
 - Background materials: MDTF Steering Committee Representative TORs

11:30 - 11:45

Coffee

11:45 - 1:15

Criteria and Standards - Countries under review (1.5 hours)

- A. Azerbaijan [Inactive]
 - **Decision point:** Steering Committee makes a decision on Azerbaijan's inactivity status.
 - Background materials: Criteria and Standards Subcommittee Recommendation on Azerbaijan; Azerbaijan Inactivity Resolution.
- B. Montenegro [Under review]
 - **Decision point:** Steering Committee makes a decision on Montenegro's participation status.
 - Background materials: Criteria and Standards Subcommittee recommendation on Montenegro; Montenegro Inactivity Resolution.
- C. Other country developments
 - Developments in the national OGP platform in Mexico
 - Background materials: Letter submitted by Mexican Civil Society to the SC; Support Unit response; Steering Committee co-chairs statement

1:15 - 2:15



Working lunch - A case study in thematic leadership: why open government matters for climate and natural resources (WRI and Government of France)

2:15 - 4:15

Criteria & Standards - Rules of the Game Review (2 hours)

- A. Eligibility Criteria
 - **Decision point:** Steering Committee reviews and approves proposed changes
 - *Background materials:* Criteria and Standards Subcommittee recommendation.
- B. Review Processes for Countries Acting Contrary to Process
 - **Decision point:** Steering Committee reviews and approves proposed changes
 - *Background materials:* Criteria and Standards Subcommittee recommendation.
- C. NAP Development and Implementation
 - **Decision point:** Steering Committee reviews and approves proposed changes
 - *Background materials:* Criteria and Standards Subcommittee recommendation.
- D. Response Policy Review
 - **Decision point:** Steering Committee reviews and approves proposed changes
 - *Background materials:* Report and proposed amendments to the Response Policy

4:15 - 4:30

Coffee Break

4:30 - 6:00

Advancing Thematic Leadership and Peer Learning/Support (1.5 hour)

- A. Review progress 6 months into Paris Declaration, including on collective actions SC members signed up to
 - **Decision Point:** Steering Committee agrees next steps on taking forward the strategy to promote 20 collective actions to wider partnership
 - *Background materials:* Strategy for the promotion of the Paris Declaration
- B. Steering Committee reviews proposal for a new SC subcommittee to replace PLS
 - **Decision point:** Steering Committee to approves proposal for new subcommittee
 - *Background materials:* Thematic Leadership Subcommittee proposal, including proposal on future of OGP Working Groups

6:00

Wrap up and close



Draft List of Attendees

Government Steering Committee Members

Government of Brazil

Mr. William Silva dos Santos

Embassy of Brazil, Washington DC

Government of Chile

Ms. Boriana Benev

Embassy of Chile, Washington DC

Government of Croatia

Ms. Sandra Pernar

Senior Advisor, Government's Office for
Cooperation with NGOs

Mr. Josip Babić

Embassy of Croatia, Washington DC

Government of France, Lead Co-Chair

Ms. Laure Lucchesi

Director, Etalab

Ms. Amelie Banzet

Open Government and OGP, Etalab

Ms. Mathilde Bras

Open Government and OGP, Etalab

Government of Georgia, Incoming Co-Chair

Mr. Zurab Sanikidze

Director of Analytical Department at the
Ministry of Justice of Georgia

Government of Indonesia

Mr. Slamet Soedarsono

Deputy Minister, Ministry of Planning

Mr. Yanuar Nugroho

Deputy Chief of Staff, Office of The President
(OGP National Focal Point)

Mr. Agung Hikmat

Assistant Advisor, Office of The President

Government of Mexico

Mr. Guillermo Ruiz de Teresa

Head of the Transparency Policy and
International Coordination Unit; Ministry of
Public Administration

Mr. Pablo Villarreal

Deputy Director General of International
Affairs, Ministry of Public Administration

Government of Romania

Mr. Radu Puchiu

State Secretary, Secretariat-General of the
Government

Ms. Angela Benga

Counselor, OGP Unit, Secretariat General of
the Government



Government of South Africa

Mr. Willie Khisimusi Vukela

Leader of the Delegation and Deputy Director-General at the Department of Public Service and Administration (DPSA)

Mr. Thokozani Thusi

Chief Director-Public Participation and Social Dialogue (PPSD), Service Delivery Branch, DPSA

Ms. Xolisile Freda Dlamini

Office of the OGP Special Envoy, South Africa

Government of United Kingdom

Mr. Oliver Buckley

Deputy Director, Policy & International, Government Digital Service, Cabinet Office

Mr. Thom Townsend

Senior Policy Officer, Data Team, Cabinet Office

Government of United States

Mr. Chanan Weissman

Policy Advisor, Bureau of Democracy, Human Rights, and Labor, State Department

Ms. Aden Daniel

Foreign Affairs Officer, State Department

Government of Canada (incoming Steering Committee member - Observers)

Ms. Mélanie Robert

Executive Director, Information Management and Open Government, Chief Information Officer Branch, Treasury Board of Canada Secretariat

Government of Italy (incoming Steering Committee member - Observers)

Mr. Stefano Pizzicannella

Director, Institutional and International Relations and Supervision, Department for Public Administration

Government of South Korea (incoming Steering Committee member - Observers)

Mr. Dongsu Chang

Director of Public Data Policy Division

Ms. Yujin Lee

Deputy Director of Creative Government Planning Division

Mr. Won Jae Park

Executive Principal of National Information Society Agency

Civil Society Steering Committee Members

Mr. Manish Bapna

World Resources Institute (WRI), Lead Co-Chair

Mr. Mark Robinson

WRI, Second for Manish Bapna



Ms. María Baron	Directorio Legislativo
Ms. Helen Darbishire	Access Info Europe
Mr. Mukelani Dimba	Open Democracy Advice Centre (ODAC), Incoming Co-Chair
Mr. Aidan Eyakuze	Twaweza
Mr. Alejandro Gonzalez	GESOC
Mr. Nathaniel Heller	Results for Development
Dr. Robin Hodess	Transparency International
Ms. Suneeta Kaimal	Natural Resource Governance Institute (NRGI)
Ms. Zuzana Wienk	Fair Play Alliance
Mr. Tur-Od Lkhagvajav	Asia Democracy Network (ADN)
Mr. Giorgi Kldiashvili	Institute for Development of Freedom of Information (IDFI) (incoming Steering Committee member) - Observer

Others Attending – Day 1 only

Mr. Butch Abad	OGP Envoy
Mr. Francis Maude	OGP Envoy
Mr. Rakesh Rajani	OGP Envoy
Ms. Mary Beth Goodman	Former Steering Committee member

Open Government Partnership Support Unit

Ms. Tonu Basu	Support Unit
Mr. Alonso Cerdan	Support Unit
Mr. Paul Maassen	Support Unit
Mr. Jaime Mercado	Support Unit
Mr. Joe Powell	Support Unit
Mr. Sanjay Pradhan	Support Unit
Ms. Meghan Wallace	Support Unit



Participation Protocol

The SC agreed on a list of protocols for meetings in September 2014. The document specifically addresses participation at SC meetings as follows:

“Members are strongly encouraged to attend all official Steering Committee meetings at the appropriate level. Each member should have one designated principal who sits at the table and casts a vote as needed. Each principal may also designate a ‘plus one’ to sit next to (or behind) the principal. The plus one may be asked to speak on certain issues in place of the principal but does not have a vote. As space allows, members may also be invited to bring one or two additional observers to the meeting. Observers will sit around the perimeter of the room.”

OGP Observers

Representatives from relevant international organizations and intergovernmental bodies may be invited by the SC to attend the OGP Biannual Summit and related SC events as observers, when this can be accommodated practically. In addition, a representative of each of OGP’s multilateral partner organizations will be invited to participate in the relevant sessions of at least one SC meeting per year. Observers have no role in SC voting, but may be invited to share their views, particularly those related to country support and peer exchange.

Voting Protocol

The OGP Articles of Governance make provision for the members of the Steering Committee to cast a vote on decisions where consensus cannot be established. This note establishes the protocol for a vote being called in a Steering Committee meeting, and the process that will be followed.

OGP Articles of Governance, page 8:

Decision Making: Major policy decisions are to be made by the full SC, in its meetings or by circular, when meetings are not practical. In making decisions, SC members are to seek to develop consensus; failing consensus, decisions are to be made by simple majority (except in the case of a vote on continued eligibility, as detailed under Section II). In the case of tied votes, the lead chair casts a second and determining vote. A quorum is established when at least 50 percent of each constituency (governments and civil society organizations) are present. The Governance and Leadership Subcommittee is empowered to make logistical decisions between meetings such as, for example, specific details related to the Biannual Summit.*

SC members may not vote by proxy if they are unable to attend voting sessions. Members may elect to bring guest observers to SC meetings, with prior approval from the Governance and Leadership Subcommittee. Such guest observers cannot participate in voting.



*'Lead chair' in the Articles of Governance historically refers to the 'lead government chair'.

Process

A vote can be called in a Steering Committee meeting either where consensus cannot be easily achieved on a particular decision, or where there is a definitive decision to be made between a number of options (for example voting on the next OGP co-chair where there are multiple candidates). In those events this process will be followed:

1. The lead co-chairs will agree on the need for a vote and propose that to the Steering Committee.
2. The Steering Committee will be invited to make comments on the decision that is being voted on, which will be subject to the usual Chatham House Rule, unless a Steering Committee member requests otherwise.
3. The lead co-chairs will set out the resolution that is being voted on and the options available.
4. The Support Unit will be responsible for providing ballot papers that clearly list the resolution being voted on, and the options available, and ask Steering Committee members to mark their decision. Ballot papers will remain anonymous.
5. Steering Committee members will be invited to post ballot papers in a box. All Steering Committee members are entitled to one vote per resolution. The Support Unit will count papers -with one of the lead co-chairs observing- to determine the result of the vote and will communicate the decision to the full Steering Committee. In the case of tied votes, the lead government chair casts a second and determining vote.

Voting principles

- A vote can only be called in a Steering Committee meeting that is quorate (50 percent of each constituency G government and civil society members G are present).
- Each Steering Committee member has one vote. For government members that vote can be cast by any member of the official delegation in attendance in person at the meeting. For civil society members that vote can be cast only by them -or their previously designated second- in person at the meeting.
- Steering Committee members can choose to abstain from a vote after it has been called and the options have been presented. The number of abstained votes will be noted in the results.
- The results of votes taken by the OGP Steering Committee will be recorded in the minutes of that meeting but a member's individual decision will not be noted, unless they request otherwise.
- The majority decision, after a vote has been taken, is binding and the resolution will be recorded in the minutes of the meeting.



Logistical Note

A. Meeting Locations:

The *working level Steering Committee Meeting (Tuesday June 27 and Wednesday June 28)* will take place at the **World Resources Institute**. For reference, the WRI offices are a few minutes walking distance from Union Station.

- World Resources Institute: 10 G St NE #800, Washington, DC 20002.

The *subcommittee meetings (Monday June 26) and happy hour (Tuesday June 27)* event will be held at the **OpenGov Hub**. The happy hour event scheduled for the evening of June 27 at 18:00 will take place at the Open Gov Hub. Please plan to depart WRI for the OpenGovHub immediately after the meeting ends. The travel distance during rush hour traffic is approximately 30 minutes.

- OpenGov Hub - 1110 Vermont Ave NW Suite 500, Washington, DC 20005

Note: Please bring a government-issued ID with you each day to enter the buildings (U.S. State or foreign passport).

B. Reception at Open Gov Hub – June 27

Will host a reception on June 27 at the OpenGovHub, including a discussion on sustaining political leadership in OGP through power shifts. If you would like to invite other colleagues based in Washington, please share this [RSVP link](#).

C. Dress Code:

Dress code for all meetings is business formal.

D. Weather in Washington DC:

The meetings will take place right at the outset of the summer season in Washington DC. Temperatures range between 22 and 31 °C (72-88°F), with high levels of humidity.

E. Transportation:

The closest metro station to the WRI offices is Union Station (Red line) and the closest to the Open Gov Hub is McPherson Square (Blue, Orange and Gray lines).

We suggest to book accommodations that are walking distance to the WRI offices. Please note that transportation between WRI and the Open Gov Hub on the evening of June 27 to attend the happy hour event will be facilitated by the Support Unit.



Day One Background Materials



Background Brief for Breakout Session 1: What are the options for a “A State of Open Government” report from OGP?

OGP is currently sitting on a treasure trove of information and analysis produced by the IRM, the Support Unit, and by partner organizations. We are also undertaking cutting-edge research on the frontiers and the impacts of [open government](#). Yet none of these disparate materials are drawn together into a single, cohesive narrative to establish the direction and credibility of OGP.

One idea that has been floated is the creation of a *State of Open Government Report*. This would synthesize the elements that we have into one flagship to provide thought leadership and a snapshot in time of where the open government is going, especially through OGP. Objectives include:

- building global awareness of OGP;
- cultivating a sense of “partnership” for all OGP countries;
- demonstrating and highlighting many of the most ambitious and high-impact commitments; and
- providing a visually compelling means of cross-country comparison and learning; demonstrating impacts in important policy areas.

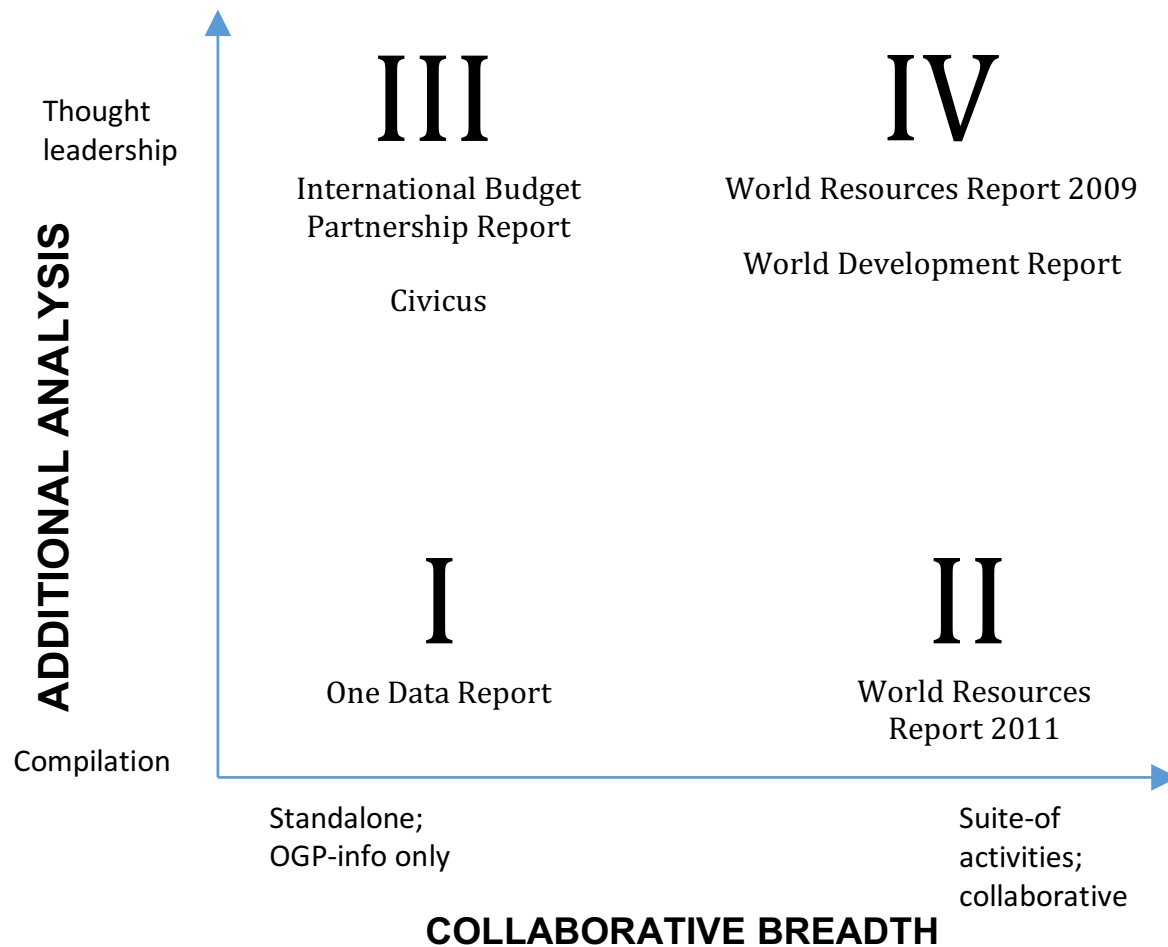
For the June 2017 Steering Committee meeting, we would like to have a roundtable discussion with Steering Committee members and staff to tease out some of the possible intentions and tensions that such a report would bring. To that end, we would like to begin answering the following inter-connected questions:

- What kinds of flagship reports and evidence do you use to inform policy? E.g. World Development Report, World Economic Outlook, One’s Aid Data Report
- How do you use those reports?
- What could OGP do to improve on past efforts by other governments to produce big reports?
- How much should this be about OGP versus Open Government?
- How much independent thought analysis should be involved? (see Figure below)

Options

There are a variety of design choices in what goes into the report and how it is constructed. To begin the discussion, we offer the figure below to discuss these choices along with illustrative examples.





A sample format of what an OGP-produced report could look like from quadrant # 1 is outlined below:

- A. **THE PARTNERSHIP AT A GLANCE:** A variation on the IRM technical paper which looks at health and progress in OGP across a variety of factors. This section would identify major trends in action plans and the health of national processes.
- B. **CUTTING-EDGE REFORMS IN COUNTRIES:** Showcases ambition in thematic areas, along with short case studies of impact on citizens where possible. OGP would select a subset of themes to showcase at any given year of the publication. Themes would derive from OGP strategic goals such as the Strategic Refresh and the Paris Declaration.
- C. **CHANGING THE STATUS-QUO ONE COUNTRY AT A TIME:** Each of the 75 countries in OGP gets a two-page analysis, much like IRM one-pagers. It showcases progress over consecutive NAPs (if available), including star commitments, or Did it Open Government commitments. [*Should this involve other, outside indicators? Which ones?*]
- D. **INNOVATIONS TO WATCH:** A profile of high-ambition, high-impact commitments in key areas still under development. These innovations might be centered around a central theme and be accompanied by analysis from OGP Support Unit, guest contributors, or other authors.

Background Brief for Breakout Session 2: Private Sector Engagement

See Annex I: Scoping paper on Private Sector by the Basel Institute for Governance

The goal of this session is to have a robust discussion on the future of private sector engagement in OGP based on the discussion paper “Promoting Private Sector Engagement in the Open Government Partnership” prepared by the Basel Institute for Governance. Given the limited private sector engagement in OGP to date (primarily through the Private Sector Council), the discussion paper seeks to explain why this is so and suggests some options for promoting increased private sector engagement going forward. The strategic refresh presents an opportunity to broaden the coalition of stakeholders advancing open government reforms. The private sector is a critical but overlooked constituency. This breakout session aims to provide the Steering Committee with an opportunity to weigh in on the value and risks of engaging with the private sector, share their experiences—including successes and opportunities—from their previous engagement with the private sector, and develop concrete ideas to implement the recommendations in the discussion paper through entry points at the subnational, national, thematic, and global levels.

Questions for Consideration

1. Why should OGP engage with the private sector? What is the value of open government to the private sector? What is the value of the private sector to OGP?
2. What are the challenges and risks of engaging the private sector in OGP? What does OGP stand to lose without private sector engagement in OGP?
3. How can private sector engagement be scaled up at the subnational, country, thematic, and global levels? What is the role of the Steering Committee and the Support Unit in supporting this?
4. What are concrete ideas--i.e. tools, guidelines, incentives, resources, and programs--that OGP can develop to support private sector engagement in OGP?



Background Brief for Breakout Session 3: The Future of Subnational Engagement in OGP

OGP launched the subnational pilot program in Spring 2016 with the following objectives in mind:

- Foster more diverse political leadership and commitment from different levels of government to OGP and to hold governments accountable at a local level, where many citizens are directly accessing services and information.
- Learn how OGP can best support subnational governments in making their regions more open, accountable and responsive to their citizens and determine the best structure for subnational participation in OGP.
- Discover and promote new and innovative open government techniques and practices emerging at the subnational level around the world.
- Create practical opportunities for subnational governments to learn from each other, share experiences, and build upon the open government work of their counterparts.
- Support and empower subnational government reformers with technical expertise and inspiration and create the right conditions and incentives for them to make concrete commitments to open government.
- Broaden and deepen participation of civil society organizations (CSOs) in OGP.

Since then the selected 15 subnational pioneers have delivered ambitious [Action Plans](#) covering January to December 2017 and are currently engaged in implementing their commitments. As the pilot program progresses, momentum around the OGP at the local and regional level has expanded with over one hundred governments and civil society organizations interested in becoming involved in OGP. Additionally, more OGP countries are engaging in increased subnational input into their National Action Plans, including co-created local commitments. We will have a breakout session on the future of subnational engagement in OGP at the June 2017 Steering Committee meeting, which will focus on how to capture this increased interest and momentum on subnational open government and turn it into transformative outcomes for citizens and civil society through engagement in OGP.

This session will include a presentation on the current “state of play” of the subnational program - with a review of program objectives, 2016 and 2017 accomplishments, and timeline of events and opportunities for the second half of 2017. The session will also review key takeaways from two reports produced by OGP partners which focus on the potential roles of the Subnational Pioneers (15 selected subnational governments that developed an action plan) and Subnational Leaders (applicants to the Pioneers tier and other interested subnational governments) in the future of the subnational program. With the key takeaways from these two reports as foundation, the session will proceed to discuss and review the program’s objectives and explore how to better realize them in the future, including different expansion models.

By the end of the session we expect to have an updated list of objectives, an outline of what the future of the program should look like and a mandate to explore up to two expansion options with more detail in advance of the September Steering Committee meeting.



Guiding questions:

- In your opinion, how has the subnational program been progressing in achieving the objectives accepted by the Steering Committee?
- Do the founding objectives of the SN pilot program continue to hold true? If not, how should the objectives of the SN pilot program be updated?
- What are the key elements of the program that will achieve these objectives?
- Which expansion options are most worthwhile to explore, in light of these agreed upon objectives?
- What potential challenges or opportunities can arise in light of these potential future program options?



Background Brief for Breakout Session 4: Advancing Parliamentary Openness and Engagement in OGP

See Annex II: OGP Policy on Legislative Engagement

OGP Legislative Engagement Policy

Recognizing the benefits of regularizing parliamentary engagement in the Open Government Partnership (OGP), the policy on legislative engagement was formally approved by the Steering Committee in September 2016. OGP's [legislative engagement policy](#) clarifies the role parliaments can play in the national OGP process and how parliamentary openness commitments can be included in a country's National Action Plan (NAP). Key points of the policy are summarized below.

