Open Government Partnership (OGP)
Criteria & Standards Subcommittee Meeting Minutes
Washington, D.C, USA
February 20-21, 2014

Thursday, February 20, 2014: Criteria & Standards Subcommittee Meeting

1. Welcome

Heather Flynn, on behalf of the US Government as hosts of the meeting, welcomed participants to the State Department in Washington, D.C. Roberta Solis Ribeiro from the Government of Brazil, the chair of the subcommittee, outlined the objectives for the two-day meeting, including the aim to present recommendations to the May meeting of the OGP Steering Committee.

The Deputy Director of the OGP Support Unit reviewed the meeting agenda, highlighting the following topics to be discussed:

- Lessons Learnt from the IRM Reports into OGP Cohorts 1 and 2
- IRM and Support Unit Policy Proposals to be Agreed
- Development of a Response Mechanism to Uphold OGP Values and Principles
- Rolling Biannual Calendar and Government Self-Assessment
- OGP Eligibility Criteria

2. Lessons Learnt from the IRM Reports into OGP Cohorts 1 and 2

The IRM presented the first draft of "lessons learned" from the 43 countries that now have progress reports. These findings will be presented to the full Steering Committee and made public in May. C/S members welcomed the presentation, which highlighted some of the emerging trends in OGP countries. The group discussed areas of interest that they would like the IRM and Support Unit to continue exploring, including: the relationship between types of civil society engagement, the quality of commitments, and the degree of implementation; the correlation between number of commitments and their relevance to open government; the relationship between institutional leads on OGP and the success of the action plan; and how countries performed on preexisting versus new commitments.

C/S members made a number of initial recommendations for uses of the lessons learned information. C/S agreed that the Support Unit should draw up a list of OGP countries where diplomatic intervention from a Steering Committee member could assist in helping to improve their next action plan cycle. C/S recommended that the findings be an integral part of the peer learning activities overseen by the Peer Learning and Support subcommittee. C/S also stressed the importance of clear communications to OGP countries to educate them on the findings, as well as the

method applied, and help encourage future action plans to be drafted according to the emerging best practice.

3. IRM and Support Unit Policy Proposals

C/S discussed a series of policy proposals from the IRM and Support Unit to clarify the application of the Articles of Governance in relation to the IRM process. Specifically the C/S were asked to make an immediate recommendation to the Steering Committee on the following section (italicized below), so that the Support Unit can notify the countries that need to make improvements to their OGP participation in order to avoid a review by C/S in the future.

"*Should the IRM process find that a participating government repeatedly (for two consecutive reports) acts contrary to OGP process or its Action Plan commitments (addenda B and C), and fails to adequately address issues raised by the IRM, the SC may upon recommendation of the Criteria and Standards (C/S) sub-committee review the participation of said government in OGP.*"

C/S agreed that in light of the IRM now decided upon producing more than one report per action plan cycle the Articles of Governance language above should be changed from 'two consecutive reports' to 'two consecutive action plan cycles'.

C/S agreed that the following should apply, **provided no objections are raised by the Steering Committee within 10 working days of the circulation of these minutes**.

Recommendation 1:

A participating country will be found to be acting 'contrary to OGP process' if the IRM report fails to find evidence of its commitment to one or more of the five common expectations listed in the Articles of Governance (italicized below). This would result in a written communication from the Support Unit informing the country of the reason for the breach and offering assistance to improve. If the IRM finds in a second consecutive action plan cycle that the common expectations are again not being met, then the country will be subject to a C/S review on its ongoing participation in OGP.

For each of the five common expectations a simple threshold should be used to define what a breach entails. Suggested thresholds are listed below:

1. *Endorse the high-level Open Government Declaration*;
   - If a country does not endorse the Open Government Declaration in its Letter of Intent to join OGP then the Support Unit should request a separate endorsement, which could be included in the country's National Action Plan.

2. *Make concrete commitments, as part of a country action plan, that are ambitious and go beyond a country's current practice*;
   - A country will be in breach if it does not publish a National Action Plan within 4 months of the due date.
   - The C/S decided not to develop guidelines on breaches due to lack concrete and ambitious commitments due to subjectivity and methodological difficulty.

3. *Develop country action plans through a multi-stakeholder process, with the active engagement of citizens and civil society*;
   - A country will be in breach if the IRM finds that a country action plan was developed with neither online nor offline engagement with civil society.

4. *Commit to a self-assessment and independent reporting on the country's progress*;
   - A country will be in breach if no self-assessment is submitted within 4 months of the due date and/or a country refuses to engage with the IRM researcher prior to publication of the report.

5. *Contribute to the advancement of open government in other countries through sharing of best practices, expertise, technical assistance, technologies and resources, as appropriate*.
   - Not suitable for a threshold requirement for this purpose.

Recommendation 2:

A participating country will be found to be 'acting contrary to its Action Plan commitments' if it is found by the IRM to have made no progress on implementing any of the commitments from its action plan.

Recommendation 3:

To ensure participating countries 'adequately address issues raised by the IRM', from 2015 all government self-assessment reports should include a section on how IRM recommendations are being addressed. New government self-assessment guidelines will reflect this. In addition, C/S agreed that the IRM should structure its recommendations to be as actionable and clear as possible.

Recommendation 4:

As previously communicated, three cohort 2 countries will not be receiving IRM reports. The reasons - as posted on the OGP website and previously agreed by C/S - are as follows:

Three countries from this group will not be receiving an IRM progress report at this time: Lithuania, Malta and Turkey. The decision not to produce a report for these three countries was taken for a number of reasons. First, a considerable number of attempts were made during the report research period by both the Support Unit and the IRM team to make contact with a government representative without success. Second, no self-assessment report was submitted on the National Action Plan. Third, other independent attempts to verify activities related to the National Action Plan found little evidence that commitments were being implemented. The IRM therefore concluded there was not sufficient activity related to OGP to produce a report.

C/S agreed that in the future all countries should receive IRM reports, even if the report concludes that activity is limited. As such, C/S concluded this was a one-off case and did not require a policy clarification.

C/S agreed that in this one-off case the three countries that did not demonstrate sufficient activity to warrant the production of an IRM report are deemed to be acting 'contrary to OGP process'. This would mean the countries should comply with the Articles of Governance in their next OGP action plan cycle to avoid a C/S review of their ongoing participation in OGP.

Recommendation 5:

C/S agreed the Support Unit will communicate to the countries in Cohort 2 that are in breach, once the minutes have been reviewed by the Steering Committee under a no objections basis. The countries will be informed that in the next action plan cycle they should meet the thresholds of recommendations 1-4 to avoid a