- Parliaments can include legislative openness commitments in the National Action Plan (NAP) either in the "Commitments" section or by creating a separate chapter with commitments in the same NAP. Both approaches are accepted by OGP. Stand-alone parliamentary openness plans will not be recognized as valid OGP plans.
- Regardless of the approach--i.e. if commitments are integrated in the NAP or as a separate parliamentary chapter of the NAP--the IRM and the Criteria and Standards sub-committee will continue to assess the country at the national level per current policy.
- It is recommended that parliaments identify a "parliamentary lead" who would serve as the primary point of contact in the legislature who will coordinate with the official OGP POC.
- The official OGP POC will continue to be the primary point of contact and their responsibilities will not change. POCs are welcome to work with the "parliamentary lead" to explore opportunities for collaboration and facilitate parliamentary participation.

Activities Since Approval of Legislative Engagement Policy

Since the policy was approved by the Steering Committee, the Support Unit has worked with National Democratic Institute that leads the Legislative Openness Working Group and the United Nations Development Program to communicate the new policy to OGP Points of Contact as well as the Speakers of legislative bodies. An [FAQ](#) explaining how the policy works was also sent to relevant stakeholders. OGP also supported the Global Legislative Openness Conference hosted by the Verkhovna Rada of Ukraine and organized by OGP's Legislative Openness Working Group and UNDP, which provided a forum for promoting OGP and the policy.

Global Legislative Openness Conference, May 19 - 20, Kiev, Ukraine

The [Global Legislative Openness Conference](#) convened over 200 members of parliament, government officials, and civil society representatives to explore issues of legislative openness and the role of the legislature in OGP. Consistent with OGP's 2017 focus on issues of trust in government, the conference focused on building citizen confidence in the legislature by



strengthening ethics rules and enhancing transparency. Participants represented over 50 countries, most of which were OGP members, and included a number of senior representatives, including more than 15 speakers and deputy speakers of parliament. OGP Steering Committee member Maria Baron and former SC member Francis Maude participated in the conference to help make the case for bringing in parliaments more prominently into OGP.

While the conference included a number of parliamentary representatives that have been deeply involved in OGP, some of the participating members of parliament were not familiar with OGP, and the conference provided an opportunity to educate these participants about OGP in general and the new legislative engagement policy in particular. A series of panel discussions and breakout sessions provided a range of information about OGP, including topics such as the new legislative engagement policy, the co-creation standards and civil society engagement, and legislative commitments that have been made through OGP. The Legislative Openness Working Group will continue to engage all conference participants by sharing information about additional activities and supporting their efforts to advance legislative openness through OGP.

Next steps

With a policy in place that provides a framework for parliamentary engagement in OGP, promoting and implementing the policy is a key next step. At the 2017 Steering Committee meeting, we would like members to weigh in on how the Steering Committee and OGP Support Unit can deepen legislative engagement in OGP by leveraging this new policy. To help inform this discussion, we provide the following guiding questions.

Questions for Discussion

- How can the OGP Steering Committee and Support Unit support greater parliamentary engagement in OGP at the global and national level given capacity constraints?
- How can parliaments strengthen the open government agenda domestically by supporting legislation and building a cross-party consensus for advancing open government reforms?
- How can the parliament and government work more closely together in OGP countries to help boost ambition and implementation of OGP National Action Plans? How can parliament's oversight function be mobilized to strengthen accountability of national OGP efforts?
- How can we build on the experience of the first five years to deepen entry points for parliamentary engagement?



Day Two Background Materials



OGP Subnational Program Update Note

The subnational pilot program launched in early 2016 with the selection of 15 subnational “pioneers” through a competitive process. The Pioneers submitted their action plans in December 2016 and are currently implementing their open government commitments between January and December 2017.

The approved 2017 workplan objectives for the subnational program:

1. Successful implementation of Pioneer action plans
2. Successful learning and exchange amongst Pioneers and Leaders
3. Define next step opportunities for expansion of Subnational Program
4. Support other means of subnational engagement into OGP - through National Action Plans supporting national governments engagement with subnationals, connecting with other local government networks, etc.

To date, the subnational Pioneers program has progressed on meeting those above objectives through the following activities:

- Piloting intensive dedicated OGP SU support to governments and civil society via implementation support and visits, broadening the base of CSOs such as service delivery or social movements, consulting partners on the subnational IRM methodology & template, limiting the number of commitments to five, convening of the cohort multiple times, action forcing events, etc.
- The IRM has hired a program officer dedicated to assess subnational action plans, Gustavo Perez, and has hired and trained 15 local researchers. The methodology has been modified and vetted, and webinars were conducted for subnational pioneers to build buy-in.
- Program Manager, Brittany Giroux Lane, has traveled to one-third of the Pioneers: Kigoma, Elgeyo Marakwet County, Bojonegoro, Tbilisi, and São Paulo for implementation support, broker connections with donors and partners, training of government and civil society stakeholders, and awareness raising.
- A focus on learning and peer exchange across the Pioneers cohort and technical partners has produced successes, including:
 - a. Madrid has shared their portal and participatory budgeting knowledge with cohort of 6 pioneers. Buenos Aires has started engaging in participatory budgeting thanks to this exchange.
 - b. Kigoma began implementing a land transparency commitment through a partnership with Cadasta.
 - c. Tbilisi is receiving technology and data support via The Engine Room to provide technical capacity building to the Municipal Development Services Agency to produce portals as outlined by their commitments.
 - d. An exchange between Bojonegoro and Kigoma is planned to address open data collection methods in rural areas - based off Bojonegoro’s *dasa wisma* commitment.

- e. A mini-grant program, modeled after the CSE process, has been started for subnational CSOs. One grant has been administered to the Elgeyo Marakwet County CSO Network to support their coordination of around 100 community organizations in the county to support and monitor the action plan. Two other grants are planned for the second half of 2017.
 - f. A planned global subnational workshop in July 2017 will further support these exchanges.
- In communicating the pilot program's progress, a Subnational Video and a "What's in the Subnational Action Plans" publication will be launched by the end of June 2017. A subnational focused OGP newsletter will be published in July 2017.
 - The program is building momentum with more than 100 interested subnational governments and civil society organizations, including those who applied in 2016 but were not selected who joined a "Leader's Tier". The "Leader's Tier" itself has not been prioritized thus far in 2017, but may be relaunched in late 2017 if resources allow.
 - Important partnerships and relationships are being built, including potential MOUs with technical partners and city networks such as C40 and WeGO.
 - A report is being written on the future expansion options for the subnational program, by former Paris POC, Julien Antelin, which will help inform decisions later in 2017.



OGP Steering Committee Co-Chairmanship Candidacy Note – Civil Society Caucus

Nathaniel Heller, R4D

1) What would your vision be for your chairpersonship, and how would you seek to advance the goals of OGP's strategic refresh during the next two years? Please include your thinking on ramping up high level political engagement in OGP with your government counterparts, and how will work with the OGP Support Unit to help broaden the base of actors and partnerships for OGP?

My interest in assuming the co-chairmanship in 2018 is rooted in my strong desire to better link open government reforms (using OGP as a platform) to concrete development outcomes, particularly in the health, education, and nutrition sectors. We have anecdotal evidence and success stories that opening up government can indeed lead to improved health outcomes, superior learning, and improved nutrition, particularly for vulnerable populations in low- and middle-income countries. But this narrative remains fragmented and often forgotten within OGP. At a time when political support for open government and OGP is waning in key countries, we need to reinvest in making the case for open government. My proposal is to make that case through the lens of development outcomes in key sectors, for several reasons.

First, this approach would build on Mukelani's forthcoming 2017 co-chairmanship, when he plans to emphasize the links between open government and socio-economic rights (among other topline priorities). The rationale for his push is quite similar to my rationale for making "open government + health/education/nutrition" the theme of my proposed 2018 co-chairmanship: it resonates with many priority countries (particularly in the global south), and helps ground open government in issues that matter to people's lives. We know the latter is key to renewing political interest and engagement in OGP. We need more compelling, granular arguments in favor of open government to "sell" new ministers and heads of state/government on the value of OGP and open government. I believe that a focus on development outcomes is a powerful way to make that case, and to reinvigorate the movement at a time when shrinking civic space looms as a source of existential angst.

Making that case will take more than speeches at OGP summits and remarks at steering committee meetings, however; it will require a multifaceted investment of time and resources, something I hope to begin as supporting co-chair in the fall of 2017. The first step is revamping and revitalizing OGP's research agenda, which has been massively underfunded and under-resourced since OGP's inception. By commissioning fresh primary research into the granular impact of open government on downstream development outcomes, we should strive to



generate a definitive compilation of the value that open government provides to change agents in key human development sectors such as health, education, and nutrition; imagine it as a sort of Lancet series on the impact of open government on those sectoral outcomes. The forthcoming OGP Multidonor Trust Fund at the World Bank will have a research window available to help finance this crucial evidence and story building effort; we should aggressively and strategically shape the investments emerging from that window.

Second, there are several forthcoming "free" pieces of research and evidence building with which I am fortunate enough to be involved, and that I can leverage to help strengthen an "open government Lancet series"-type effort. One is the R4D-Harvard flagship Transparency for Development project (www.t4dproject.org). End line data from the project's randomized control trial will begin making their way into the public domain in late-2017, and more fully by 2018. Those results – if they indeed show a positive effect between information transparency and maternal and newborn health outcomes – will represent some of the most concrete evidence that open government "matters" for granular development outcomes. I will be in a position to leverage those findings to help make the case for renewed political engagement in OGP at the ministerial and heads of state level.

Additionally, R4D is continuing to quietly invest in pioneering costing work in the open government space, putting concrete price tags on what it costs to design and implement open government reforms, whether open contracting, open data efforts, or 311 systems. To preview a particular finding that demonstrates the potential political resonance of that research: we've found that the entire ProZorro open contracting program in Ukraine (arguably the "hottest" story in open government these days) cost around US\$5 million to design and execute, inclusive of donor support and volunteer time. When compared with estimates that ProZorro [could ultimately save the Ukrainian government more than US\\$1 billion](#) annually, we have an incredibly powerful talking point for ministers and heads of state: invest just \$5 million in open government and reap 1000x or more in government savings and efficiency. Finally, a new (but not yet announced) 5-year, \$15 million research collaboration between R4D and the Brookings Institution (on the impact of extractives transparency efforts on development and anti-corruption outcomes) will provide a third powerful well of evidence and stories that I can draw on in the coming two years.

Third, if we're to emphasize the links between open government and development outcomes that matter for people's lives, we can't simply preach to the choir. We need to bring in new actors and stakeholders from those sectors to further bolster the roster of open government champions globally. During my potential co-chairmanship, I would prioritize recruiting the World Health Organization, the Bill & Melinda Gates Foundation, and the Scaling up Nutrition (SUN) network as official OGP "partners." All will need to be convinced of the value of open government to the sectoral outcomes they care about (another reason to invest in the evidence

and story building I describe above). But I am hopeful that with sufficient time all can be convinced to join the open government movement formally.

2) How would you demonstrate leadership of OGP at both the international and domestic levels during your chair year? What are your greatest achievements at the country-level or in a thematic area relevant to OGP and lessons through OGP that you would want to share with your peers around the world?

I remain a schizophrenic open government booster: I've been a strong believer in the movement and continue to invest significant time and energy into initiatives such as OGP. But I've also been a public critic of the movement's moral inconsistency and the risks of "open washing." I plan to continue that intellectually complex approach to my open government work in the future, including as potential co- chair.

I'm proud of my contributions to open government scholarship and thought leadership; my original "working definition of open government" remains (surprisingly!) one of the standards in the field. But I am equally proud of the short video I produced for the OGP summit in London that called into question the moral inconsistency of OGP governments at a time when revelations of mass surveillance were being unearthed. As a potential OGP co-chair, I want to continue playing the role of constructively critical "skepti-booster," channeling the concerns of civil society into steering committee meetings and decisions in a way that is politically sensitive while also direct and unvarnished.

I also want to invest in more face-to-face interactions to build relationships between steering committee members. I worry that we've fallen into a pattern of simply showing up to steering committee meetings with little to no working relationships with colleagues on the other side of the table; this yields suboptimal discussions and debates. My experience conceptualizing and building the OpenGov Hub proves the value of the alternative approach; investing in the time and space to build meaningful relationships and social capital with our counterparts from government will yield better outcomes. As a way to operationalize this aspiration, I want to continue working with Aiden and the Support Unit on nascent ideas around running a high-level OGP "boot camp" in 2018 that would bring together OGP's "superstars" from both government and civil society for an intensive 3-4 day relationship building + open government 101 crash course. I'm confident those investments will pay off in the form of a more highly-functioning steering committee in the out-years.

I'm also very proud of the work I've pursued with Mark Robinson to design and stand up OGP's subnational pilot during the past 18 months. We know that the subnational program is a source of renewed energy and impact for OGP in the years to come, as well as a funnel for future



political leadership for the partnership. It's one of the most exciting initiatives currently underway within OGP. With many others on the steering committee, I want to continue investing heavily in OGP's subnational work, including during my potential co-chairmanship. Those investments should include expanding the number of "high touch" Pioneer cities/states/provinces participating in OGP and ensuring we have adequate Support Unit and IRM staff to manage our subnational growth.

3) Will you be able to dedicate substantial amount of time to OGP, including travel? If applicable, is this agreed with your board/management?

As one current steering committee colleague put it to me recently, "[Becoming co-chair] can't get much worse for you in terms of the time commitment!" I have indeed spent a large amount of discretionary time on OGP in the past several years, and while this might be Pollyannaish thinking, I tend to agree that assuming the co-chairmanship might not be any worse than the status quo, especially if I can offload co-chairing the Criteria and Standards subcommittee to someone else. I have a demonstrated track record with respect to committing time, energy, and travel to OGP, including:

- Participating in the first-ever OGP meetings at the Obama White House in 2010, and from there helping the *ad hoc* "pre-steering committee" recruit governments and civil society champions to the emerging partnership.
- Designing and running the now-defunct OGP Networking Mechanism while at Global Integrity.
- Leading the OGP executive director search committee in 2015-2016.
- With Mark Robinson and Mexico, co-leading the OGP subnational task force in 2015-2016.
- Leading the steering committee's response to the first-ever OGP Response Policy case in 2015.

I've discussed the possibility of my assuming the co-chairmanship with R4D's CEO, Gina Lagomarsino, who supports the idea. While Gina shares my concerns about the time required to lead the steering committee effectively as co-chair, she's excited by the focus of my potential co-chairmanship on strengthening the links between open government and health, education, and nutrition outcomes. That proposed co-chairmanship theme dovetails nicely with R4D's new organizational strategy as well as my own role within the organization, where I oversee several cross-cutting practices and teams (including governance and citizen engagement) that collaborate with our sector teams to accelerate outcomes in health, education, and nutrition.



Overview of Open Government Partnership events at UNGA 72

A. High-level UN event overview

The OGP co-chairs to host a high level (head of state) event in the UN building, focused on maintaining political support and buy-in for open government and OGP. The suggested theme of the event is “Rebuilding trust in government”. The world is experiencing a crisis of trust in institutions - with some of the lowest levels of trust recorded for 30 years. Governments, businesses, NGOs and media alike are struggling to make sense of it, and respond with reforms that could help rebuild trust.

The event will be hosted by the outgoing lead government chair (President Macron), the outgoing lead civil society chair (Manish Bapna), the incoming lead chair (Prime Minister Giorgi Kvirikashvili), the incoming lead civil society chair (Mukelani Dimba), OGP Ambassadors (Winnie Bynayima and Mo Ibrahim) and the OGP Support Unit. The incoming support chairs will also have prominent roles (TBC). Other Heads of State/Government and civil society leaders are to be invited after discussion in the Steering Committee meeting on June 28th.

At UNGA 72 OGP will also launch “Recovering Trust in Government: Ideas for the Fightback” - a collection of thought-provoking essays from the world's leading political thinkers and doers. The publication is in partnership with Dr. Mo Ibrahim, Founder of the Mo Ibrahim Foundation and Winnie Byanyima, Executive Director of Oxfam International who will co-author the foreword. The publication will cover two things: (1) a geo-political overview of the trends in declining trust, its causes and consequences (2) solutions to address the trust deficit in government institutions and political leaders, specifically drawing from policy reforms on transparency, citizen participation and government responsiveness, as well as OGP commitments.

Political and civil society leaders at the UNGA event will be asked to speak to this theme, and present ideas on how open government reform can restore trust.

B. Ministerial Steering Committee meeting

The September 2017 Ministerial Steering Committee meeting will be a crucial opportunity to focus on building political support for OGP. Ministers from incoming OGP Steering Committee countries will be in attendance (Canada, Italy, South Korea) and we will be seeking agreement on part II of the strategic refresh. The meeting will be designed to ensure an appropriate level of discussion for Ministerial engagement, avoiding getting into the weeds of governance issues and focusing on the politics of country support, global advocacy and thematic leadership.

Options to support this approach at the meeting include:

- A substantive role for OGP Ambassadors and selected envoys
- Invite heads of state and/or ministers from new OGP countries, or countries with exemplary new NAPs to present briefly to the Steering Committee
- Bring in thematic leaders from countries who are leading on Paris Declaration collective actions (e.g. Argentina on Access to Justice, C5/Open Contracting Partnership etc.).



Appointing OGP Steering Committee Representatives (2) to the OGP MDTF Council Terms of Reference

Objectives

One government and one civil society member of the OGP Steering Committee (SC) will represent the SC in the OGP Multi Donor Trust Fund (MDTF) Council to:

- Ensure the alignment of the MDTF with the overall OGP principles and strategy; and
- Optimize the results achieved by the MDTF in addressing the technical and financial constraints in developing countries participating or interested in joining OGP, and in tackling gaps in OGP's research and learning agenda.

Background

The OGP SC and the World Bank agreed to establish the OGP MDTF, a distinct financing vehicle for OGP, to make it possible to respond to the technical and financial implications associated with the directions of the Strategic Refresh and provide more robust support to countries in delivering transformative commitments that deliver real impact. Three programmatic windows address the objectives of the OGP MDTF: (i) facilitating co-creation and implementation of country-led open governance reforms via OGP National Action Plans as well as helping countries to improve on the open governance indicators needed to become eligible to participate in the OGP; (ii) increasing knowledge, research, and learning programs; and (iii) programmatic assistance to the OGP Support Unit-IRM workplan.

The OGP MDTF Council (the "Council") sets the OGP MDTF strategic priorities, including, but not limited to, promoting regional diversity and providing guidance on desired outcomes and results. The Council consists of representatives of the World Bank, including as Chair; a representative of each Donor contributing to the Trust Fund above US \$500,000 (TBC); two representatives of the OGP SC (one representative from a national government and one representative from a civil society organization, both approved by the OGP SC); and a representative from the OGP Support Unit.

About the Position

As a conduit between the OGP Steering Committee and the OGP MDTF, the Steering Committee representatives in the MDTF Council will:

- Set strategic guidance on MDTF funding priorities to ensure alignment with OGP principles and strategy. This includes guiding the programmatic objectives of the MDTF; promoting a balance of recipients from government, CSO and the World Bank; and providing input on the selection criteria.
- Engage in teleconferences on MDTF portfolio and proposals as needed. It is expected that there will be more frequent discussions during the inception period of the MDTF. Over time, the Council will transition to biannual meetings, including one in-person (to be held on margins of an OGP Steering Committee meeting).
- Conduct outreach and support fundraising efforts as needed.
- Report to Steering Committee members on the progress of the MDTF.



It is expected that the SC Representatives will spend approximately 2-3 full days per year contributing to the Council discussions.

Competencies

- General understanding of co-creation and implementation opportunities and challenges in OGP National Action Plans.
- Experience of working effectively with multilateral/bilateral partners on development programs.
- Demonstrated experience in helping establish an environment where knowledge is created, applied and shared in a collaborative manner.

Be in good standing as an Steering Committee representative, according to the following criteria: 1) Have acted in accordance with the Open Government Declaration; 2) Have regularly attended and participated actively in Steering Committee meetings and subcommittee meetings; and 3) Must not be under review by the Criteria & Standards subcommittee or designated *inactive* in OGP (Government representative only).



Criteria and Standards cover note for June 2017 SC meetings

Given the focus on various Criteria and Standards items presented in the agenda, please note below the instructions on providing feedback on these elements which will warrant a Steering Committee decision on June 28:

A. Countries Under review:

1. Azerbaijan:

The Criteria and Standards Recommendation on Azerbaijan document included in the packet aims to summarize the the ongoing Azerbaijan Response Policy process and assess how the Government of Azerbaijan has addressed over the last year the recommendations put forward by C&S that were part of the May 2016 inactivity resolution. Based on that analysis, the Criteria and Standards subcommittee, through a no-objection basis, has reached a consensus to recommend to the Steering Committee to issue a resolution on the extension of Azerbaijan's inactivity status in OGP. ***This recommendation has been approved by the Criteria and Standards subcommittee and is not subject to revisions.***

The Azerbaijan Inactivity Resolution document included in the packet offers a draft resolution agreed upon by the Criteria and Standards subcommittee. ***This text is subject to comments and suggestions from the wider Steering Committee before reaching a final decision on June 28.***

2. Montenegro:

The Criteria and Standards Recommendation on Montenegro document included in the packet provides an overview of Montenegro's participation in OGP and the outlines the instances in which it has acted contrary to OGP process due due to failure to deliver a NAP for three consecutive action plan cycles since November of 2014. For these reasons, the Criteria and Standards subcommittee recommends to the Steering Committee that it designates Montenegro as inactive in OGP in June 2017 SC meeting. ***This recommendation has been approved by the Criteria and Standards subcommittee and is not subject to revisions.***

The Montenegro Inactivity Resolution document included in the packet offers a draft resolution agreed upon by the Criteria and Standards subcommittee. ***This text is subject to comments and suggestions from the wider Steering Committee before reaching a final decision on June 28.***

*For comments or suggestions on Azerbaijan's or Montenegro's inactivity resolutions text, **please send by writing to the Criteria and Standards subcommittee before 17:00 EDT on Friday, June 23, 2017** (alonso.cerdan@opengovpartnership.org). The Criteria and Standards*

subcommittee will discuss the comments received in their June 26th meeting and make any amendments needed before June 28th discussion.

B. Rules of the Game review:

This session will present proposed changes to different elements of Rules of the Game, namely: 1) Eligibility Criteria; 2) Review Processes for Countries Acting Contrary to Process; 3) NAP Development and Implementation. For each section, please find in the following pages short proposals outlining the current rules, and the proposed new rules.

Please note that these proposed changes have been developed in close coordination with the Criteria and Standards subcommittee, and have been approved by the C&S for input and approval from the full Steering Committee during the June 28 meeting. During the September meeting the SU will present a revised version of the Articles of Governance based on the changes accepted SC approval - and for public consultation - before final sign-off by circular.

We hope to clear as many of these proposed changes as possible during our June meetings so we can focus the September meetings on strategic discussions, versus procedural.

Please send any comments and suggestions regarding these proposed changes by writing to the Criteria and Standards subcommittee before 17:00 EDT on Friday, June 23, 2017 (alonso.cerdan@opengovpartnership.org). The Criteria and Standards subcommittee will discuss the comments received in their June 26th meeting and make any amendments needed before June 28th discussion. Alonso Cerdan will be available next week to walk you through the proposed changes and answer any questions you might have.

C. Response Policy Review

While being part of the Rules of the Game review as well, the Response Policy Review (formally known as Upholding the Values and Principles of OGP Policy, as articulated in the Open Government Declaration) has a slightly different timeline and procedure for approval.

The review was carried out by an external consultant who has reviewed the first three years of the policy's implementation to learn what aspects of the policy are working well, and what changes may be warranted to better advance the purposes the policy aims to serve. The Response Policy review does not aim to completely overhaul the Policy, but rather to strengthen and tighten the language. A summary of the proposed changes is provided, as well as the full report (see Annex VI).

During the June meetings we hope to receive input and approval of the overall direction of the proposed changes. The final text of the Response Policy, considering the input received from the Steering Committee, would be presented in the September meetings.

Please send any comments and suggestions regarding the proposed Response Policy review changes by writing to the Criteria and Standards subcommittee before 17:00 EDT on Friday, June 23, 2017 (alonso.cerdan@opengovpartnership.org).



Criteria and Standards Subcommittee Recommendation on the Policy on Upholding the Values and Principles of the Open Government Partnership for the case of Azerbaijan

On September 2014, the Open Government Partnership (OGP) Steering Committee (SC) adopted the [Policy on Upholding the Values and Principles of the OGP](#) (otherwise known as the “Response Policy”) in order to achieve two objectives: a) assist the country in question to overcome difficulties and to help re-establish an environment for government and civil society collaboration, and b) safeguard the Open Government Declaration and mitigate reputational risks to OGP.

On March 2015, three civil society organizations (CSOs) addressed a [letter of concern](#) to OGP’s Steering Committee under the Response Policy addressing several issues pertaining the operating environment for civil society in Azerbaijan and how it affected its ability to engage effectively in the OGP process. The letter urged the Steering Committee to call on the Azeri government to take necessary actions. The Criteria and Standards subcommittee (C&S) drafted a [report](#) informed by reviewing the Articles of Governance, the Open Government Declaration and IRM data. In addition, the information was cross-referenced with government, civil society, media and United Nations sources. Based on this research and analysis, the C&S deemed the concern relevant, true, and accurate.

The report triggered Response Policy Stage One actions, which included the drafting of five [recommendations](#) that would assist the Government of Azerbaijan address the concerns raised. These recommendations were published on July 7, 2015. Over the following months, C&S engaged with the Government of Azerbaijan with the aim to support the implementation of these recommendations. Regretfully, when the advances made were assessed during the February 23-24 2016 C&S meeting, the Subcommittee determined that the deadlines to implement such recommendations had expired without satisfactory resolution, and thus [recommended](#) to the full Steering Committee to move to Stage Two actions and to place Azerbaijan in inactive status.

On May 4, 2016, the Steering Committee [designated Azerbaijan as inactive](#) in OGP, due to unresolved constraints on the operating environment for Non-Governmental Organizations (NGOs). The inactivity resolution outlined that the Government of Azerbaijan would have one year to implement actions necessary to address the original concerns and with that fully re-engage with OGP and become active again.

This document drafted by the OGP Support Unit (SU) and C&S with the support of third party analysis, external reports, mission reports and interviews with key stakeholders in Azerbaijan aims to summarize the ongoing Azerbaijan Response Policy process and assess how the Government of Azerbaijan has addressed over the last year the recommendations put forward by C&S.

The evidence assessed shows that the Government of Azerbaijan has made noticeable efforts in order to address the recommendations under the Response Policy review, particularly regarding

OGP process concerns, such as the consultation process to develop the 2016-2018 NAP, the establishment of a multi-stakeholder OGP forum and the creation of a “one stop shop” for grant registration.

Nevertheless, the core component of the response policy case and the OGP recommendations is and remains the need to lift the constraints on the operating environment for civil society organizations. Initial improvements are in place, including those facilitated by the early 2017 Cabinet Decisions to simplify grant processing and registration, yet it is too early to tell how these improvements will play out in practice. On the positive side, stakeholders have seen some grants being processed, some processes being simplified and the daily operations of some civil society actors being less complicated than they were a year ago. That said, it is safe to say that there are still substantial challenges in the overall operating environment for civil society. For example, donors are still required to register grants, and these are still subject to “financial expediency assessment” by the Ministry of Finance. Some personal and organizational bank accounts of NGO figures remain frozen; in at least one case, a bank account was unfrozen, but then taxed, rendering the NGO unable to undertake the activity for which the grant had been given. Changes to laws restricting NGOs have not been made. There have also been recent developments that could point to further problems for civil society.¹

Finally it is important to consider that all the stakeholders consulted by the SC and SU insisted that it is important for OGP to continue engaging with the government and civil society in Azerbaijan. This perspective was shared by government actors and a diverse set of civil society stakeholders, including the original filers of the complaint letter, as well as from representatives of international organisations and diplomatic missions in Baku.

For these reasons, the Criteria and Standards subcommittee hereby recommends to the Steering Committee to issue a resolution that: i) explicitly appreciates the progress made and the positive engagement to-date, ii) recommends extending Azerbaijan’s inactive status for a period of 12 months, iii) provides a [30-60] day period to outline an updated set of requirements to improve the operating environment based on recent developments and in consultation with the Azerbaijan government, local civil society, and external experts.

1. Complaint Letter and Initial Review Process

On March 2, 2015, the Response Policy was triggered for the first time. The OGP Steering Committee received a letter of complaint from CIVICUS, Publish What You Pay, and Article 19 regarding the threats they perceived civil society to face in Azerbaijan, and the way those alleged threats affected civil society’s ability to engage effectively in the OGP process. The letter raised concerns about five issues: government control over registration and operations of NGOs; government control over NGO finances; harassment of civil society; initiation of criminal and tax cases; and consultation failures. The Government of Azerbaijan was informed about the raised

¹ Particularly the decision to uphold the sentence for Gıyas Ibrahimov of 10 years imprisonment and the alleged kidnapping in Tbilisi and arrest of Azeri opposition journalist, Efgan Muhtarli, on 29 May, 2017.

concerns and on April 15, 2015, the OGP Support Unit received a letter of response, which was considered during the review process.

After a thorough review of the claims made in the original letter, the Criteria and Standards subcommittee generated a report informed by credible third-party analysis of the situation in the country. Based on this research and analysis, the C&S deemed the concerns relevant, true, accurate, and an immediate and real threat to OGP's credibility. The C&S report also assessed that an OGP response could potentially "help establish a positive environment for government and civil society collaboration."

In order to address the situation described by the filers, C&S developed a set of five specific recommendations that the Government of Azerbaijan would need to undertake to meaningfully address the validated raised concerns. The C&S shared the following recommendations in a letter to the Government of Azerbaijan on July 6:

1. **Timeline for the next National Action Plan.** In its July 6 letter, the C&S requested that the Government of Azerbaijan submit its National Action Plan (NAP) by December 30th 2015, to begin implementation on January 1st 2016. The recommendation called for an action plan that is 18 months in length, ending in June 2017. C&S also requested that the Government of Azerbaijan produce a timeline for the consultation period of the new NAP in time for a check-in call in August 2015.
2. **Consultation with civil society.** The Government of Azerbaijan was asked to meaningfully consult with civil society organizations and citizens in the creation of its new action plan according to OGP requirements. The C&S subcommittee offered to prepare recommendations on how to conduct an open and representative consultation process. C&S recommendations also called for an independent assessment of the consultation process to be reported back to the C&S following the conclusion of the NAP consultation process.
3. **Peer exchange and technical support.** C&S members offered to share lessons learned from their respective NGO cooperation work.
4. **Commitments to improve the operating environment for civil society.** C&S requested that the government of Azerbaijan consider including commitments in the new action plan that specifically address the functioning of the Law on Grants, Law on Non-governmental Organizations, Law on Registration of Legal Entities and State Registry, and the Code on Administrative Offenses. C&S, in collaboration with NGO legal experts, deemed these commitments as best positioned to meaningfully address the barriers that NGOs currently face in registering and processing contracts and receiving funding, and worked together to develop recommendations on how implementation of these laws could help improve the operating environment for civil society organizations in Azerbaijan. C&S invited the Government of Azerbaijan to submit evidence on the progress made towards these reforms at the three and six-month marks of implementation following release of the new action plan in 2016. Those reports would be evaluated as part of the progress towards resolving the original response policy concerns, with the reports being sent to the full Steering Committee.

5. **Working with the OGP Steering Committee.** C&S invited the Government of Azerbaijan to participate in a teleconference in August 2015 to discuss the consultation process and be available for on-going support throughout the new action plan development process.

2. Stage One activities and interventions

In their response to the C&S recommendations, on August 28, 2015 the Government of Azerbaijan committed to conduct an open, participatory and wide consultation on a new action plan; use the resources and assistance of OGP and international partners; and to meet with members of the Criteria and Standards Subcommittee and discuss the specific issues on commitments during the OGP Summit in Mexico. The response noted that the drafting of the new NAP would begin “mid-October” and would be adopted either at the end of December 2015 or the beginning of January 2016.

On numerous occasions, C&S requested the Government of Azerbaijan to provide three key pieces of information:

1. The precise timeline to be followed during the National Action Plan drafting process.
2. The detailed steps and methodology to be followed in the National Action Plan drafting process.
3. The initial list of civil society organizations that would be involved in and consulted with during the National Action Plan drafting process.

While there was some communication with the Government of Azerbaijan, they were unable to come up with a precise timeline for the NAP development process. For example, on November 12, 2015, the C&S received notice that, “the Working Group on ‘Improvement of legislation’ (including government and civil society participation) had started drafting the new action plan, stating that “there is no strict deadline ..., the timing of [the] drafting process could easily be increased for a month or even more.”

In the last communication to C&S of 2015, dated December 4, the Government of Azerbaijan relayed that the first public discussion had taken place on November 27, 2015 with “members of civil society institutions and other stakeholders,” that no proposals to address the operating environment had been presented by civil society, and that the organizations participating in the process had requested “not to focus on January deadline and prolong the consultation period depending on the way [the] process develops with the aim to engage all stakeholders and provide enough time for well developed document”.

In light of this communication, the C&S granted an extension for delivering the new NAP to January 30 2016, noting that no further extensions would be granted. C&S also requested again that the Government of Azerbaijan provide a list of organizations participating in the action plan drafting process; the date, time and place of all public hearings at least 7 days in advance; and the minutes of all public hearings. These requests were communicated to the country on two separate occasions, via email on December 21, 2015 and in a formal letter on January 25, 2015. The letter also stated that: “If no National Action Plan, which clearly addresses the issues raised

during the review process, is received by January 30, 2016, the Criteria and Standards Subcommittee will begin deliberations on whether to make a recommendation to the Steering Committee on Stage two actions, in accordance with the OGP Response Policy.”

On Saturday January 30, 2016, the Government of Azerbaijan submitted the list of organizations that had participated in the action plan drafting process to date, stated that during the initial hearings no minutes were taken, and that at the moment they could not “ensure that draft Action Plan will be ready for the end of January 2016.”

On February 23 and 24, 2016, C&S met in Washington D.C. for their yearly in-person meeting. Their assessment of the actions developed to that date showed that the Government of Azerbaijan had not effectively addressed the recommendations established by C&S or meaningfully addressed the issues raised in the original complaint and validated in the review process under the timeline established for Stage one actions. Therefore, C&S resolved that in light of the information collected and actions taken so far, C&S would recommend that the SC consider moving to Stage 2 and that the appropriate action would be for the country to be listed as inactive in OGP.

On March 13-16, the then Deputy Minister for Public Service and Administration (DPSA) of South Africa and OGP lead Co-chair, Ms. Ayanda Dlodlo, undertook an official visit to the Republic of Azerbaijan. During this visit, Ms.. Dlodlo met with representatives of the Government of Azerbaijan (including the OGP National Focal Point, Mr. Vusal Huseynov, and the Chairman of Council of State Support to NGOs, Mr. Azay Guliyev); as well as civil society representatives (including the Chairwoman of the Azerbaijan National Chapter of Transparency International, Ms. Rena Safaraliyeva, and the National Coordinator of NGO Coalition on Anti-corruption, Mr. Alimammad Nuriyev). The report’s conclusion states that: “There is a collective sense of gradual improvements in the democratisation process and openness in Azerbaijan. Notwithstanding this, some civil society expressed concerns that more still needs to be done by the government in order to improve the democratic space and the environment in which civil society operates.”

In April 27, 2016, the President of Azerbaijan approved the “National Action Plan on Promotion of Open Government in 2016-2018”.

3. Stage Two actions

On May, 4th, 2016, the SC of OGP met in Cape Town, South Africa. During this reunion, they recognized positive steps taken by the Government of Azerbaijan, including the submission of a new NAP. However, the core issues of concern raised in the original letter, validated by C&S, remained unresolved, specifically regarding constraints in the operating environment of NGOs. Henceforth, after a vote was taken, the SC resolved to designate Azerbaijan as inactive in OGP under the terms of the Response Policy.

The resolution outlined that the Government of Azerbaijan would have a maximum of one year to address the concerns raised by civil society organizations. To ascertain that steps were taken to

remedy the situation that triggered the Policy, the government in question would have to undergo a new Criteria and Standards subcommittee review process. The Steering Committee further resolved to offer all necessary support to the Government of Azerbaijan to address the concerns raised, and requests regular progress updates from the Criteria and Standards subcommittee.

This decision was informed to the filers of the letter of concern and the Government of Azerbaijan, followed by a press release.

On Friday, December 9th, 2016; representatives of the Government of Azerbaijan (Vusal Huseynov, Member of Parliament and OGP Point of Contact and Ayaz Gohayev, First Secretary of Cultural Affairs at the Embassy of Azerbaijan) met with SC representatives from the Government of France (Dylan Gerald, Ministry of Foreign Affairs and International Development; and Johann Uhres, Deputy Director of Central Asia and Georgia at Ministry of Foreign Affairs and International Development); the Government of Georgia (Zurab Sanikidze, Head of Analytical Department and Head of Strategic Development Unit at the Ministry of Justice); Civil Society representatives (Nathaniel Heller, Managing Director at the Results for Development Institute (R4D); and Suneeta Kaimal, Chief Operating Officer of the Natural Resource Governance Institute); and Support Unit Staff (Paul Maassen, Director of Civil Society Engagement; and Alonso Cerdan, Deputy Director of Government Support). During the meeting, the Government of Azerbaijan representatives updated the OGP SC members on the latest developments in Azerbaijan, particularly the OGP Forum and the “One Stop Shop” for grant registration. The OGP representatives welcomed the advancements and expressed their interest to organize a visit to Baku in order to learn more of these initiatives.

On February 7 to 10, 2017, the OGP government co-chairs, the Government of France and the Government of Georgia, traveled to Azerbaijan with the objective of assessing the progress made so far by the Government of Azerbaijan on the recommendations laid out in the inactivity resolution of the SC, and to encourage the implementation of reforms. The French mission was represented by the Minister of State for State Reform and Simplification, Jean-Vincent Placé, and the Georgian Delegation consisted of Mr. Aleksandre Baramidze, First Deputy Minister of Justice, Mr. Zurab Sanikidze, Director of Analytical Department at the Ministry of Justice (MoJ) and the Co-chair of the National OGP Forum, and two additional officers of the MoJ. The Georgian delegation was headed by Thea Tsulukiani, Minister of Justice.

Between both delegations, meetings were held with a broad range of stakeholders from government and civil society, including members of the Government-Civil Society OGP Dialogue Platform. Based on the trip reports, the French delegation concluded that while measures have been taken to relax and simplify legislation on registering grants to NGOs, the civil society situation is still cause for concern. The Georgian delegation’s report highlighted the progress made by the Government of Azerbaijan, including the establishment of the OGP Platform, the development of the 2016-2018 National Action Plan, and the “one-stop shop” mechanism for grant registration. In this regard, the Georgian delegation encourages the OGP SC to restore the full participation of the Government of Azerbaijan in the Partnership. In addition, both reports

concurrent in the expression of the government and civil society stakeholders' desire for Azerbaijan to continue engagement in OGP and regain active status.

4. Progress Assessment

In order to assess progress with the five recommendations put forward by the SC, this section will distinguish between two categories of recommendations: 1) OGP process and process related activities (i.e. action plan development, consultation and peer exchange activities); and 2) activities that the Government of Azerbaijan has carried out in order to improve the operating environment of civil society organizations.

4.a. OGP related activities

Four out of the five recommendations put forward by C&S are related to OGP process, namely: 1) Development of timeline for the next National Action Plan; 2) Consultation with civil society; 3) Peer exchange and technical support; and 5) Working with the OGP Steering Committee.

The development of the NAP should not ignore the challenges that civil society organizations face in Azerbaijan and that lead to the Response Policy case. The IRM has determined that Azerbaijan consulted with a limited number of civil society organizations during the development of their 2012-2015 action plan. However, consultation was hampered by a restricted civic space characterized by (i) restrictions on the ability of NGOs to receive funding based on registration requirements laid out by the government to foreign agencies² and (ii) an environment of intimidation towards non-governmental organizations, as was the case of the NGO EITI Coalition. The Coalition reported that since 2014 it was unable to conduct activities outside the capital due to the denial of permits for organizing public events outside Baku. Furthermore, bank accounts of the majority of NGOs active in the Coalition were either blocked or seized.³

On April 27, 2016, Azerbaijan's President, Mr. Ilham Aliyev, approved the "National Action Plan on Promotion of Open Government in 2016-2018". This action plan was developed in consultation with civil society organizations. Starting in November 2015, the Government of Azerbaijan held three public meetings to gather inputs for the development of the NAP.

A first public discussion was announced in October 2015 and held on November 27th, 2015. This event was organized with the Anti-Corruption Network. Proposed suggestions to be integrated in the action plan were noted and the Government acknowledged the presentation of a proposal for a new platform. Suggestions on structure and activity of the platform were scheduled for the next discussion.⁴

The second public discussion was announced on February 4th and subsequently held in the office of the Anti-Corruption Coalition on February 11th, 2016. A new draft of the action plan was

² <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20554>

³ <http://eiti-ngo-azerbaijan.org/?p=627>

⁴ <http://antikorrupsiya.gov.az/view.php?lang=en&menu=3&id=438>

prepared by a working group within the Anti-Corruption Commission (“the Commission”) based on recommendations of CSOs and public institutions. Members of the Anti-Corruption Network, the Council of Europe and the US Embassy in Azerbaijan were present for the meeting. The Government invited all participants to send proposals online as well as to the Secretariat of the Commission or Coalition.⁵ There were thirteen organizations in the meeting, including government agencies, civil society organizations, multilateral organizations and foreign embassies.⁶

Finally, a third meeting was held on March 14, 2016. During the event, the OGP’s Point of Contact informed the participants about the process of development and how measures were going to be taken into consideration in the Action Plan. The Government stated that measures envisioned in the drafts were discussed and comments and feedback were noted. The Commission requested participants to send all proposals and also provided an email address to receive proposals.⁷

The consultation process that was carried out by the Government gathered both CSOs and members of the State. According to the government, CSOs like the Economic Research Centre and Transparency International Azerbaijan were part of the discussions and drafted and sent individual suggestions to the action plan.

However, conflicting views on this consultation process emerged as some organizations that the government mentioned to have attended claim that participation in these consultations was by invitation only and that they were not invited. According to a letter sent by Dr. Gubad Ibadoghlu from the Economic Research Center, the Center was not invited to participate in the meetings, although a formal request for participation was sent to the State Council on Support to NGOs. The letter also states that the majority of the organizations that submitted proposals concerning the content of the new NAP were excluded from participation. In that sense, the consultation process was not entirely open since several organizations were not included in the meetings, or their suggestions were not taken into account in the final drafts of the action plan⁸.

The Government has yet to inform how many inputs were received during the consultations and how were the suggestions received included in the action plan. Additionally, there is no evidence of what specifications were laid out to proceed in these consultations (e.g. timelines, how to make proposals, method for consultation, how (if at all) participants become formal members of panels, etc.). CSOs have acknowledged this series of formal consultations and the notifications that participants received on the next steps. Although consultations were conducted formally, the main conclusions of the discussions were not made public⁹.

⁵ <http://antikorrupsiya.gov.az/view.php?lang=en&menu=3&id=446>

⁶ “Learning Democracy” public union; Fund on fight against corruption; Transparency International Azerbaijan; Economic Research Centre; Development of relationships of society and citizen’s public union; Council of Europe; Centre on Support to Economic Initiatives; Anti-Corruption Commission; Anti-Corruption NGO’s coalition; U.S Embassy in Azerbaijan; “Media and civil public” public union; “Law and development” public union; and Media ve Social Initiatives Centre.

⁷ <http://antikorrupsiya.gov.az/view.php?lang=en&menu=3&id=453>

⁸ Letter sent by Mr. Gubad Ibadoghlu to the US Department of State.

⁹ “Does Open Government Work? Case of Azerbaijan” Shadow Report on the Implementation of Open Government Promotion National Action Plan 2012-2015. Available at: <http://erc.az/files/neshrler/Report-ENG.pdf>

The information that the SU currently possesses indicates that at least some recommendations sent to the government were included in the NAP, such as adopting a single action plan and the two-year duration of NAP. The Government included a set of commitments to provide support to the projects and initiatives aimed at the promotion of open government principles and prevention of corruption, and to prepare proposals on improving the civil society environment in the country. Nevertheless, the language of the commitments is vague which makes it difficult to determine what elements of NGOs proposals were included in the action plan. Recommendations about financial transparency, accountability of state-owned companies and eliminating the conflict of interests in state management were not included.

4.a.1 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. A multi-stakeholder forum is understood as a structured environment designed to maximize participation and cooperation between government and civil society by bringing relevant partners into the discussion and ensuring that all voices are heard. As part of the recommendations to the Government of Azerbaijan, the SC and SU highlighted the importance of establishing such a forum.

A Civil Society Dialogue Platform on Open Government in Azerbaijan (“the Platform”) was created in September of 2016. The Council of State Support to NGOs, housed under the President of Azerbaijan, held a closed assembly aimed at establishing the grounds for this Platform, along with state agencies and CSO representatives. The event was implemented under the “National Action Plan on Open Government Promotion in 2016-2018” dispositions and was constituted as a new forum created by the Government following their process with OGP. OGP guidance suggests that these fora should be an open space, however it is not clear which criteria were used to send invitations to CSOs. Ten state bodies, including the Anti-Corruption Commission and Ministry of Justice, Parliament and 34 CSOs established the platform¹⁰. Currently, the Platform holds 44 members, including the state agencies.

The Platform’s statute calls for general meetings to be held once a month. In this regard, it has met in seven occasions since its creation in 2016. Most recently, the Platform met in February and April of 2017. In its February meeting, the platform discussed existing problems of CSO engagement in Azerbaijan and exchanged views on the implementation of their solutions. The meeting was attended by CSOs that were not members of the Platform, members of international organizations and embassies’ officials. According to Mr. Alimammad Nuriyev, the Platform’s coordinator, all statements made at the meeting were recorded and a proposal to establish a working group to have debates on specific issues was discussed. Aside from the press release of the meeting¹¹, no further content was found on the Platform’s website regarding this meeting. The Platform also held a conference in April with the Center for Analysis of Economic Reforms

¹⁰ <http://ogp.org.az/index.php/members/>

¹¹ <http://ogp.org.az/index.php/2017/02/09/government-civil-society-dialogue-platform-discussed-the-problems-of-ngos-and-made-a-statement/>

on national economy and the key sectors of the strategic road map of the economy which was also reported in a press release.¹²

Notes, minutes and press releases from every meeting are sent to all members of the Platform. Press releases are posted on the Platform's website and are shared with OGP's Civil Society Engagement team. In response to a questionnaire sent to Mr. Nuriyev for this report, it was noted that all information about the platform's meetings are open to all citizens and the media. The platform is also currently working on creating an online channel to post interviews and other related information about the activities of the Platform.

NGOs in Azerbaijan have criticized the Platform since its beginnings. The Economic Research Center denounced that they were not invited to participate in the assembly meeting since participants required a special invitation from the Council.¹³ On a letter submitted by 29 independent organizations in September of 2016, it was noted that out of 26 representatives who appealed for the establishment of OGP in the country¹⁴, only three were invited to the Dialogue Platform¹⁵. Furthermore, the letter addressed several organizational and procedural issues of this initiative:

- Criteria for the selection of representatives (and chair) to the dialogue is unknown;
- The platform is not self-regulated and has not defined a clear set of rules and procedures;
- Duties and terms of work for the platform's coordinator were not drafted;

Most importantly, it was noted that the platform was limited to monitoring the implementation of the NAP. For these organizations, the Platform's memorandum, as its main charter of principles, only reads that the platform will serve as an advisory council¹⁶. No clear decision-making mandates were put forward in this declaration.

The Government of Azerbaijan claims that the Platform is currently completely open. During an interview, one of the signatories of the aforementioned confirmed that she was able to join the platform in late 2016 and is currently a member.¹⁷

4.a.2 Assessment

Azerbaijan conducted a technically-defined *open consultation* in accordance to the consultation requirements set out by OGP and under the standards analyzed by the IRM in each action plan cycle. CSOs were consulted on the action plan, and proposals were received and put into consideration. Furthermore, some of those proposals were included in the action plan. However, there are conflicting views as to the level of participation, since there are claims that it was limited

¹²<http://ogp.org.az/index.php/2017/04/12/open-government-platform-will-be-closely-involved-in-the-implementation-of-strategic-road-maps/>

¹³ Shadow Report, <http://erc.az/files/neshrler/Report-ENG.pdf>

¹⁴ <http://opengovaz.org/en/latestnews/ogp-toolbox-hackathon-civic-tech-for-open-government-1/>

¹⁵ <http://freeeconomy.az/news/dialog-platformas-v-t-nda-c-miyy-tinin-irad-sini-ks-etdirmir/?language=english>

¹⁶ Shadow Report, <http://erc.az/files/neshrler/Report-ENG.pdf>

¹⁷ <http://ogp.org.az/index.php/shahla-ismayil-womens-association-for-rational-development/>

to pro-governmental organizations and involvement of independent organizations was restricted¹⁸. The Civil Society Dialogue Platform as the multi-stakeholder forum established for the OGP process in Azerbaijan, does meet regularly and consults the stakeholders involved, in accordance to the IAP2 spectrum on public participation¹⁹. Participants of the platform are positive about the space provided and indicate that proposals made by them are being picked up by the Government. However, the level of participation remains unclear, since some NGOs in Azerbaijan claim a lack of broad representation within the Platform.

4.b. CSO Operating environment

The main recommendation made by C&S to the Government of Azerbaijan has to do with improving the operating environment for civil society. C&S recommended that: “In the next National Action Plan commitments should be considered to address the functioning of the Law on Grants, Law on Non-governmental Organizations, Law on Registration of Legal Entities and State Registry and the Code on Administrative Offenses.[...] Implementation of these reforms is crucial, such as creating a real-time register of Ministry of Justice grant approval requests so that civil society can monitor progress of their applications.”

The following tables outline the improvements made in all of the mentioned legislation by referring to the situation in 2014 and in 2017. It also includes information on what remains to be done in order to correct the situation.

Law on Grants	
Situation in 2014:	The changes made to the Law on Grants introduced a requirement that the foreign donor must obtain the right to provide grant in Azerbaijan. The Ministry of Finances needs to issue a positive opinion on ‘financial-economic expediency’ of the grant. At the same time, if a foreign donor does not have a representative office in Azerbaijan and a special agreement with MoJ, its grant will not be registered.
Situation in 2017:	The right to provide grant has still to be obtained but now as a part of the grant registration process. All other requirements remain the same, on substance.
What is still needed to normalize the situation:	At a minimum: <ul style="list-style-type: none"> • To eliminate the necessity for a foreign donor to have an agreement with MoJ and register its representation in Azerbaijan, in order to be a grantor.

¹⁸ Summary Monitoring Report on the Application of Open Government Partnership Initiative in Azerbaijan. Report prepared by SEI with support of the National Resource Governance Institute.

¹⁹ https://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/files/iap-006_brochure_a3_internat.pdf

	<ul style="list-style-type: none"> • To eliminate the need to obtain the opinion on 'financial-economic expediency' • To exclude foreign donors that operate on the base of bilateral and multilateral agreements with GOA from the obligation to obtain the right to provide grants.
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Barriers that NGOs currently face in registering and processing contracts and grants.

Situation in 2014:	In 2014 the Grant registration rules of 2004 were annulled and all requests of CSOs for grant registration were put on hold until new rules were adopted in 2016
Situation in 2017:	<p>With October 2016 Decree of the President, single-window in grant registration is applied. At the same time, the procedures for donor registration and grant registered are merged with the CabMin Decision of 11 January 2017. The list of documents for grant's registration was shortened²⁰ and the period for submission of the documents was increased as per OGP's recommendation. However, the few CSOs that tested the single-window registration did not confirm the effectiveness of the process (for example, the most recent changes require that MoJ comments on the shortcomings of the grant registration package within one working day – this was not the case in the test applications).</p> <p>On a positive note, grants of some OGP member organizations have been registered. Also their banking concerns have been solved. Also, some foreign funders indicate that grants are being processed again (whereas others indicate to not yet see the difference).</p> <p>At the same time, the changes approved in January 2017, allow grant contracts to be registered as service contracts which has a less cumbersome registration procedure.</p> <p>The Cabinet of Ministers also approved the changes to the so-called 'donor registration rules' on 27 January 2017. The changes simplified the procedure of donor registration by reducing the list of required documents and the timeframe for their consideration.</p>
What is still needed to	Serious efforts need to be made for ensuring effective implementation of the grant registration as well as registration of service contracts at the MoJ.

²⁰ Documents - on (i) state registry, (ii) charter of NGOs, (iii) right to give grants by donor organizations, (iv) submission of annual financial reports to Ministry of Finance by NGOs, (v) power of attorney in case of documents are not submitted by person who signed the contract or official representative of organization- are eliminated.

normalize the situation:	Since the regulatory changes do not eliminate the discretion of the authorities to arbitrarily deny grant registration, the legislation has to limit such discretionary powers.
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Law on Non-governmental Organizations	
Situation in 2014:	No changes
Situation in 2017:	No changes
What is still needed to normalize the situation:	There were no changes to Law on NGOs in the recent time. Since the main issue for CSOs is an access to foreign funding, this area is not directly regulated by the Law on NGOs.

Law on Registration of Legal Entities and State Registry	
Situation in 2014:	There were problems with registration of CSOs at the MoJ
Situation in 2017:	The problem has not been addressed either on legislative level, or in practice at MoJ.
What is still needed to normalize the situation:	Simplify the registration process of CSOs at MoJ

Code on Administrative Offenses	
Situation in 2014:	This Code contains a long list of penalties for CSOs in rather high amounts.
Situation in 2017:	Despite a new Code on Administrative Offences entered into force in 2016, all the penalties against CSOs remained the same.
What is still needed to	Despite the fact that the GoA does not apply these penalties often, their mere existence have a chilling effect on CSOs in Azerbaijan. For this reason the penalties need to be revised.



normalize the situation:	
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The interviews conducted by the SC/SU mission in May 2017 conveyed an overall impression that in some aspects - and for some actors - the operation environment improved slightly over the last 12 months, especially around registering and processing of contracts and grants. However, a wide range of recent reports that look at the operating environment for civil society in Azerbaijan - including from the Council of Europe - clearly state that there are still serious challenges to the smooth functioning of civil society.

5. Criteria and Standards Subcommittee Recommendation

The evidence presented shows that while the Government of Azerbaijan has made noticeable efforts in order to address the recommendations under the Response Policy review, there are still substantial challenges in the overall operating environment for civil society, which was the core component of the Response Policy case and the letter of concern filed.

For these reasons, the Criteria and Standards subcommittee hereby recommends to the Steering Committee to issue a resolution that:

1. Explicitly appreciates the progress made and the positive engagement to-date;
2. Recommends extending Azerbaijan's inactive status for a period of 12 months;
3. Provides a [30-60] day period to outline an updated set of requirements to improve the operating environment for civil society. These requirements will take into account recent developments and be developed by the Criteria and Standards Subcommittee in consultation with the Government of Azerbaijan, local civil society, and external experts.

The Criteria and Standards subcommittee recalls that, under the OGP Response Policy, the inactive status of an OGP participating country, -- if designated as such by the full Steering Committee -- lasts until the concerns raised in the original complaint letter are resolved. To ascertain that steps were taken to remedy the situation that triggered the Response Policy, the Government of Azerbaijan would have to undergo a new Criteria and Standards subcommittee review process, which may or may not recommend to the Steering Committee that the country be reengaged in OGP as an active participant. The Criteria and Standards subcommittee continues to hope that these steps will be taken in the near term and that Azerbaijan can re-engage in OGP as an active participating government.

Criteria and Standards Subcommittee Recommendation to the OGP Steering Committee Regarding the Participation of Montenegro in OGP (January 30, 2017)

A. Overview of Montenegro's participation in OGP

The Government of Montenegro has been found acting contrary to OGP processes due to failure to deliver a NAP for three consecutive action plan cycles since November of 2014. Consequently, Montenegro's participation in OGP has been under review by the Criteria and Standards Subcommittee since November, 2015. This brief provides an overview of Montenegro's participation to date, actions on behalf of the Support Unit to support Montenegro's re-engagement in OGP, and the recommendation from the Criteria and Standards Subcommittee to the Steering Committee (SC) regarding Montenegro's participation in OGP.

1. Action Plan Cycle 2014-2016 - 1st instance acting contrary to OGP Process

The Government of Montenegro joined OGP in September 2011 and submitted its first National Action Plan (NAP) in 2012. In 2014 it was awarded with the second place prize in the Open Government Awards, and following that they appointed an OGP team from the Prime Minister's office.

On November 17, 2014, the Support Unit sent a [letter](#) to the Government of Montenegro informing that they had acted contrary to OGP processes for the first time due to not submitting their 2nd NAP by November 1, 2014, four months after the original deadline of July 1, 2014. This letter recognized that a NAP was being developed, and encouraged the Government of Montenegro to submit their NAP as soon as possible.

2. Action Plan Cycle 2015-2017 – 2nd instance acting contrary to OGP Process

Montenegro worked on a draft a NAP in 2015 and made significant progress in formalizing a draft through the newly established national council on OGP. The council was dissolved in June of 2015 on court grounds of being illegally established. The council was eventually reestablished, but work on OGP work was stalled throughout the second half of 2015. The government has continued to actively participate in OGP conferences over this time, including the European PoC Conference in June 2015, the Western Balkans regional meeting in September 2015, and the Mexico Global Summit in October 2015.

On November 17, 2015, the Support Unit sent a [letter](#) to the Government of Montenegro informing of that they had then acted contrary to OGP process for the second consecutive action plan cycle due to failing to submit their 2nd NAP by November 1, 2015, four months after the deadline of July 1, 2015. This letter further stated that the Support Unit had referred Montenegro's case to the Criteria and Standards Subcommittee who would review Montenegro's participation in OGP. In January 7, 2016, the Support Unit sent a [cohort shift letter](#) to the Government of Montenegro indicating that Montenegro had been shifted to even-year grouping of OGP countries, and established June 30, 2016 as the new deadline for their new NAP.



3. Action Plan Cycle 2016-2018 – 3rd instance acting contrary to OGP Process

Despite further engagement and a video-conference with the Criteria and Standards Subcommittee in February 2016, the Government of Montenegro failed to finalize their NAP in time by June 30, 2016. Consequently, the Support Unit sent a [letter](#) on August 5, 2016, indicating that Montenegro was a month late in submitting their NAP, and reiterated that Montenegro's participation had been under review by the Criteria and Standards Subcommittee. The letter encouraged Deputy Prime Minister Lazovic to work with government and civil society to finalize Montenegro's NAP, and invited him to present it at the OGP Global Summit in Paris in December 2016.

On November 13, 2016, the Support Unit sent a [letter](#) to the Government of Montenegro indicating that they had acted contrary to OGP process for the third consecutive action plan cycle by not submitting their new NAP by October 31, 2016, four months after the June 30, 2016 deadline. The letter informed the Government of Montenegro that the Criteria and Standards subcommittee had agreed that, since they had acted contrary to process for three consecutive times, if a NAP was not submitted by the end of 2016, the subcommittee would immediately recommend to the full SC that Montenegro be designated as inactive in OGP during their next in-person meeting of 2017. Lastly, Deputy Minister Lazovic was advised that the Government of Montenegro could prevent being designated inactive by submitting their NAP at the earliest possibility, before the SC's meeting in 2017.

B. Rules related to countries' participation in OGP

During their April 22, 2015 meeting, the SC adopted, with no objections, a resolution to clarify rules related to country participation in OGP. These recognized that *"all OGP participating governments should be producing new National Action Plans every two years, and that in some circumstances governments that are unable to fulfill all of their obligations under the Articles of Governance should be considered for inactive status until they take steps to re-engage in OGP."* Moreover, it included information on the steps for countries to reactivate their participation.

Currently, a country can be considered to have acted against the OGP process in the following situations:

1. The country does not publish a National Action Plan within 4 months of the due date;
2. The National Action Plan was developed with neither online or offline engagements with citizens and civil society;
3. The Self-Assessment Report is not submitted within 4 months of the due date;
4. The country refuses to engage with the IRM researcher in charge of the country's Mid-term progress report and End-of-Term reports;
5. The IRM Report establishes that there was no progress made on implementing any of the commitments under the country's national action plan

According to the agreed rules in order to become active again, the government of Montenegro would have to either:

1. *Publish a National Action Plan, developed with the engagement of citizens and civil society.*



2. *Work with the Criteria and Standards Subcommittee and the Support Unit to set a clear timeline to start a new action plan cycle and re-engage with civil society for producing the new National Action Plan.*

If a country remains inactive for a period of one year without stating it wants to continue as a participant in OGP, the Support Unit will inform the Criteria and Standards Subcommittee of the situation. The subcommittee will then recommend to the Steering Committee that the SU moves the country off the inactive status list and is no longer listed as part of OGP. The Support Unit will send a letter to the country informing them about this procedure. If at any stage of the inactivity process a country indicates they are withdrawing from OGP, then the Support Unit will inform the Steering Committee and move the country off the inactive status list and no longer list the country as part of OGP.

C. Criteria and Standards Subcommittee's recommendation regarding Montenegro's case agreed on January 17, 2017

As per the information presented above, the Government of Montenegro has been found to be acting contrary to OGP process for three consecutive action plan cycles due to failure to publish a new NAP. The Criteria and Standards Subcommittee hereby recommends to the Steering Committee that it designates Montenegro as inactive in OGP in their next meeting in June 2017. The subcommittee also recommends that all Steering Committee members are proactive in contacting the Government of Montenegro to inform them they are at risk of being listed as inactive in OGP, until such a moment that they re-engage with the OGP process.



Open Government Partnership Statement on Domestic OGP Developments in Mexico

See Annex IV: Letter submitted by Mexican Civil Society to the Steering Committee

See Annex V: OGP Steering Committee co-chairs statement on recent withdrawal by Mexican civil society from national OGP platform

Mexico | 25 May 2017

The Open Government Partnership has been closely following the recent developments regarding the national OGP platform in Mexico. The decision yesterday by Mexican civil society organizations to leave the national OGP platform is a statement that challenges everyone working on open government around the world. OGP represents a truly global network of reformers, and we stand ready to offer all our resources, energy and solidarity to Mexican actors to come together and find a way forward.

The government and civil society organizations of Mexico have played a crucial role in building an international partnership that has grown from 8 founding countries to 75 since 2011. Mexican actors have played a valuable role in pursuing domestic reform and generating awareness of open government regionally and internationally, including hosting the 2015 OGP Global Summit. Many countries have looked to the Mexican government and civil society reformers for inspiration and ideas on how to tackle the toughest challenges facing society through open government reform. At the heart of OGP is a domestic dialogue between government and civil society actors in each of our 75 countries. We sincerely hope that the Mexican government and civil society will be able to re-establish a working relationship in the future built on trust, transparency and accountability.



Criteria & Standards Subcommittee Proposed Changes to the Rules of the Game: Reconsidering OGP's Eligibility Criteria

Current Rules

According to the OGP Articles of Governance (AoG), eligible governments can join and participate in OGP through the following steps:

- Submit a letter of intent that signals their government's commitment to open government and intention to participate in OGP;
- Develop a concrete action plan according to OGP standards (see Addenda B and C); and
- Implement the action plan and report on progress in cooperation with the OGP IRM.

Addendum A outlines the current eligibility criteria:

Fiscal Transparency

The timely publication of essential budget documents forms the basic building blocks of budget accountability and an open budget system Measurement: Two points awarded for publication of each of two essential documents (Executive's Budget Proposal and Audit Report) for open budgets, using a subset indicators from the Open Budget Survey, conducted by the International Budget Partnership. <http://www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey-tracker/>

Access to Information

An access to information law that guarantees the public's right to information and access to government data is essential to the spirit and practice of open government. Measurement: 4 points awarded to countries with access to information laws in place, 3 points if a country has a constitutional provision guaranteeing access to information, and 1 point if a country has a draft access to information law under consideration. Countries with both a constitutional provision and a draft law under consideration will only be awarded the 3 points for the constitutional provision. Information sourced from an ongoing survey by [Right2Info.org](http://right2info.org) (a collaboration of the Open Society Institute Justice Initiative and Access Info Europe). <http://right2info.org/access-to-information-laws>

Public Officials Asset Disclosure

Rules that require public disclosure of income and assets for elected and senior public officials are essential to anti-corruption and open, accountable government. It is also important to make the data publicly available. Measurement: 4 points awarded to countries with a law requiring disclosure, and has any requirement that the information should be accessible to the public, 2 points awarded to countries with a law requiring asset disclosures, 0 points for no law on asset disclosure. Information sourced from the World Bank's Public Officials Financial Disclosure database, which is updated on a rolling basis. The database is supplemented by a published survey the World Bank conducts every two years.

Citizen Engagement

Open Government requires openness to citizen participation and engagement in policymaking and governance, including basic protections for civil liberties. Measurement: Using the EIU Democracy Index's Civil Liberties sub-indicator where 10 is the highest and 0 is the lowest score, 4 points for countries scoring above 7.5, 3 points for countries scoring above 5, 2 points for countries scoring above 2.5, and 0 points otherwise.

Overall Scoring

Eligibility to join OGP is determined by evaluations of countries' performance in these four critical areas of open government. Countries can earn a total of 16 points for their performance in these four areas, or 12 points if they are not measured in one of the metrics. Countries that earn 75% of the applicable points (either 12 out of 16 or 9 out of 12) or more are eligible to join.

As of December 31, 2016 98 countries are eligible to join in OGP.

If a participating country falls below the minimum eligibility criteria, the AoG state:

"Should a participating government fall below the minimum eligibility criteria (see Addendum A, updated each year by the OGP Support Unit), that government should take immediate and explicit steps to address issues so that it passes the threshold within one year. "

No information is given regarding the next steps if the government fails to improve with one year.

Proposed Changes to the Rules

The Criteria and Standards subcommittee proposes that a new set of standards be introduced for countries that are applying to join OGP. Under these rules, eligible governments that match any of the three conditions below will be required to have their participation in OGP approved by the Steering Committee before being officially included as an OGP participating country. Those conditions are as follows:

- If the current ruling party holds more than 75% of seats in the lower chamber (or only chamber, if unicameral) of the national legislature.
- If the current government came to power by any means other than through a democratic election.
- If the current Head of Government has been in office for more than twelve years.

If one of these countries applies to join OGP, the Support Unit will notify the Steering Committee and give all SC members two weeks to request a discussion about the application. In accordance with the OGP's Steering Committee's longstanding procedures, any request for further discussion will not be attributed to the member that requests the discussion.



If requested, the discussion will then take place within one month (the discussion should be held in-person if a meeting is already on the schedule for the next month). Representatives of the applying government will be invited to participate in that discussion and articulate the case for their government joining OGP. Steering Committee members will then have a discussion on the government's membership, concluding with a majority vote (again by secret ballot) on one of three options as below:

1. Government is invited to join immediately.
2. Government is invited to join once certain conditions are met.
3. Application is rejected.

If the government is permitted to join with certain conditions, the Steering Committee will then have a discussion about those conditions in which members can submit proposals which are then voted on individually. An example of a condition may be for the government to hold new elections within a year.



Criteria & Standards Subcommittee Proposed Changes to the Rules of the Game: Review of Countries Acting Contrary to OGP Process

Current rules

Currently, a country can be considered to act contrary to OGP process in any of the following five situations:

1. The country does not publish a National Action Plan within 4 months of the due date
2. The National Action Plan was developed with neither online or offline engagements with citizens and civil society
3. The Self-Assessment Report is not submitted within 4 months of the due date
4. The government fails to engage with the IRM researcher in charge of the country's Mid-Term progress report and End-of-Term report
5. The IRM Report establishes that there was no progress made on implementing any of the commitments in the country's National Action Plan

The consequences for a government when it acts contrary to OGP process are:

- The responsible minister for OGP will receive a letter from the Support Unit with details about the particular situation and an offer of support
- The situation will be noted in the IRM report
- If a government acts contrary to process in two consecutive action plan cycles, a review of the country's participation in OGP will be conducted by the Criteria and Standards subcommittee. The subcommittee will make recommendations on next steps, which may include inactivity.

The moment to recommend inactive status is not formally outlined. However, there is a precedent. On November 8, 2016 C&S meeting, the subcommittee decided that if a country is found to have acted contrary to process for three consecutive cycles, the C&S will automatically recommend inactivity to the Steering Committee.

So far, there are two ways to finalize the review process:

1. If a country delivers a National Action Plan. (This is mainly because most of the countries that are under review are there because they fail to deliver a NAP).
2. Become inactive.

If placed in inactive status, a country would become active again in the following circumstances:

1. Publishes a National Action Plan, developed with the engagement of citizens and civil society.



2. Works with the Criteria and Standards subcommittee and the Support Unit to set a clear timeline to start a new action plan cycle and re-engage with civil society for producing the new National Action Plan.

Proposed Changes to the Rules

A. Name

1. Clarify the name of the process and differentiating from the Response Policy review.

Recommendation: *Support Unit proposes to change name to Procedural Review.*

B. Triggers

The five 'triggers' for acting contrary to process should be re-considered individually:

1. The country does not publish a National Action Plan within 4 months of the due date.

Recommendation: *no change, this deadline provides the flexibility that some governments need/have asked for.*

2. The National Action Plan was developed with neither online or offline engagements with citizens and civil society.

Recommendation: *SU, EIP and IRM propose the following standard "The government did not meet the IAP involve requirement during development or inform during implementation of the NAP as assessed by the IRM."*

3. The Self-Assessment Report is not submitted within 4 months of the due date.

Recommendation: *The government would no longer be considered as acting contrary to process. However, the responsible minister would still receive a letter from the Support Unit noting a self-assessment report was not submitted and the IRM report will note the delay.*

4. The government fails to engage with the IRM researcher in charge of the country's Mid-Term progress report and End-of-Term report.

Recommendation: *SU, EIP and IRM propose the following standard: The government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance."*

5. The IRM Report establishes that there was no progress made on implementing any of the commitments in the country's National Action Plan.



Recommendation: *If this trigger is activated then the country is automatically placed under review.*

IRM proposed measures	
Trigger #	Standard & Indicator
Trigger 2	<p>For reference we include the standard from the Participation and Co-creation Guidelines (“Standard”) as well as the method of assessment (“Indicator”).</p> <ul style="list-style-type: none"> a) During development (Y1 report) <ul style="list-style-type: none"> i) Standard - <i>Dissemination of Information 3. The government publishes an overview of public and civil society contributions, and the government’s response, on the national OGP website/webpage.</i> ii) Indicator: <ul style="list-style-type: none"> 1. IRM IAP2 Spectrum score of “Involve” b) During implementation (Y1 report; Y2 report) <ul style="list-style-type: none"> i) Standard - <i>Co-ownership and joint decision making 5. The multi-stakeholder forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders.</i> ii) Indicator: <ul style="list-style-type: none"> 1. IRM IAP2 Standard of “Inform” iii) Evidence <ul style="list-style-type: none"> 1. Minutes of multi-stakeholder forum made public (Updates/minutes are to be produced at a minimum every 6 months - Implementation, Monitoring and Reporting: Standard 1) c) Throughout OGP cycle <ul style="list-style-type: none"> i) Standard - <i>Throughout, Spaces and Platforms 3. The government and/or multi-stakeholder forum accepts inputs and representation on the NAP process from any civil society or other stakeholders</i> ii) Indicators: <ul style="list-style-type: none"> 1. Open vs. Invitation only (development); 2. Open vs. Invitation only (implementation); 3. Required value: “open” (as opposed of “invitation-only”)
Trigger 4	<p>For reference we include the standard from the Participation and Co-creation Guidelines (“Standard”) as well as the method of assessment (“Indicator”).</p> <ul style="list-style-type: none"> a) Standard - <i>Dissemination of information 4. Government collects and publishes a document repository on the national OGP</i>

	<p><i>website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) <u>consultation documents</u>, National Action Plans, government self-assessments, IRM reports and supporting documentation of <u>commitment implementation</u> (e.g links to databases, evidence of meetings, publications).</i></p> <p>b) indicators (proposed):</p> <ul style="list-style-type: none"> i) Repository existence: Does the country have a document repository? <ul style="list-style-type: none"> 1. Required value: yes ii) Consultation: Does the repository contain primary evidence of the breadth (who) and depth (how) of consultation? <ul style="list-style-type: none"> 1. Required value: yes iii) Commitment implementation: Does the repository contain primary evidence of commitments? <ul style="list-style-type: none"> 1. Required value: yes
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Criteria & Standards Subcommittee Proposed Changes to the Rules of the Game: NAP Development and Implementation

Note: Most of the rules for this section are not currently part of the Articles of Governance and are based on decisions developed by Steering Committee or Support Unit guidance.

OGP Calendars, Timeline and Delays

1. Current rules:

OGP countries are grouped into odd and even year grouping, according to the year in which they submit their National Action Plan (NAP). The timeline for NAP development (i.e. for 2016) is presented below.

Proposed Changes to the Rules

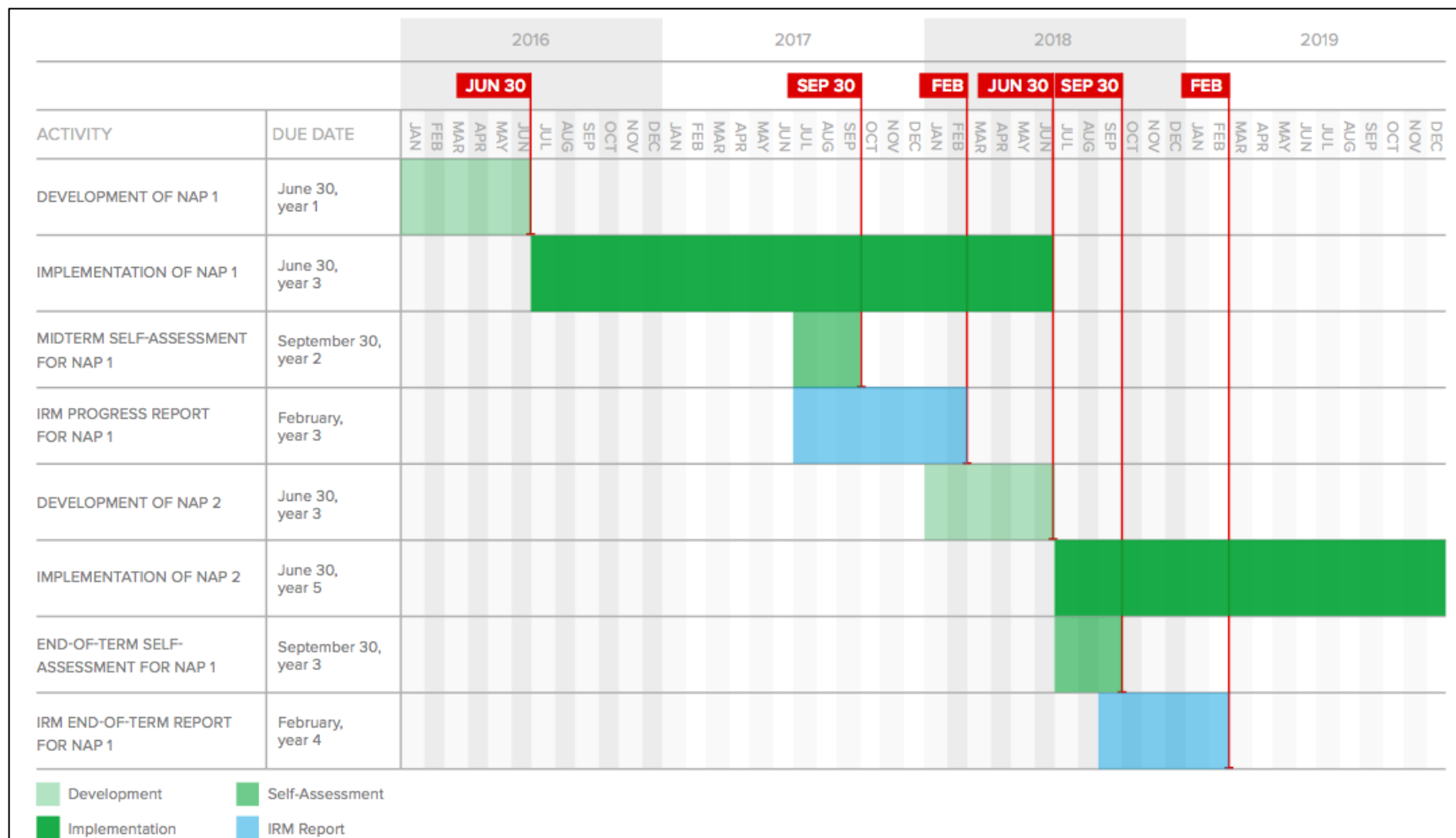
1. New SU calendar proposal (see proposed new calendar below).

Summary of proposed changes:

1. NAP development is pushed back by two months: formal deadline would be August 30th.
2. New concept of delivery window is introduced, it outlines that countries could deliver their NAP within a three month period from July 1st to September 30. Regardless of when the NAP is delivered, the NAP implementation would end on August 31st.
3. The hard deadline would shift to December 31st (four months after the deadline). If missed, countries would shift to the next cohort.
4. Self-assessment report would be due on September 30, giving countries only 30 days to develop.
5. IRM report would be delivered during April, not January.



Current timeline for NAP development (i.e. for 2016)



Proposed new timeline for NAP development, to be effective starting in 2018

			2018												2019												2020											
ACTIVITY	DUE DATE	Changes / comments	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
DEVELOPMENT OF NAP 1	August 31	pushed back 2 months																																				
Delivery window	New	new idea, have the window for everyone																																				
"hard deadline"	December 31st	4 month, after acting contrary and cohort shift																																				
IMPLEMENTATION OF NAP 1	Sep 1 to Aug 31	pushed back 2 months																																				
MIDTERM SELF-ASSESSMENT FOR NAP 1	Sept 30	pushed forward 2 months																																				
IRM PROGRESS REPORT FOR NAP 1	April 1	researchers deliver Dec 31, presented in April																																				
DEVELOPMENT OF NAP 2	August 31																																					
Delivery window	New	new idea, have the window for everyone																																				
"hard deadline"	December 31	4 month, after acting contrary and cohort shift																																				
IMPLEMENTATION OF NAP 2	Sep 1st to Aug 31st	pushed back 2 months																																				
END-OF-TERM SELF-ASSESSMENT FOR NAP 1	Sept 30	Move to Dec. 31st?																																				
IRM END-OF-TERM REPORT FOR NAP 1	April 1st	Move to July ?																																				
MIDTERM SELF-ASSESSMENT FOR NAP 2	Sept 30	Pushed forward 2 months																																				
IRM PROGRESS REPORT FOR NAP 2	April 1st	Researchers deliver Dec 31, presented in April																																				



Strategy for the Uptake of the Paris Agenda on Open Government

The [Paris Declaration on Open Government](#) was endorsed by the OGP Steering Committee during the OGP Global Summit in Paris in December 2016. The Declaration reaffirms OGP's principles and values for openness based on the OGP Declaration, written and signed by all Steering Committee members. It consists of 20 collective actions which offer concrete ways to push the frontiers of open government reforms at the global, national and subnational levels in three emerging thematic areas: transparency, integrity and anti-corruption; sustainable development and climate change; and common digital tools and capacity.

The 20 collective actions received [over 300 contributions from 30 governments and 70 civil society organizations](#) who have offered to share their expertise, tools or resources in order to advance the collective actions they signed up to. These actions are output-oriented and intended to produce tangible results, creating a framework for an ambitious open government agenda for the years ahead. A visual mapping of the collective actions can be found through a [new tool developed by France's Etalab team](#) (soon to be published).

The Paris Declaration's success will not be measured by the number of governments and CSOs that signed up to it but by the ambitious reforms it inspires that find their way into future action plans. For this to become a reality we encourage governments, civil society, and partners such as the Working Groups to work together to advance the collective actions.

Collective Action Leaders and their Roles

Thirteen of the twenty Collective Actions overlap with the expertise and policy areas covered by the six [OGP Working Groups](#). Providing support for the implementation of the Paris Declaration is a Working Groups priority in 2017. To take the Paris Declaration forward, the corresponding Working Groups will lead these actions, while those that fall outside the scope of current Working Groups will be led by the governments and CSOs who signed up to them. A mapping document of the 20 collective actions and corresponding leaders can be found [here](#).

As leaders of Collective Actions, they will have four primary roles:

- 1) Work with the Support Unit to identify a subset of the most concrete and ambitious 300+ contributions related to the Collective Action they lead.
- 2) Support governments to utilize the Paris Declaration as a source of inspiration to develop new commitments in their upcoming NAPs through facilitating peer exchanges and sharing of tools, success stories and available resources.
- 3) Leverage the Paris Declaration to expand their convening power by encouraging Collective Actions contributors to join the Working Groups.
- 4) Encourage updates on Paris Declaration contributions made at the Summit in December - and on new commitments they inspire in NAPs - to showcase how the Paris Agenda on

Open Government is being taken up by OGP countries at the national and subnational level.

The goal of the Paris Declaration is to inform an ambitious agenda for open government. Since National Actions Plans (NAPs) are at the core of OGP's model, they are the ideal vehicle for the uptake of this agenda. The NAP development process offers a timely opportunity to identify peer-exchange needs of OGP participating countries, which may be met by the comprehensive supply of support available through the Paris Declaration and the Working Groups. A total of 29 OGP participating countries* are expected to submit new NAPs in 2017, many of whom signed up to various collective actions. Governments and civil society who made commitments through the Paris declaration should work with one another to include them in their upcoming NAPs, and all contributors should follow through on commitments made to share their knowledge and expertise. The OGP Steering Committee and the Support Unit encourage the whole OGP community to use the Paris Agenda on Open Government as a source of inspiration for developing ambitious new commitments and as the impetus for enhanced peer learning.

**Afghanistan, Argentina, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Colombia, Costa Rica, Croatia, Denmark, Finland, France, Germany, Ghana, Israel, Jamaica, Latvia, Liberia, Luxembourg, Malta, Montenegro, Nigeria, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Spain, Tanzania, Trinidad and Tobago, United States.*



Taking the work of the PLS Subcommittee and Working Groups to the next level: A new OGP subcommittee to reflect the Strategic Refresh's emphasis on thematic leadership

This note follows up on discussions by GL, PLS co-anchors, and civil society SC at the retreat in Paris in March 2017. Following GL's request to think through a renewed strategic approach to peer learning that is aligned with strategic refresh objectives, this paper focuses on two core components—the future of the PLS subcommittee and the OGP working groups—that complement the Support Unit's enhanced support to government and civil society across the partnership. The note proposes a new OGP subcommittee on Thematic Leadership, to build on the work of PLS and meet the Steering Committee's desire to have a greater focus and engagement on creating a race to the top on priority open governance reforms in the partnership.

Rationale for a new approach

Raising the collective ambition of governments and civil society across sectors is at the heart of OGP's Strategic Refresh. This requires governments to maximize their National Action Plans to tackle the biggest problems facing their countries as well as adapting emerging standards and best practice to implement open government reforms suited to their context. It also means civil society using OGP as an advocacy platform to push for high-impact reforms. Most significantly, it requires building new coalitions of reformers to spur collective action in the face of formidable public policy challenges facing OGP countries. Peer learning and exchange, which underpins OGP's race-to-the-top model, is indispensable in realizing these objectives. To successfully deliver on the strategic refresh, OGP would need to deepen its peer learning ecosystem beyond the OGP Working Groups with a strong focus on thematic leadership. This calls for more focused approach to thematic leadership, utilizing high level OGP events and strategic peer learning and exchange based on:

- Stronger sector-based Steering Committee leadership to advance core open government topics, including by galvanizing leadership outside of the Steering Committee
- Using the Paris Declaration as a 20-point agenda for open government policy and advocacy at the global and national levels
- Extending peer learning programs and activities of the Support Unit and Working Groups by leveraging new opportunities such as the Multi Donor Trust Fund (MDTF)

A New Subcommittee for Stronger Thematic Leadership

The Steering Committee has not to date had an explicit focus or structure on mobilizing a race to the top, instead focusing on oversight of peer learning approaches and tools through the PLS subcommittee. Given the strategic refresh and the Paris agenda, there is a renewed opportunity to create a real race to the top by reinvigorating advocacy, using OGP events



more politically, and deepening learning and exchange on core open government thematic issues for greater ambition. Hence we propose the sunseting of the current PLS and the creation of a new subcommittee to champion thematic leadership among Steering Committee members and the wider Partnership across priority sectors of the Paris declaration. While the declaration provides a useful entry-point to mobilize leadership and partnerships across thematic priorities, this new subcommittee could play a more active strategic role to deepen those efforts given SC member participation in global agenda-setting (e.g. G20 and SDGs) and existing reform coalitions (e.g. C5 on Open Contracting). This would help galvanize SC leadership, align priorities of strategic refresh with SC & Support Unit efforts at the global and national levels, and provide the sustained and concrete action that progress on core thematic areas demands. This rebooted subcommittee would:

- Ensure the OGP Steering Committee is continuously reviewing how OGP is being used for high-level strategic discussions around progressing crucial policy issues (anti-corruption, climate change, etc.) with a focus on raising ambition and not just on the process of making commitments.
- Position and promote OGP as a strategic implementation and accountability platform for transformative reforms in thematic areas among high-level government and civil society actors and in international fora (e.g. G20, WEF, etc) in support of OGP's new global advocacy strategy.
- Lead strategy discussions with the full Steering Committee and principals in the wider Partnership on thematic leadership, including ensuring Ministers and civil society leaders use their political capital to engage with their peers in other countries.
- Take stock of efforts and support Steering Committee members to lead by example by inspiring and advocating OGP governments and civil society to make ambitious commitments in priority sectors of the Paris declaration.
- Provide connections to new government, civil society, and multilateral strategic partners and relevant global networks. Help deepen current partnerships who can support ambitious commitments in collectively identified thematic priority areas (e.g. UK/ Mexico working with peer OGP countries to advance open contracting as part of the C5).
- Support peer learning activities focused on the race to the top and identify strategic champions within relevant government ministries and civil society to collaborate on these initiatives (e.g. European Beneficial Ownership workshop organized by Zuzana Wienk).
- Support OGP's need for evidence of results and impact across priority thematic areas.
- Advise the Support Unit on the coordination with OGP Working Groups and other strategic partnerships to encourage ambitious commitments in their policy areas.

How will the New Subcommittee operate?

- To be co-chaired starting September 2017 by a government and civil society pair who have shown thematic leadership on one or more of OGP's priority areas from the Paris

Declaration and beyond.

- Subcommittee will consist of five government and five civil society members of the Steering Committee interested in advancing specific thematic areas in OGP through political leadership and concrete action. The sub-committee membership should consist of champions representing a broad range of thematic issues of priority to OGP.
- The subcommittee will annually review OGP's priority areas, for example from the Paris Declaration, and identify where there is strong leadership and where there are gaps that require further action to develop a political coalition to take the thematic area forward.
- The sub-committee will work with the Steering Committee to follow through on concrete action that members commit to for advancing OGP's thematic priorities. SC meetings should be used to report back and take stock on actions taken by SC members.
- At regular monthly meetings, the subcommittee will discuss a specific thematic issue.

The goal of regular meetings will be to:

- Take stock of political leadership as well as peer support activity among SC members to advance the particular thematic area under discussion.
- Request updates from the Support Unit on state of commitments and program activities in that particular thematic area.
- Invite governments (including relevant implementing agencies) or civil society organizations to present innovative open government reforms to be shared and scaled up in other countries. This could include non-Steering Committee members.
- Strengthen the collection of evidence of results and impact in support of open government reforms across priority thematic areas
- Take stock of upcoming bilateral, regional, global, and thematic conferences and meetings that can be leveraged by Steering Committee members to promote specific thematic issues as well as OGP as an implementation and accountability platform.

Review of the Working Group model for enhanced thematic leadership and peer-to-peer support

The PLS subcommittee co-chairs have conducted a light-touch review into the existing peer learning and support available in OGP. Since the OGP has been established, there has been a series of reviews of peer learning. We have brought together the results of these reviews, as well as incorporating feedback from discussions with relevant actors including government and civil society participants as well as Working Group co-anchors. One of the key things that has been raised with the focus on peer learning has been that peer learning has become an end goal of OGP's efforts, rather than being a method of achieving transformational reforms in OGP's thematic priorities.

Findings

The PLS co-chairs have identified several challenges facing the working groups model as it currently exists.



First, the yearly entitlement of \$25,000 to the working groups is not sufficient to meet the demand for sustained peer learning in priority areas. Working group co-anchors and the SU frequently have to provide their own resources (both time and money) or fundraise to ensure peer learning activities are successful. Enabling the working groups and others to competitively access larger amounts of funding for activities would reduce the burden on those organisations leading activities. A competitive bidding process also has the advantage of incentivizing motivated organizations to apply and follow through on peer support proposals. The funding pot could be held by the SU or the new OGP Trust Fund.

Second, the working groups are frequently hamstrung by limited government participation in their activities. Some governments have been vital additions, but often they fail to provide much benefit to the working group. Often governments can engage with issues around particular political priorities or events, but are unable to sustain their involvement in the medium or long term.

Third, there is room for more enhanced coordination between the SU country engagement team and the working group co-anchors. The country engagement team have crucial information about when and how the working groups can best support governments and civil society in the development and implementation of National Action Plans.

Fourth, since the civil society co-anchors often dominate the working group given limited government participation, there is a risk that the working group's agenda emphasizes co-anchor priorities over those of the wider community of practice.

As a result the working groups have not fulfilled their potential in providing sustained technical assistance and peer learning to support NAP development and implementation.

Recommendations

We are making the following recommendations:

1. The Support Unit (SU) should set up a fund which allows working groups and other interested parties to bid for money to support peer learning and support activities. That way a larger amount of funding can be allocated on a competitive basis to working groups for high-impact peer learning activities. While the details need to be worked out, one option might be to discontinue the automatic funding of \$25,000 at the end of the financial year. The new funding mechanism would come into effect in 2018. Given these changes, it is recommended that Working Group co-anchors don't rotate (scheduled for July) and they should operate as business as usual until the end of the current year. Meanwhile, the Support Unit should determine the funding amounts and how the competitive financing mechanism will work, for example by deciding if the pot will be held by the SU or channelled through the new OGP Trust Fund.

2. Support Unit to allow informal communities of practice, which come together to organise specific activities, to bid for money from the central fund to support their work. These are in addition to the working groups, and should include collective action areas identified in the Paris Declaration.
3. Improve the coordination between the SU country engagement team and the working group co-anchors in order to provide more upstream support. This is especially important for links between the working groups and governments.
4. Working Groups should lead implementation of the Paris Declaration since thirteen of the twenty Collective Actions overlap with the expertise and policy areas covered by the six OGP Working Groups (Open Climate, Access to Information, Fiscal Openness, Legislative Openness, Anti-corruption, and Openness in Natural Resources). Working groups can advance thematic agendas by mobilizing their networks for advocacy, expanding ambition by promoting standards and benchmarks (e.g. GIFT principles on deepening citizen participation in the budget process), and building coalitions of reformers for accelerating collective action. These activities could be supported through the competitive fund wherein working groups apply for funding for projects around priorities defined by the thematic leadership subcommittee.
5. OGP's framework for peer learning and technical assistance need to be fundamentally reconfigured in a manner where the Support Unit takes is accountable for tactical delivery of peer learning and technical assistance programs and the new subcommittee focuses on the strategic aspects of political leadership and coalition building to advance thematic priorities. Consistent with this vision, we recommend finalizing a standardized menu of services for delivery by the Support Unit to support the process of NAP development and implementation through peer learning and technical assistance. The capacity and funding of the Support Unit should be accordingly strengthened to meet the demand around NAP cycles and sustainably offer these services to a large pool of countries. One option is for these services could be professionally delivered through an expert partner contracted to serve as the thematic hub for advancing particular priority OGP themes (for example, Open Contracting Partnership to advance open contracting reforms). The contractual relationship could help hold the partner to account, which is a challenge of the current working group model. This arrangement would be complemented tactically by the working groups technical assistance and peer learning work as well as strategically strengthened by the Steering Committee's thematic leadership subcommittee.

Next steps

The Peer Learning and Support Subcommittee will discuss this proposal and make a decision on the following:



1. Disband the PLS subcommittee. The PLS subcommittee will cease to exist starting September 2017 (at the next Ministerial Steering Committee when new OGP co-chairs take over).
2. Propose replacing PLS with a Thematic Leadership subcommittee at the June 27-28 Steering Committee meeting. If approved the new subcommittee will be launched in September 2017 at the next Ministerial Steering Committee meeting. Meanwhile, the Support Unit will clarify the mandate, membership, and terms of reference for the new Thematic Leadership Subcommittee in consultation with the Steering Committee, and in particular GL which has the responsibility of ensuring balance in the subcommittees. The terms of reference would reflect lessons learned from the experience of running the PLS, C&S, and GL subcommittees.
3. Support Unit to institute a competitive funding mechanism for the OGP Working Groups, which will be effective in 2018. The Support Unit will determine details of how this would work through - or in alignment with - the OGP Trust Fund.
4. Given upcoming changes to the working group funding model in 2018, all Working Groups are to operate on a business as usual basis for the rest of 2017, including no change in co-anchorship.

The Steering Committee will decide on the following resolution upon recommendation by the PLS subcommittee:

The Peer Learning and Support subcommittee is disbanded effective September 2017 (i.e. at the next Ministerial Steering Committee meeting). A new Thematic Leadership Subcommittee--whose mandate is to champion political leadership across OGP's priority thematic areas including those set out in the Paris Declaration--will be launched at the September 2017 ministerial SC meeting.



ANNEX I: Scoping paper on Private Sector by the Basel Institute for Governance



Promoting Private Sector Engagement in the Open Government Partnership: A Discussion Paper¹

June 2017

1. Executive Summary

There has been limited private sector engagement in OGP to date. This discussion paper commissioned by the OGP Support Unit seeks to explain why this is so and suggests some options for promoting increased private sector engagement going forward.

History/Context: OGP's policy and guidance documents take an ambivalent position towards the private sector as a stakeholder to engage, without acknowledging the private sector's unique potential value. The private sector includes a diverse set of actors and an effective OGP engagement strategy must pay attention to different entry points and concerns of the private sector at various levels. Two attempts at engaging the private sector – through OGP's Networking Mechanism and the Private Sector Council – failed to gain traction, mostly because they focused on creating a “supply” of private sector expertise without facilitating the demand from governments and civil society. Among the many actors in the global governance and sustainability fields, OGP is poorly known by the private sector. Articulating clear value propositions regarding the mutual benefit of the private sector to open government/OGP is critical to attracting private sector interest.

Two-Way Value Proposition: The private sector contributes to open government by improving public services, spurring civic innovation, capitalizing on open data, potentially linking open government and financial performance, and improving transparency, integrity, and anti-corruption. For its part, open government can benefit the private sector by unleashing economic potential through open data, improving the business climate and business efficiency, leveling the playing field and promoting a fairer business environment.

More compelling, however, are examples of private sector impact through and on the OGP process. For example, the private sector can serve as a catalyst for open government reform, as in the Philippines, where the Makati Business Club as part of the OGP national-level Steering Committee promoted anti-corruption and competition reform. In Pakistan, the private sector, interested in open data on customs, taxation and other business issues, even served as the catalyst alongside civil society in advocating that the country become an OGP member. For its first National Action Plan (NAP), the United Kingdom formally consulted the private sector in selecting which data sets to open. The private sectors in Nigeria and Kenya have seized on the OGP NAP process as a means of advocating that their governments adopt and implement concrete anti-corruption and climate change legislation to hold them accountable for translating high-level commitments into concrete action.

Recommendations for operationalizing private sector engagement at the national, thematic, global policy, and institutional levels: OGP should more clearly illustrate how the private sector can have a seat or voice at the table alongside governments and civil society in the OGP process and promote those examples across the partnership. At the thematic level, the OGP

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Paris Declaration now provides a concrete road map for clarifying the private sector's potential contributions to commitments in its 20 issue areas. That said, OGP could do a better job of articulating its role in promoting the SDGs and capitalizing on private sector support for the SDGs for OGP ends. OGP should undertake a more comprehensive stakeholder mapping of MSIs and initiatives related to the SDG, particularly pertaining to private sector engagement, to effectively identify synergies for complementary collaboration. Global policy forums such as the G20/B20 or WEF/PACI forums provide additional platforms for private sector engagement on OGP issues, but OGP partners are already influencing those debates.

The report concludes with additional suggestions for OGP to improve private sector engagement such as: adopting and publishing a clear policy statement encouraging private sector engagement and harmonizing guidance publications to support this policy; develop a group of private-sector OGP champions; consider incorporating members of its Steering Committee or Support Unit (in the form of a program officer) dedicated to promoting private sector engagement on a transversal basis; and pursue deeper research in a number of private sector issues to strengthen the two-way value proposition for engagement.

2. Introduction

This discussion paper explores the opportunities and challenges of promoting increased private sector engagement with the Open Government Partnership (OGP). It is designed to inform discussion and provide options for the OGP Steering Committee's consideration on how best to encourage and frame private sector engagement in OGP going forward.

This paper is based on a desk review of OGP materials and comparable experiences of private sector involvement in multi-stakeholder initiatives and public-private partnerships. The authors also conducted interviews, covering a balance of viewpoints from government, civil society, and the private sector, which were representative, but not comprehensive.² Opinions shared by interviewees are included anonymously in this paper.

Two words of semantic caution should be noted from the outset. First, it is crucial to underscore that the private sector is not monolithic, but rather encompasses a diverse range of actors at the global, national, and sub-national levels. For the purposes of this paper, the private sector is defined as for-profit entities that have majority private (i.e. non-government) ownership and includes multinational companies operating at the global level, micro- or small- and medium-sized enterprises (SMEs) engaging in different national contexts—from industrial economies, to emerging markets, to less developed countries which are part of OGP—entrepreneurs, and business associations. An effective private sector engagement strategy for OGP depends on attention to the nuances and different concerns and entry points of different private sector actors.

Second, “open government” means different things to different people. While flexibility has some advantages, the OECD has cautioned that successful open government initiatives depend on “a single definition fully recognized by the whole public sector and communicated to all

² The authors conducted a total of 14 interviews for the purpose of this study, including four individuals representing a government perspective, four representing a civil society perspective, and six representing the private sector perspective. The individuals interviewed were located in the following countries: United States, United Kingdom, Argentina, Kenya, Georgia, Nigeria, Pakistan, and the Philippines.

stakeholders.” For some, open government means open data, although open data itself is defined differently by different actors. Yet OGP defines open government more broadly than open data and access to information and the 2016 OGP Paris Declaration provides a road map of concrete open government goals in three priority thematic areas: (1) transparency, integrity, and anti-corruption; (2) climate change and sustainable development; and (3) common digital tools and capacity. This paper seeks to broaden debate to private sector engagement to these and other thematic issues.

3. History and Context of Private Sector Engagement in OGP

This overview of how OGP policy and guidance documents frame private sector commitment and discussion of two previous attempts at private sector engagement provides crucial institutional learning from past experiences to inform the path forward.

OGP’s Articles of Governance foresee OGP as a triangular platform for co-creation, with its main stakeholders comprised of governments, civil society, and private sector entities. Despite this, few countries have included the private sector in their OGP National Action Plan (NAP) processes. OGP is rather primarily identified as a platform for dialogue between governments and civil society reformers. In fact, this is lauded as OGP’s unique attribute and added value. OGP’s most recent guidance on participation, co-creation standards, and design of OGP multi-stakeholder forums affirms OGP’s self-perception of the OGP process as primarily a dialogue between governments and civil society, while encouraging these main constituents to consult broadly with other actors, including the private sector.

Partly in response to the focus of the OGP co-creation process as between governments and civil society, strategic priority #2 of OGP’s *Strategic Refresh* seeks to broaden collective ownership domestically, in part by welcoming and integrating “new actors, such as local governments, legislatures, private sector, the media, and youth.” Including the private sector on this diverse and disparate list, raises questions as to whether OGP sees the private sector as a unique stakeholder and has the appropriate tools in place for effective private sector engagement. This discussion paper is intended to spur discussion to this end.

There have been a few attempts at stronger integration of the private sector in OGP. Between 2011 and 2013, OGP developed the “Networking Mechanism,” a roster of around 100 experts, including one or two dozen companies in the civic technology or geo-mapping space, who were on stand-by to provide technical assistance to countries developing NAPs who would ask for assistance. Over two years, however, few countries requested assistance from the Networking Mechanism and OGP abandoned it, adopting other peer learning approaches. Although no formal evaluation was made of the Networking Mechanism, several interviewees cite it as a critical moment of institutional learning. Their main take away is that country NAP development is driven in a bottom-up manner and that offering a supply of private sector or other technical expertise will not automatically lead to demand from governments or influence change at the national level.

A next phase of consideration of private sector engagement in OGP came in 2014-2015. During its tenure as OGP Co-Chair, Indonesia raised interest in this issue, as did the U.S. State Department, which tapped the Center for Private Enterprise (CIPE), a Washington, D.C. based non-profit that promotes democracy abroad through market-oriented reforms and private enterprise, to brainstorm proposals. CIPE then created the Private Sector Council (PSC) in 2014

as a joint initiative with the National Information Society Agency of Korea and Microsoft. Additional big firms such as IBM, KPMG, and Thomson Reuters also joined the PSC, with interest expressed from others such as GE, CISCO, and Amazon. The PSC delivered a white paper to the OGP Steering Committee in 2014 proposing that it become a formal OGP working group that would define a strategy for OGP to engage the private sector and has repeated that proposal in 2015 and 2016. This was an informal pitch, however, that was not subject to debate by the OGP Steering Committee, which did not give a formal response on the proposal in light of outstanding questions on the potential role of a working group dedicated to private sector issues. The lack of feedback to the PSC has created the perception among some that OGP is not seriously interested in engaging the private sector.

That the PSC has not gained traction with OGP could be due to several factors. For one, the role and scope of intervention of OGP working groups have evolved and remain a matter of debate. Without greater clarity on their role it did not make sense to create a new one dealing exclusively with private sector engagement. Furthermore, the PSC adopted a similar approach to the Network Mechanism by focusing on the supply side of technical expertise rather than on demand from governments. Finally, the predominance of large corporates and the U.S. government's backing of the PSC might have spurred skepticism among some government and civil society reformers from different countries around the world. The lack of engagement with the private sector at the national level can also be detected according to an analysis of the NAP commitments. From the nearly 2800 OGP commitments to date, just 106 of them refer to the private sector according to the OGP Explorer. Furthermore, only 33% of these commitments involved directly engaging the private sector, with an additional 25% focusing on establishing private sector databases, and another 16% focused on increasing private sector responsibilities in transparency efforts such as beneficial ownership or whistleblowing legislation.

4. Challenges and Risks of Engaging the Private Sector

Several cultural hurdles present challenges and risks for engaging the private sector. Interviews with stakeholders revealed the following issues.

From the private sector perspective, companies have finite resources and have to be selective where they engage. One private sector representative said that the best policy or action platforms for corporate engagement are the ones that have a real understanding of how businesses work, their needs, and how and what businesses can contribute to their shared objectives. The majority of interviewees affirmed that OGP is poorly known among private sector actors. In the good governance and sustainability fields, OGP is one forum among many. Companies see that there are overlapping initiatives and it is difficult for them to figure out who is doing exactly what and how it all fits together. From a substantive standpoint on open data, many companies remain defensive, concerned about the consequences of opening up proprietary business information, or that increased access to information will lead to greater whistleblowing. Several interviewees representing the private sector commented that OGP appears to champion access to information without sufficient concern for individual or corporate privacy. In terms of engagement, companies see some value in participating in global high-level events, but generally prefer avoiding policy talk shops and would rather find strategies for engagement in countries where the possibility of

impact is greatest. That said, the varied nature of how the OGP process works at the national level makes it difficult for some global companies to find entry points for engagement.

For their part, many civil society actors do not trust the private sector's motives in participating in global policy and action forums. Given the crackdown on civic space in many countries and rising inequalities, it is paramount to preserve OGP processes at the national level as a level playing field for multi-stakeholder dialogue. Finally, as with governments, some express concern that private sector actors not use the OGP process as a way of "open-washing" some corporate practices which are at odds with the value of supporting effective government, such as through lack of transparent corporate practices or adopting forum shopping for tax optimization that has budgetary implications for governments.

Governments have their own bureaucracies and politics, adopting a wide range of approaches from collaboration to consultation to confrontation with non-state actors.

5. What are the value propositions for private sector engagement in OGP?

Almost all interviewees shared the opinion that the two-way value propositions of (1) what benefits the private sector brings to OGP and conversely (2) what open governance does for the private sector remain unclear. The conceptual vagueness of "open governance" has resulted in a lack of concrete issue areas that lend themselves to a quick sales pitch of the business case for open governance. Furthermore, the limited engagement of private sector to date has left the debate at a rather abstract level, with few helpful illustrations of private sector engagement in OGP. Despite these challenges, this section outlines the broad-line arguments that form an initial basis of a two-way value proposition with some brief illustrations. More concrete arguments and options for operationalizing private sector engagement with OGP are set out in Section 6.

5.1. *The value of the private sector to open government and OGP*

The private sector can contribute to open government in numerous ways:

Improving public services: The private sector has financial and material resources, human capital, data tools, process frameworks, and problem-solving capabilities that can be put to use in improving public services. As financial constraints are squeezing government services and citizen demand and scrutiny are rising, more governments are under pressure to streamline bureaucracy and pay attention to cost-benefit bottom lines. The private sector can share and adapt tools that help governments improve business processes, data processing, and information analysis with the view to improving public services. These tools can just as well come from large multinational ICT firms with advanced data systems, such as cloud computing, as from national SMEs who are most familiar with national government contexts and have simple, but effective solutions to improve public services. This can be seen in smart city initiatives ranging from IBM's Digital Delta in the Netherlands, which uses big data to improve flood control and management of the entire Dutch water management system, to the successful use of open data by the city of Bahia Blanca in Argentina to reduce accidents (by 25%) and optimize their transportation system through implementation of an open data platform by the company Junar.

Civic technology / innovation: The same private sector tools mentioned above can also be put at the disposal of citizens as a means of empowerment. One example is through hackathons. For example, Open Data Philippines, the government open data portal developed as a result of joining OGP has sponsored a series of hackathons. One hackathon in partnership with Microsoft in 2013 focused on finding citizen solutions to transparency in budgetary practices and another in partnership with the World Bank called the “Readysaster Hackathon” in 2014 called “Code for Resilience” focused on creating solutions for community resilience to natural disasters using ICT tools.

Private sector contributions on open data: Open data is but one tool to achieve improved public services and civic innovation as outlined above and the private sector has an important and symbiotic role to play alongside governments in what Deloitte is calling the new “open data ecosystem.” In this new ecosystem, governments have a responsibility to inform the private sector of the data it has at its disposal for the private sector to exploit that data, just as businesses play an important role in demanding that governments open up more, and more varied, data. In turn, private companies will begin to open their own proprietary data, with new business models and commercial ventures emerging to spur economic growth. The United Kingdom’s first NAP process structurally incorporated a private sector consultation process on open data. The Open Data User group played an instrumental part in helping the government ascertain what data had business-relevance. This led to collaboratively established mechanisms to ensure accessibility of data, as well as quality and consistency of data provided by the government.

Financial institutions and ratings agencies: Several open government reformers have argued that financial institutions and ratings agencies have a role to play in demanding that governments share indicators on open government as indicative of better investment climates. However, the gradual mainstreaming of environmental, social, and corporate governance (ESG) factors as salient to financial performance has not yet examined the role of open government as a pre-condition. Aside from a few blogs and public statements at OGP gatherings, this issue is absent from the open government literature and is worth exploring in further detail among the other value proposition arguments.

Improving private sector transparency, integrity and anti-corruption: Most interviewees who discussed transparency and integrity issues underscored the shared responsibility of governments and the private sector in this regard. As such, private-sector initiatives to improve their own corporate governance, transparency and integrity will therefore lead governments to improve the same. Strong corporate interest in transparency and accountability, while spreading, has largely emerged in notable sectors, such as the oil, gas, and extractives industries and companies engaging in large-scale public procurement projects, as described further below. Interestingly, in a recent OECD survey on open government, very few countries say that the goal of open government is “to improve the transparency of the private sector.”

The private sector can contribute to OGP in additional ways:

The private sector as catalyst for open government reform: A novel value proposition that emerged from this research is the private sector’s role as driving force behind open government or regulatory reform at the national level. A compelling example comes from the Philippines where the Makati Business Club, a business association, has launched a multi-stakeholder anti-

corruption Collective Action known as the Integrity Initiative. This initiative promotes the signing of an Integrity Pledge to commit to integrity and anti-corruption measures. To date, over 2,000 private sector actors, 45 government agencies, 200 organizations, and 86 academic institutions have signed the Integrity Pledge. In addition to the Integrity Initiative, the Makati Business Club has played an important role in promoting regulatory reform on anti-competition issues, for example promoting reforms on business registration to improve transparency and ease of doing business to encourage investment in the Philippines. The Makati Business Club has representatives on the Philippines OGP national-level Steering Committee and is actively involved in promoting reforms in these two areas of anti-corruption and improved business environment.

The private sector as catalyst for a country to join OGP: Another unique perspective on the value of private sector engagement in OGP can arise at the country level where private sector leaders take a lead role in joining forces with civil society in advocating that a government sign on to OGP. This was the case in Pakistan where the private sector saw OGP as a unique opportunity to improve implementation of Pakistan's freedom of information law, particularly to access government data relevant to customs, taxation, and other relevant business issues. The private sector efforts were supported by a number of foreign development actors, including CIPE, the Open Society Foundations, DFID, and the Asia Foundation and a Pakistani economic think tank. The Pakistan government is currently developing its first NAP and the private sector is disappointed with the lack of consultation with either civil society or the private sector to date. To prevent this scenario from occurring elsewhere, one suggestion is that in the future, OGP should condition a country's admission on proof of the creation of a multi-stakeholder forum, with concrete names of participants, prior to a country's signature as a sign of genuine commitment; this way all actors would be held to account to undertake a genuine NAP co-creation process.

5.2. *The value of open government and OGP to the private sector*

Open government benefits the private sector in numerous ways:

The business case for open data: A business case with concrete figures can be made for the value of open government to business. According to an OECD study, furthering business opportunities and supporting innovative economic growth is one of the main aims of governments opening up their data. The McKinsey Global Institute estimates that open data could unlock \$1.1 trillion a year in economic value by 2025 and within the EU28 the direct market size is set to grow 36% by 2020. These statistics illustrate the inter-dependency and necessity of cooperation between governments and the private sector to unlock the potential benefits of open government data and translate it into innovative business opportunities. Canada provides a successful example of public-private partnerships to promote the use of open data. Canada's Open Data Exchange platform encourages the re-use of data and informs companies of the business potential of open government data. It provides case studies of companies using open data as part of their business model and offers consultation from open data businesses champions to support other companies in harnessing the benefits of open data through a collaborative-networked approach.

Government transparency improves the business climate and increases business efficiency: Access to government information can enable companies to better assume their

business risks and increases market predictability. Companies are fully reliant on the quality; consistency and reliability of the government data provided as a baseline for their business decisions and can greatly benefit from direct or even “real-time” access to government data. A more transparent government can help business understand country’s regulations and accordingly hedge its reputational and asset risks to improve investor customer confidence.

Leveling the playing field and promoting a fairer business environment: Through the mechanisms of open contracting, open budgeting and other government data the economic environment can move towards leveling the playing field, particularly in favor of SMEs, and breaking IT monopolies. This increases the confidence of companies to enter new markets, even those previously regarded as “no-go-areas”. Opening up government data can help to foster a more competitive environment and ensure competition on the basis of quality, innovation and price.

The OGP process can further add value for the private sector:

OGP spurs tangible commitments that allow the private sector to hold them to account: Nigeria joined the OGP in July 2016, shortly after Nigerian President Buhari made a number of strong anti-corruption commitments in the context of the U.K. Anti-Corruption Summit in May 2016. All actors brought into the OGP process immediately seized on the development of Nigeria’s NAP as a means of institutionalizing and concretizing President Buhari’s anti-corruption commitments in an accountable process.

OGP as a catalyst for legislative change: As in Nigeria, the Kenyan private sector through the Kenyan Association of Manufacturers (KAM), credits the OGP process as providing the necessary platform for effectively pushing legislative developments in two areas. In the field of anti-corruption, the Kenyan NAP incorporated a generic commitment to “enhance preventive and punitive mechanisms in the fight against corruption and unethical practices.” Although it was not explicitly foreseen in the NAP, the private sector seized on that commitment as a way of advocating for the adoption of the Kenyan Anti-Bribery Act in December 2016. This bill had been developed by the private sector and presented to parliament some time before the NAP cycle, but it was the NAP commitment that the private sector capitalized on in successfully persuading Parliament to enact the bill into law. In the area of climate resilience, the private sector also used the NAP process to enshrine a government commitment to accept participatory development of climate policies to implement the Climate Change Act of 2016.

6. Recommendations for Operationalizing Private Sector Engagement in OGP

Section 5 above demonstrates that articulating value propositions for private sector engagement in OGP remain quite abstract at a theoretical level, but come to life through concrete initiatives, which to date have emerged predominantly at either the country level, or the global thematic level. As part of its *Strategic Refresh*, the OGP Support Unit is striving to streamline its engagement at the country, thematic, and global policy levels. Section 6 here provides options for the OGP Steering Committee to consider how to promote private sector engagement along these three lines in an emerging organic approach.

6.1. At the country level

The most innovative examples of private sector engagement in OGP have occurred at the national level. Consistently, this has occurred when countries give the private sector a formal seat in their multi-stakeholder leadership structures in NAP development, implementation, and monitoring.

Several preconditions for successful private sector engagement have emerged. Almost across the board, where the private sector plays a leadership role in OGP, it is because the government has invited them to the table. This often occurs in countries where the private sector has already self-organized into business associations along regional or industry lines and has already established certain industry advocacy relationships with the government. Business associations in developing countries might benefit from the capacity building offered by some programs such as the World Bank's partnership with CIPE in promoting Public-Private Dialogues. In some countries, civil society is able to vote to select who represents the voice of the private sector. These success factors might also be a cautionary sign that private sector engagement at the national level might be more difficult in some countries, for example, where the private sector has not yet developed a chamber of commerce model of business advocacy or civil society distrust of the private sector is high. As such, private sector engagement is likely to be uneven across OGP members.

There has been limited peer learning on how the private sector has engaged in the OGP process at the country level to date. Some successful examples include the following:

In **Peru**, the multi-sectorial commission for monitoring and implementation of the NAP includes representatives from the following sectors: government; civil society organizations (3), business representative (1), and observers.

In **Brazil** the Advisory Working Group of the Interministerial Committee for Open Government is a self-selecting group. Candidates clustered in three electoral colleges representing civil society, the private sector, and labor unions, register online and are subject to vote from civil society.

In **Colombia**, the NAP Follow-up Committee includes members from government (2), civil society (3), and the private sector (1), representing the viewpoints of 60 organizations at the national and regional levels.

In **Georgia**, an Open Government Forum comprised of government, NGOs, international organizations, and the private sector meets on a monthly basis to support NAP development implementation, monitoring of progress and awareness-raising.

In **Nigeria**, the government adopted a triangular consultation process with civil society and the private sector from the start of its joining OGP. The country-level OGP Steering Committee is comprised of 21 state actors and 21 non-state actors. Private sector representatives are considered non-state actors similar to civil society groups. The main private sector actors are large industry associations with national reach that represent a broad range of business interests. The OGP Steering Committee has two chairs – one from the government, the other a non-state actor. The current non-state Co-Chair is a civil society group, but the next non-state Co-Chair will be a private sector representative.

Country examples described above from **Kenya** and the **Philippines** also demonstrate how their OGP NAP steering committees include the private sector.

These case studies demonstrate various ways that OGP governments have invited the private sector to participate in the OGP process at the national level. OGP should undertake further research to create a comprehensive picture of private sector engagement in OGP processes with the view to promoting peer learning on this issue. This could be done through an in-depth review of all Independent Review Mechanism (IRM) country reports and additional interviews to evaluate the OGP co-creation process in different countries. Once it is known where the private sector sits at the OGP table, it will be easier to further ascertain the impact of such participation on the substance of OGP commitments and their implementation process.

6.2. At the thematic level

Another angle for increasing private sector engagement would be at the thematic level. OGP has been experimenting with various ways of raising the profile of thematic priorities related to open government, with various degrees of traction. First, the OGP Articles of Governance propose the **OGP five grand challenges**, all of which would be pertinent to the private sector. These issues are framed in such a big-picture manner, the Steering Committee might consider how relevant these grand challenges remain in light of subsequent developments such as the OGP Working Groups and the Paris Declaration.

Seven **OGP Working Groups** have been formed, but without any direct private sector membership in any of them. Although the themes are more focused than the grand challenges, several interviewees commented that the activity level of the working groups has been uneven and the content of the conversations in the working groups has not yet been concrete enough to spur private sector interest. Furthermore, the current Working Group model emphasizes proportionate representation of government and civil society co-anchors, which might also be off-putting to the private sector. In any event, OGP is currently considering how to evolve the working groups into new forms of thematic leadership that would be more effective.

Most recently, the **Paris Declaration on Collective Actions to Accelerate Open Government** articulate 20 specific issues in the three thematic areas of (1) transparency, integrity, and anti-corruption; (2) climate change and sustainable development; and (3) common digital tools and capacity. The collective action compilation alludes to direct private sector engagement in various countries on the sub-themes of: open public procurement, innovation and data driven approaches to expose and fight corruption; harnessing the data revolution for sustainable development and climate risk resilience; collaborative data infrastructures; and guiding principles for open data policies.

But additional private sector engagement on other Paris Declaration themes can emerge through existing multi-stakeholder initiatives (MSIs) that already incorporate private sector engagement at an industry/sector, or thematic level. For example, on the issue of transparency in the natural resources sector, the Extractive Industry Transparency Initiative (EITI), which is a tripartite structure between government, private sector, and civil society, has already begun to strategize on how OGP can be a platform to obtain a country government to commit to sign up to EITI broadly, or incorporate specific EITI industry standards as part of their OGP commitments. This strategy is already in the process of being implemented. Fifteen countries have to date committed to EITI as part of their NAP. There are further promising examples of countries commitments directly linked to their OGP process such as the Philippines, Columbia and the

Ukraine. Similarly in open public procurement, MSIs that already include private sector participation, such as the Open Contracting Partnership or the Construction Sector Transparency Initiative (CoST), use the OGP platform to obtain issue-specific commitments and include private sector engagement at the national level. A more comprehensive stakeholder mapping for OGP might be able to spell out additional synergies for private sector engagement at the more granular and concrete sub-thematic level of the 20 Paris Declaration issue areas.

A final discussion of the particular role that the **Sustainable Development Goals (SDGs)** can play in steering greater private sector participation in OGP is warranted. Interviewees from all perspectives (government, civil society, private sector) agreed that despite the Joint Declaration on Open Government for the Implementation of the 2030 Agenda for Sustainable Development endorsed by the OGP Steering Committee in 2015 and the issuance of a few policy papers on OGP and the SDGs, OGP has not yet effectively defined the synergies between open government and the SDGs effectively, although some countries, like Mexico, have begun to harmonize their OGP commitments along the SDGs. Perhaps the OECD has addressed this most effectively, by suggesting that open government strategies can inform both (1) the substance of achieving the SDG goals; and (2) the process by which countries strive to achieve the SDGs throughout their policy cycles, “engaging citizens, civil society organizations, and the private sector as partners in the policy cycle helps ensure that their needs are identified and responded to, thereby leading to higher user satisfaction.”

In their short 2-year existence, the SDGs have attracted greater private-sector interest than OGP. This can be seen through the proliferation of business platforms to address the SDGs – such as the Business and Sustainable Development Commission or Business for 2030 to mention only two such business associations on the SDGs – as well as the annual SDG Business Forum in New York or the recurring focus of the UN Private Sector Forum on SDG issues. Furthermore, climate resilience issues have increasingly captured companies focused on open data, with numerous emerging multi-stakeholder partnerships related to open government goals, such as the Global Partnership for Sustainable Development Data, with which OGP has begun conversations exploring potential collaboration.

The takeaway point from this discussion is not that the OGP needs to be everywhere, but rather that OGP needs to better articulate its synergies with a very broad range of MSIs with private sector participation engaged in complementary goals. As the OGP Steering Committee considers the broader question of how OGP can better institutionally address thematic issues, for example through the creation of a thematic leadership sub-committee, it should consider how these themes would benefit from private sector contributions. Perhaps a bigger thematic stakeholder mapping than allowed for in the scope of this discussion paper would be helpful to this end.

6.3. At the global policy level

Of the three areas of OGP strategic engagement, the global policy level might appear to be the most challenging to frame. Here again, the relevant question is how can OGP find effective synergies with global policy platforms with the Support Unit’s limited resources.

To start, OGP already has eight established multilateral partnerships: three at the global level (the World Bank Group, the United Nations Development Program (UNDP), and the Organization

for Economic Cooperation and Development (OECD); and five at the regional level in the Americas (United Nations Economic Commission for Latin America and the Caribbean (ECLAC), the Organization of American States (OAS), the Inter-American Development Bank (IDB)); Asia (Asian Development Bank (ADB)); and Africa (New Partnership for African Development (NEPAD)). The Mid-Term Review of OGP's Strategic Plan published in January 2017 cautions the following: "There are significant synergies between OGP's objectives and the objectives of its multilateral partners to promote better governance. Working together, OGP, the multilaterals, and civil society can be a strong leveraging tool on many governments. This leveraging tool is not working as it should, and the obvious synergies are not being exploited." This commentary fails to acknowledge that OGP's multilateral partnerships can also be a tool for promoting private sector engagement at the country, or perhaps regional, levels. OGP should continue to strive to harness the potential synergies with its multilateral partners on a more effective basis, including on the issue of attracting private sector engagement.

In addition to OGP's multilateral partnerships, there are several global policy forums where open government norms are developed directly with the private sector, in particular the G20/B20 process and the World Economic Forum Partnering against Corruption Initiative (WEF PACI). OGP Steering Committee members have a particular role to play in demonstrating leadership in advocating for OGP issues at the global policy level. OGP does not currently have an independent profile at these policy forums, but that is not a disadvantage. The current approach of OGP's partners in governments and civil society organizations participating in those forums and bringing open government issues before them seems to work. For example, the G20/B20 process over the last three years endorsed important commitments such as open data principles and greater transparency in procurement processes. This year, the B20 endorsed a strong recommendation on the issue of beneficial ownership transparency, widely seen as one of the most tangible outputs of the B20 in recent years. OGP partners, such as the Open Contracting Partnership, the B-Team, Transparency International, and others, played a critical role in promoting those issues in these forums. The key next step will be getting those international endorsements translated into policy commitments in OGP countries through their NAP process. This is what is happening with many high-level commitments made at the U.K. Anti-Corruption Summit in May 2016: the Nigeria and Kenya case studies above demonstrate how governments, civil society, and the private sector are using the OGP NAP process as the domestic policy platform to turn those political statements into tangible, transparent, and measurable outcomes at the national policy level.

6.4. At the OGP institutional level

What can existing OGP structures do to promote increased private sector engagement in the OGP process?

For one, numerous interviewees expressed an interest in OGP publishing a clear policy encouraging private sector engagement in OGP. The uneven references to the private sector – from the unrealized vision of OGP as a triangular co-creation process between governments, civil society, and private sector in the Articles of Governance to boilerplate entreaties for the private sector to be included in the multi-stakeholder OGP process at the national level scattered through OGP documents to OGP's perceived ambivalence towards the private sector from some actors – means that if OGP wants to engage the private sector meaningfully, it must state that explicitly

and then mainstream that position throughout its guidance manuals, including, for example, its Co-Creation Manual, which it just published, but does not give unique attention to the private sector.

Second, it might be interesting to consider finding a group of private-sector OGP champions. This could be through the appointment of a prominent private sector OGP Ambassador, such as an acting CEO. Such a CEO would not need to represent a multinational, but might be a corporate leader with regional recognition and resonance.

Third, OGP's institutional structures – its Steering Committee and Support Unit – should consider incorporating members dedicated to following the issue of private sector engagement on a transversal basis. For example, the Steering Committee might invite one or two private sector representatives to be elected to serve on that body. The Support Unit might consider adding a program officer dedicated to promoting private sector engagement. Even though the approach of developing a menu of private sector technical expertise has not worked, this does not mean that a more proactive matchmaking effort between private sector expertise supply and government demand would not. An OGP private sector program officer (or 50% of one) within the Support Unit would have the advantage of the knowledge of what is emerging at the country NAP level and could be tasked with streamlining synergies with multilateral partners and global policy initiatives on open government issues. The most effective profile of such a person would be someone who has worked with the private sector and can frame “asks” for the private sector in tangible terms.

Fourth, this paper has highlighted several areas ripe for research such as: a deeper understanding for peer-learning purposes of experiences of private sector engagement in OGP processes at the country level; a comprehensive mapping of open-government thematic issues with existing multi-stakeholder initiatives that incorporate private sector participation and subsequently, a more nuanced articulation of OGP's value proposition at a more targeted level combining thematic or industry specific issues within specific country targets ripe for engagement. Further efforts to develop the OGP value proposition to different types of private sector stakeholders would also be warranted.

7. Conclusion

This discussion paper has raised more questions for the OGP Steering Committee to explain more explicitly why it seeks to increase private sector engagement in OGP and what the best means of doing so would entail than provide clear answers to either of those questions. OGP's institutional history of engaging the private sector has revealed that articulating the two-way value proposition of what the private sector brings to open government and vice-versa can be done, but remains quite abstract. By contrast, OGP's new three-pronged approach since its *Strategic Refresh* of strategizing priorities at the country, thematic, and global policy level provides a more tangible framework for promoting private sector engagement. In the end, pursuing a gradual, even organic, approach to private sector engagement might be the most fruitful approach.

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Annex II: OGP Policy on Legislative Engagement



Legislative Engagement in the Open Government Partnership

I. Background on Legislative Engagement in OGP

Legislative Openness has been on the OGP agenda since the early days. The Legislative Openness Working Group (the Working Group) - led by the National Democratic Institute (NDI) and the Congress of Chile - was formally launched at the Open Government Partnership (OGP) Summit in London on October 31 to November 1, 2013. Along with four other thematic Working Groups, the Legislative Openness Working Group was formed in response to growing demand throughout the OGP community for support and peer learning opportunities for participating parliaments. At the time of the launch of the Working Group, few parliaments were participating in the domestic OGP process and there was limited parliamentary awareness of OGP, despite the multiple benefits provided by deeper parliamentary engagement.

Since its launch, over 45 OGP member country legislatures have engaged in Working Group activities, over 70 meetings or conference sessions have been organized, 15% of all OGP commitments require legislative action, several NAPs expressly include commitments from the legislative branch (Ghana, Kenya, Greece and others) and four national parliaments (Chile, France, Georgia, Ukraine) have developed independent parliamentary openness plans, which are separate from NAPs done by the executive branch though seem to adhere to similar principles as the domestic OGP process. The significant growth in parliamentary participation speaks to both the demand for an enhanced role for the legislature as well as the value of greater legislative engagement.

The Criteria & Standards subcommittee of the OGP Steering Committee started discussing the modalities of more formal legislative engagement in July 2015. In early 2016, some of its members, together with the Support Unit, drafted a Discussion Paper on the Role of Legislatures within the OGP Framework (the Discussion Paper), to inform a Steering Committee 'strategy discussion' on legislative engagement in OGP at the May 3-4, 2016 meeting in Cape Town, South Africa.¹

The Discussion Paper builds on more than three years of experience in engaging legislatures in OGP. It presented four options for consideration going forward. The reaction of the Steering Committee to the Discussion Paper and to enhanced legislative engagement in OGP has been uniformly positive. In Cape Town, Steering Committee members recommended the development of a draft policy, focusing on Options 2 and 3 outlined in the Discussion Paper. Option 2 involved the development of specific open parliament commitments as a separate chapter of the National Action Plan (NAP); Option 3 would allow parliaments to develop their own-stand alone separate action plans, but following parallel guidelines.

¹ The Discussion Paper drew in part on an [options memo](#) prepared by the Working Group, on contributions by other key actors on legislative engagement and on scoping research by Fola Adeleke.

Specifically, the Steering Committee minutes indicate that “*Steering Committee members agreed that a proposal should be developed and presented to the full Steering Committee at its next meeting in September.*” This policy paper, submitted to the Steering Committee by the Criteria & Standards subcommittee for review and approval at their September 2016 meeting, incorporates input received from Steering Committee members since the Cape Town meeting, as well as additional input from the Support Unit, Steering Committee members, members of the Legislative Openness Working Group, the United Nations Development Programme and other key stakeholders.

II. Contributions of Parliaments to Advancing Open Government

In the three years since the creation of the Working Group, the value that parliaments add to the OGP process has been clearly demonstrated. In particular, OGP recognizes that parliaments can advance open government through OGP in the following ways.

- **Enactment of, and Resourcing Implementation of, Open Government Reform.** Legislatures, in their power to legislate and allocate resources, play a key role in supporting sustainable open government reforms. Indeed, legislative action is required (through the adoption of an access to information law) for a country to even become eligible for OGP membership. Parliaments have a valuable role to play in encouraging countries to become eligible and consider joining OGP. Legislation and budgetary resources help ensure that executive branch OGP commitments are sustainable and effectively implemented. A productive role for the legislature helps ensure the institutionalization and effective implementation of open government commitments. It is also noted that parliaments can play an important role in pushing for more ambitious OGP commitments and can help spread knowledge regarding OGP and membership requirements with peers in non-OGP countries.
- **Sustainability of Open Government Reforms Across Administrations.** When OGP engagement becomes closely associated with a single administration, there is a risk that OGP progress will suffer when a new government is elected. Engaging parliaments in OGP can help both build political support across the political landscape and ensure that changes in government do not weaken active national participation in OGP. There have been excellent examples of very collaborative parliamentary engagement that have included both government MPs, opposition MPs, and civil society working collaboratively together. For instance, the Inter-Factional Working Group of the Parliament of Georgia was recognized with the first Open Government Champion Award at the OGP Summit in Mexico City for its collaboration with civil society in the development of an open parliament plan.
- **Oversight of National Action Plans.** Most legislatures have the constitutional responsibility for overseeing government activity, including government implementation of the NAP. Although the Independent Reporting Mechanism provides valuable feedback on the implementation of NAP commitments, parliamentary oversight help

increase the likelihood that actions are taken in response to that feedback, providing valuable accountability to encourage full implementation of NAP commitments. This is a crucial need to overcome the implementation gap. For instance, public hearings that review the Independent Reporting Mechanism report may be a valuable addition to the review process, particularly if parliaments are supported to ensure that hearings are conducted in a professional, constructive manner.

- **Advancing Legislative Openness**. While legislative participation in OGP can advance open government reforms broadly, greater participation can also support institutional reform by encouraging legislatures to make commitments to open their information and processes. Insofar as open government is an attempt to build citizen trust and strengthen the relationship between the public and their government, legislatures play a key role in realizing these goals as the representative branch of government.

III. Policy Guidance on Legislative Engagement in OGP

Recognizing the benefits of regularizing parliamentary engagement in OGP for the reasons discussed above, the OGP Steering Committee makes the following Policy Guidance statements to facilitate and encourage parliamentary engagement within OGP. The Policy Statements are also intended as guidance to the OGP Support Unit and the IRM with respect to parliamentary engagement.

In summary OGP's approach going forward can be summarized in the six points below (with more detail below):

1. OGP encourages parliamentary engagement in many forms - from peer learning in the working group, to MPs playing a leading role passing relevant legislation, and participation in events to parliament-driven chapters of National Action Plans.
2. Parliaments in OGP countries that wish to develop open parliament commitments, should do so either integrated as part of the NAP **or** as a separate parliamentary chapter of the NAP. Regardless of how commitments are integrated into the NAP, the IRM and the Criteria and Standards sub-committee will continue to assess the country at the national level.
3. If Parliaments opt to develop a separate chapter of the NAP they should do so in a way that is consistent with OGP principles and participation requirements (e.g. IRM, self-assessment and co-creation).
4. Countries should seek synergy between the commitments initiated by the executive and those initiated by the parliament.
5. The primary point of contact for the OGP Support Unit remains the POC in the executive branch of government. All OGP member countries - and especially those developing open parliament chapters - are however encouraged to consider designating a parliamentary focal contact primarily to facilitate interaction on open government efforts at the national level and with the LOWG.

6. OGP will assess this policy guidance 18 months after approval to see if the guidance needs to be amended and/or if additional efforts by OGP on legislative openness need to be considered.

- 1. OGP encourages parliamentary engagement in many forms - from peer learning in the working group, to MPs playing a leading role passing relevant legislation, and participation in events to parliament-driven chapters of National Action Plans.**

OGP recognizes that parliamentary engagement may vary widely among OGP member countries with different national systems, different constitutional frameworks, and diverse political environments. Countries with parliamentary systems, for instance, may, in some instances, be better positioned to ensure legislative-executive collaboration on OGP than separation-of-powers countries. Given that OGP has to accommodate a range of constitutional and political contexts, OGP recognizes the importance of a flexible, responsive parliamentary engagement policy that does not assume that “one-size-fits-all.”

A core role in providing inspiration and facilitating connections and learning is played by the members of the LOWG. They are a core driver of parliamentary engagement through their daily work, their LOWG activities like GLOW and through OGP meetings and events like the Global Summits and Regional Meetings.

When it comes to implementing OGP commitments, it has been noted, that some 15% of NAP commitments require legislative action, and a several of these commitments involve the process by which laws are developed. That is another core aspect of parliamentary engagement.

This policy guidance primary aim is to create a framework for more parliamentary commitments, either within the existing NAP structure or as a separate parliamentary chapter. Some parliaments however may feel that it is not possible to work fully within the core OGP framework (e.g. co-creation; 2-year plans according to a prescribed timeline). For example, in some countries, parliaments may not be in session in the months before a NAP is being finalized. In other countries, it may be more challenging for parliaments to develop “stretch” commitments that would survive under a successor parliament than it may be for government ministries to engage in long-term planning.

Similarly, a parliament in a country that is not participating in OGP may also wish to advance open parliament commitments. However, plans that do not follow the OGP framework or plans that are developed by parliaments from non-OGP countries would not be supported by the OGP Support Unit and would not be assessed by the IRM. They should not be considered to be formally part of OGP, and should not use OGP branding². However, OGP recognizes the value

² This has for instance been the case for the Open Parliament Action plan of Costa Rica: <http://accesa.org/2015/10/20/directorio-legislativo-presenta-junto-con-alianza-por-una-asamblea-abierta-el-plan-de-acciones-prioritarias-para-la-apertura-legislativa/>.

of these independent efforts to advance parliamentary openness and welcomes efforts to share the content and best practices from all parliaments within the work of the Legislative Openness Working Group, regardless of the particular mechanism they choose to advance parliamentary openness.

- 2. Parliaments in OGP countries that wish to develop open parliament commitments, should do so either integrated as part of the NAP or as a separate parliamentary chapter of the NAP. Regardless of the approach--i.e. if commitments are integrated in the NAP or as a separate parliamentary chapter of the NAP--the IRM and the Criteria and Standards sub-committee will continue to assess the country at the national level.**

Currently, the majority of NAP commitments relate to the executive branch of government. OGP encourages parliamentary involvement in the development, implementation and review of these action plan commitments, but also welcomes national legislatures to include open parliament reform commitments in the NAP, as some countries have done. The Criteria & Standards subcommittee agreed in July 2015 that their strong preference is to have one OGP NAP per country. It is noted that a NAP is just that --- a *National* Action Plan, rather than an executive action plan. It is strongly encourages that governments and parliaments coordinate in the development of a national action plan (see point 4).

Building on the above, while recognizing that legislatures are a separate branch of government, parliaments in OGP countries that wish to develop open parliament commitments should do so by one of two options:

- The first option, which most OGP countries currently follow, is to integrate open parliament commitments directly in the “Commitment” section of NAPs.
- The second option is to add a separate parliamentary chapter into the country’s NAP.

Whatever option is chosen, it is strongly encouraged that lead actors in the executive and in parliament coordinate and seek synergy and coherence.

- 3. If Parliaments opt to develop a separate chapter of the NAP they should adhere to all OGP principles and participation requirements, guidelines and timelines that are in place for NAPs (e.g. IRM, self-assessment and co-creation), including the IRM monitoring protocol and process).**

Parliaments of OGP countries should adhere to the principles of the Open Government Declaration and the Articles of Governance (particularly addendum B & C), especially when they develop open parliament commitments. For instance, parliaments of OGP countries should support public participation of all people, equally and without discrimination, in decision making and policy formulation and should create mechanisms for greater collaboration between parliaments and civil society in development of open parliament commitments. Parliaments that wish to signal further commitment to open parliament principles may also consider endorsing the *Declaration on Parliamentary Openness*, a series of principles on access to information and

citizen participation that has been endorsed by over 180 civil society organizations in 80 countries, as well as a growing number of legislatures.

For parliaments that decide to develop a separate chapter of the NAP, parliaments should adhere to the exact same guidance as national governments. In particular, the chapter should:

- Cover the same period of time as the NAP (2 years);
 - Be submitted to OGP as part of the NAP through the official government POC and thus be submitted and commence at the same time as the NAP;
 - Follow the OGP co-creation guidelines and thus be developed and implemented in partnership with civil society;
 - Follow NAP development guidance on for example format and SMARTness of commitments (e.g. define implementing partners, define milestones, identify link to key OGP values);
 - Be subject to the process and timeline of the country's review by the Independent Reporting Mechanism. Per country there will only be one IRM process and for each NAP cycle one IRM Progress Report and one IRM End of Term report.
 - Parliament must develop a self-assessment chapter (both on progress and End of Term) that will be included in the countries self-assessment and delivered by the official POC. Parliaments should prepare for that review in the same way that governments do, for example, by actively monitoring the implementation of the action plan commitments as well as by retaining clear records of the consultative process used to develop them.
 - It should be noted that inclusion of parliaments will not affect the definition of "acting contrary to OGP process". This will continue to be addressed at the national level.
- 4. The primary point of contact for the OGP Support Unit remains the POC in the executive branch of government. All OGP member countries - and especially those developing open parliament chapters - are however encouraged to consider designating a parliamentary focal contact primarily to facilitate interaction on open government efforts at the national level and with the LOWG.**

This policy guidance paper is an important step forward in enabling and hopefully inspiring a strong uptake of parliamentary engagement. Strategically supporting reformers at country level to develop and implement ambitious commitments is however challenging and time-intensive and the capacity of the OGP Support Unit limited. While recognizing the reality of an increasing set of demands on the OGP Support Unit, both the level of engagement by parliaments in OGP and the benefits of this engagement may merit increased support by the OGP Support Unit. This should be an explicit point of discussion in the 'OGP strategic refresh'.³

³ If resources allow, the Support Unit may wish to consider the hiring or designating a point of contact within the Support Unit responsible for facilitating communications with participating parliaments, liaising with the Legislative Openness Working Group, supporting the development of legislative commitments, facilitating collaboration between the executive and legislative where needed, and ultimately growing the number of participating parliaments. Recognizing resource limitations faced by the Support Unit, a cost sharing arrangement with a participating parliament or civil society organization could be explored.

Until that process is concluded the space for the Support Unit to support a strong uptake of parliamentary engagement is very limited. At this point the Support Unit *can* commit, with the support of the LOWG, to write to all participating country parliaments once after this policy guidance is approved, providing contact details of lead ministry and PoC, introducing the general basics of OGP and the specifics of their national OGP cycle, highlighting the options for parliamentary engagement and hopefully inspiring them to action. Follow up to that introduction will then need to come from the LOWG and other key interested actors in the field to make this concrete.

As a means of formalizing parliamentary participation, OGP countries may consider designating a parliamentary lead (PL). PLs would not change the role of the existing OGP points of contact (POCs), who would remain the primary channel of communication between the Support Unit and OGP countries and the overall point of contact with respect to the NAP. However, identifying a PL would provide the Support Unit, the Working Group, the POC and other (national) stakeholders with a clear channel of communication with parliaments (if needed/desired), which would facilitate sharing information about OGP events, the release of IRM report, progress on developing and implementing NAPs, and other useful information. PLs would also be able to facilitate peer exchange and learning between participating parliaments. Lastly, maintaining a liaison in the executive legislative would help facilitate inter-branch collaboration and dialogue related to OGP.

Recognizing the diversity of legislative practice and the variety of political and constitutional contexts among OGP members, the selection of PLs should be left to the legislatures. The role could be successfully filled by a variety of individuals. For instance, a PL could be a senior administrative or technical officer, the presiding officer, an advisor to the presiding officer, the chair of a relevant parliamentary committee, or a lead staffer for that committee. The Legislative Openness Working Group has developed a [Toolkit for Advancing Legislative Openness](#), which can be used as guidance for PLs.

5. Countries should seek synergy between the commitments initiated by the executive and those initiated by the parliament

It is recommended that there is coordination between government and parliament to see how development and delivery of ambitious commitments can be facilitated as best as possible. It is strongly encouraged that governments connect and seek synergy.

If a country opts for a separate chapter, experience shows that countries have found it helpful to have a coordinating meeting to help ensure that there is synergy between commitments developed by each branch. Countries should explore if they prefer to have one commitment development process or two. OGP requires a country to establish a Permanent Dialogue Mechanism. Representatives from parliament and/or the PL should be part of the country's PDM. There already are examples of this practice where some countries had decided, for example, that institutions of traditional leadership or Members of Parliament are allocated representation in the PDM. OGP does not encourage separate PDMs for parliament.

There is recognition that most countries in the OGP might already have highly developed processes for public participation in legislative work. Where a country decides to run a separate legislative commitment development process following their standard public consultation processes, the PDM should ensure that such process followed by the legislative authority meets the OGP's basic requirements on public consultations and the co-creation guidelines.

6. OGP will assess this policy guidance 18 months after approval to see if the guidance needs to be amended and/or if additional efforts by OGP on legislative openness need to be considered.

Given the continued evolution of parliamentary engagement in OGP, based on the above policy recommendations, it may be appropriate to review this guidance after an 18 month period to ensure that the Policy Guidance reflects as much as possible the needs of the OGP parliamentary community, while also protecting the core principles, priorities and guidelines of the OGP model.

The above policy guidance is based on three years of legislative experience with respect to parliamentary engagement in OGP and resolves important issues in with respect to how to facilitate parliamentary engagement. However, parliamentary engagement in OGP continues to increase, there may be additional questions for review and consideration by the Steering Committee in the coming years as further experience is gained. For example, over time it might be helpful to develop clearer guidance on the role of parliaments in organizing and planning the OGP Summit. It should be noted that the Steering Committee and its members have been already been very creative in finding ways to incorporate parliamentary perspectives into the Steering Committee. For example, the Government of Chile has sought to include legislative representatives in its Steering Committee delegations and past and incoming civil society representatives on the Steering Committee also bring deep experience with respect to parliamentary monitoring and reform.

Annex III: Role and Mandate of OGP Ambassadors and Envoys



Role and Mandate of OGP Ambassadors and Envoys

In its January 2017 meeting, the Governance and Leadership subcommittee considered a proposal on OGP Envoys, an idea that the current co-chairs have prioritized. The context was the renewed focus in Steering Committee-endorsed Strategic Refresh and the Global Summit on a much stronger push to position OGP in the present geo-political context, and the need to therefore have a stronger and broader network of ambassadors and envoys as influential champions for this advocacy and positioning. The subcommittee expressed support for this but recommended clarifying the respective roles and responsibilities of the OGP Ambassadors and the proposed OGP Envoys in an effort to better understand how they will respectively work to support and promote the work of OGP.

Accordingly this note prepared by the OGP Support Unit outlines the composition and mandate of the OGP Ambassadors and Envoys, and clarifies their links with the OGP Steering Committee and Support Unit.

	Ambassadors	Envoys
Composition	<p>Senior public figures committed to the global open government movement such as former Heads of State, global civil society leaders or private sector leaders. Currently we have two OGP Ambassadors - Winnie Byanyima and Mo Ibrahim - who have played an instrumental role in enhancing OGP's global positioning. Given the growing expectations around strengthening OGP's global positioning, expanding the number of Ambassadors desirable.</p> <p>The total number of OGP Ambassadors at any given time will not exceed 5-6 to maintain the high-profile nature of the role and make it feasible for the Support Unit to manage their engagement. Given the heightened emphasis on OGP's geopolitical positioning, GL - and SC - have the potential</p>	<p>All former OGP Steering Committee members, who have spent at least a year as SC principals, will be invited once they have moved on from their political post or rotated off the civil society side of the Steering Committee. Principals are defined as the ministerial representative of governments on the Steering Committee or the selected civil society leader.</p> <p>Unlike the Ambassadors, the Envoys will be a loose network of individuals comprising former OGP Steering Committee Principals who accept the invitation, from the civil society and government side. While there will be no fixed number, the loose structure of the network and targeted nature of the group's mandate will help the</p>

	to expand beyond the present two ambassadors to an additional 2-3 if they so decide.	Support Unit manage their engagement.
Primary role	<p>Their role is to raise OGP's profile in the international government, civil society and private sector communities through a public advocacy role, protect OGP's credibility, and promote its sustainability and sound financial footing.</p> <p>Examples of Ambassador engagement include, writing an op-ed for a prominent media platform prior to an OGP global or regional event, providing an opening or closing address at such an event, including OGP in their talking points when meeting with a head of state or civil society leader</p>	<p>Given their commitment to OGP and the open government movement, the primary role of Envoys would be to make connections to international processes and networks and share expertise at high-level peer learning events. Engaging founders and Steering Committee members as OGP envoys will provide a streamlined channel for OGP to capitalize on their political capital and thought leadership and raise OGP's geopolitical profile. With the help of the Support Unit, OGP Ambassadors can engage envoys to support them by creating the groundwork or opening doors in key international forums and processes for Ambassadors to play a more public advocacy role.</p> <p>Examples of Envoy engagement include, identifying and making links between OGP and other international processes/discussions at key strategic moments (eg G20), reach out to countries with recent government changes to reaffirm commitment to OGP, feature at specific peer learning opportunities in their countries or on issues of interest/expertise.</p>
Governance responsibilities	Their role is of primarily external-facing public engagement - Ambassadors have no governance responsibilities.	Their role will be limited to being purely advisory support for their specific area of regional/thematic expertise and focused on diplomatic outreach and representation of OGP at international for. OGP Envoys will

	<p>This is an unpaid role.</p>	<p>have no governance responsibilities.</p> <p>This is an unpaid role.</p>
Relationship to Steering Committee	<p>OGP Ambassadors may be invited to participate in select sessions of a Steering Committee meeting, upon the discretion of the OGP Co-Chairs, in consultation with the Support Unit.</p> <p>Steering Committee members can suggest new names to become Ambassadors at any time to the Governance and Leadership subcommittee. All Steering Committee members will be consulted on proposed names, and the approach will be made by the Governance and Leadership subcommittee or the Support Unit.</p>	<p>OGP Envoys are not expected to have any formal engagement with the OGP Steering Committee. Co-Chairs or other Steering Committee members may choose to call upon them, as former Steering Committee principals, for diplomatic engagement or technical expertise upon their discretion.</p> <p>Former Steering Committee principals will be invited to join the Envoys network once they finish their term.</p>
Relationship to Support Unit	<p>The Support Unit is tasked with managing strategic coordination with the Ambassadors and their staff on specific activities as well as provide regular updates about OGP initiatives.</p> <p>The SU works with the Ambassadors' teams to initially identify OGP priorities that resonate with the work of the Ambassadors, to help ensure that they are able to elevate the OGP brand and garner broad-based support for the work of OGP. Thereafter, the SU works with the Ambassador and their staff on an ongoing basis to identify</p>	<p>The Support Unit will play an initial coordinating role to help set up the Envoys network, as well as reach out to specific envoys as and when their expertise may be needed to further OGP's ongoing programs and activities.</p> <p>Basic SU engagement with Envoys would be anchored by regular updates to the group. More substantive engagement would be with individual envoys for specific requests based on country and thematic asks/priorities that could benefit from their intervention.</p>

	opportunities and points of high-level political engagement important for OGP.	
Relationship to the forthcoming Board of the OGP Secretariat	Since the Ambassadors do not have any legal, financial, or oversight responsibilities as part of their role they will have no official interaction with the Board, which has a purely legal and fiduciary role in overseeing the Support Unit post its spinoff from Tides.	Since the Envoys do not have any legal, financial, or oversight responsibilities as part of their role they will have no official interaction with the Board which has a purely legal and fiduciary role in overseeing the Support Unit post its spinoff from Tides.



Annex IV: Letter submitted by Mexican Civil Society to the Steering Committee



Open Government Partnership
1110 Vermont Avenue NW
Suite 500/ Open Gov Hub
Washington, DC 20005
United States

Mexican Civil Society Statement for OGP Steering Committee

May 23 2017

Open Government Partnership
Steering Committee

Ever since the start of the Open Government Partnership, Mexico has always reflected both the forthcoming innovations and challenges in a country's openness process. Our internal governance body, the Tripartite Technical Secretariat, is represented by Civil Society, the Executive branch of government (currently represented by the Ministry of Public Administration) and the National Institute of Access to Information and Data Protection (INAI). This secretariat has co-created and evolved over time, fostering the country's open government agenda and defining every Action Plan ambitious commitment building and follow-up mechanisms. Despite all complexities and the continuously adverse country context, the key for such positive co-creation process has been mutual trust, common conviction on the values of open government, and an equal alignment to the principles of the Open Government Partnership.

Unfortunately, we write to you today to let you know that the civil society organization nucleus has unanimously arrived to the conclusion that there are no longer conditions for truthful co-creation and honest dialogue within the Secretariat and to continue our participation in the country's mechanism and the 3rd Action Plan. The tipping point behind such decision is the evidence of high-technology surveillance attacks to Mexican civil society and the lack of involvement from our government counterparts at the Secretariat. Also, there has been an important loss of political will regarding the 3rd Action Plan as several government offices from the Executive branch have tried to decrease the scope or modify commitments and actions agreed upon after a wide co-creation process with over 300 participants in 2016.

On February 11th 2017, CitizenLab published a technical report detailing evidence of digital surveillance attack against three prominent research scientists and health advocates in Mexico, two of which actively participated in the open government commitment building process¹. This attack was done with high-end spyware Pegasus sold only to governments by

¹ See CitizenLab's report "Bitter Sweet: Supporters of Mexico's Soda Tax Targeted With NSO Exploit Links": <https://citizenlab.org/2017/02/bittersweet-nso-mexico-spyware/>

Israel-based cyber-warfare company NSO Group. Pegasus, as other sophisticated spyware, works under targeted individual infections that if successful can access and record a great variety of data, files and even use recording software of the victim's mobile device. Previous revelations had identified the Mexican government as an international top buyer of spyware technology from firms like NSO Group (estimated to be USD \$20 million) or Hacking Team (estimated to be over EUR €5 million)².

The New York Times published this story in the front page and the case has deeply shocked Mexican, Latin American and specialized international civil society, health and technology communities.³ The victims and local digital rights specialists (R3D, SocialTIC and Article 19) publicly demanded the Mexican government to explain their involvement in these cases and have clear transparency, accountability and safeguard mechanisms to avoid government-driven illegal and disproportionate surveillance⁴. Support letters from the civic-technology and health local and international have been signed by tenths of organizations and specialists. No public nor official response by any Mexican authority has been expressed.

The Open Government Civil Society group saw with outrage these revelations since they directly represent a threat to safe civic participation, government institution trust, legality and the values of open government. On February 16th 2017, the Mexican Civil Society Nucleus signed a letter to our partners at the Open Government Tripartite Technical Secretariat expressing profound concern on government-lead surveillance on civil society and demanded proactivity in order to clarify these actions and to make the necessary efforts to enable regulation, transparency and accountability controls that can prevent illegal and disproportionate surveillance⁵. So far, no public nor official response to address these issues has been expressed by any our counterparts at the TTS in 3 months.

Our main concern is that government-lead top-end technology purchases and illegal surveillance against activists, civil society and journalists is a constant activity. Despite the technical complexities to detect, assess, and track such sophisticated malware, there is evidence of its illegal purchases and use from government offices in the previous and current administration. CitizenLab's reports identify Mexico as the world's top users of NSO Group infrastructure ahead of UAE and Uzbekistan⁶. And after the attacks to health specialists was widely known in the country, several journalists, activists and civil society organizations have approached local NGOs with evidence of similar or even the same attack

² See Derechos Digitales's February 11 2017 report on "Hacking Team in Latin America"
<https://www.derechosdigitales.org/wp-content/uploads/HT-map.png>

³ See New York Times's "Spyware's Odd Targets: Backers of Mexico's Soda Tax":
<https://www.nytimes.com/2017/02/11/technology/hack-mexico-soda-tax-advocates.html>

⁴ See press brief and letter:
<http://elpoderdelconsumidor.org/saludnutricional/el-espionaje-del-gobierno-de-mexico-a-defensores-d-el-derecho-a-la-salud-no-debe-quedar-impune/>

⁵ See the letter: <https://goo.gl/z4reBU>

⁶ See CitizenLab August 24 2016 report "The Million Dollar Dissident: NSO Group's iPhone Zero-Days used against a UAE Human Rights Defender":
<https://citizenlab.org/2016/08/million-dollar-dissident-iphone-zero-day-nso-group-uae/>

patterns. These cases are being assessed by CitizenLab and have been kept confidential to safeguard the safety of the staff of these organizations.

The latest report by Mexican digital right's specialist NGO R3D labels the surveillance as "out of control"⁷. The problematic goes beyond specific cases and it is embedded in Mexico's core government practices that systematically foster impunity, abuse of power, and even attacks against dissidents. In a 21st Century open government context, surveillance affects not only the safety and privacy of civil society, but also every day operations of the attacked organizations and lives of the people working for civic causes. It is impossible to have an open, secure, and free civic space and co-creation environment under digital surveillance. This systematic actions in Mexico should worry all OGP members since illegal and disproportionate digital surveillance is increasingly becoming a characteristic of authoritarian, undemocratic, and opaque governments.

The Mexican OGP process has always highlighted the different factors that can strengthen and weaken open government. Mexico is a country with a solid legal framework, a strong civil society, and a mature institutional ecosystem that when leaded with true and powerful political will, champions the open government agenda which can become a real transformative inertia. Mexico has shown the world that co-creation is possible and that it can reach specific outcomes, like some identified in our 2nd Action Plan. On the other hand, however, we live in a country with systemic handicaps such as corruption, impunity, conflict of interests, violence, attacks on the media, and human right violations that constitute key factors for a secure, free, and participatory civic space.

In 2015's OGP International Summit, Mexican Civil Society expressed deep and visible concerns on how the Mexican government would showcase the open government agenda but achieving very little change at home regarding the most profound country issues and would even act with total incongruence to open government values and principles⁸. Mexican civil society has constantly demanded that the Mexican Government embraces openness at the highest level and leads by example, beyond specific commitments.

Mexico's 3rd Action Plan was an ambitious effort to achieve in-depth solutions to some of the country's deepest problems. The commitments were aligned with the Sustainable Development Goals (SDGs) in order to reach mid-term impact. The participation process to define the commitments was also extense in order to reach out to a larger and more diverse stakeholders that would not only define impactful commitments but also support the implementation process. The 3rd Action Plan was published at the OGP last November. A specific report on the changes introduced by the government will be described in the next IRM.

⁷ See R3D's November 2016 Report "Estado de Vigilancia en México":

<https://r3d.mx/wp-content/uploads/R3D-edovigilancia2016.pdf>

⁸ See Mexican civil society statement at the 2015 OGP Summit in Mexico:

<http://fundar.org.mx/urgente-que-la-alianza-para-el-gobierno-abierto-se-convierta-en-una-plataforma-efectiva-para-ayudar-a-resolver-los-grandes-problemas-que-enfrenta-mexico/?ID=12>

Our current disappointment and frustration expressed in this letter is not a sudden reaction nor a loss in the battle for government openness in Mexico. The civil society organisations that write this letter have committed to continue fostering the open government agenda in Mexico and pursue many of the activities we do to engage with local civil society, other powers in government, and in-depth reflections on how to make openness part of the government's DNA beyond commitments and OGP events. We look forward to continue working with OGP at a regional and international level. And locally, we shall build new and stronger strategies so that an ambitious 4th Action Plan can be successfully co-created in 2018 or 2019. We are also strongly considering the possibility of submitting an action to initiate the Response Policy within the OGP framework. We would very much like for this Mexican issue to be addressed at the next meeting of the OGP Committees in Washington, D.C.

We are deeply committed to the OGP agenda and values. As difficult as these decisions may appear, we are convinced they are necessary for maintaining the trust in the initiative in the long run.

Sincerely yours,

Ana Cristina Ruelas - Article 19

Edna Jaime - CIDAC, Centro de Investigación para el Desarrollo

Ernesto Gómez - Contraloría Ciudadana

Tomás Severino - Cultura Ecológica

Haydeé Pérez - Fundar, Centro de Análisis e Investigación

Alejandro González - GESOC, Agencia para el Desarrollo

Juan E. Pardinas - IMCO, Instituto Mexicano para la Competitividad

Francisco Rivas - Observatorio Nacional Ciudadano

Juan Manuel Casanueva - SocialTIC

Eduardo Bohórquez - Transparencia Mexicana

Annex V: OGP Steering Committee co-chairs
statement on recent withdrawal by Mexican civil
society from national OGP platform





Statement from OGP Steering Committee co-chairs on recent withdrawal by Mexican civil society from national OGP platform

14 June 2017

The Open Government Partnership Steering Committee [received a letter](#) on Tuesday, May 23rd from ten Mexican civil society organizations outlining their reasons for withdrawing from the Mexico Tripartite Technical Secretariat that governs the national OGP process in their country. These include allegations of surveillance of civil society organizations, which is a worrying global trend that undermines civic space and freedom of speech. As co-chairs we are following the situation closely, and offer our full support to all concerned parties especially Mexican civil society organizations, the Mexican government, and the National Institute of Transparency, Access to Information and Protection of Personal Data (INAI). We are united in our belief that the same ingredients of open government - meaningful open dialogue, transparency and accountability - that have had such tangible results in Mexico and in so many OGP National Action Plans around the world, will be equally helpful in reestablishing trust and cooperation between government and civil society in Mexico.

As co-chairs, we have benefited greatly from a close working relationship with our colleagues from the Mexican government and the Mexican civil society. Together they have been a leading force in OGP since it was founded in 2011, including as a lead chair and host of the 2015 OGP Global Summit, and as members of the steering committee.

Since its creation, the OGP framework has been based upon the idea that although each country situation is unique, with its own history and challenges, working together as an international body we can support one another with ideas and experience. Whereas the withdrawal by Mexican civil society is clearly a domestic issue, the OGP Steering Committee, which will next meet on June 27-28, will discuss this matter in order to reflect on how the Partnership can provide support to Mexican parties to continue working on open government reforms that can improve the lives of all Mexicans. We will reach out to Mexican government officials as well as civil society organizations in advance of the meeting to offer our full support.

OGP Steering Committee Co-Chairs

Government of France

Government of Georgia

Manish Bapna, Executive Vice President and Managing Director, World Resources Institute

Mukelani Dimba, Executive Director, Open Democracy Advice Centre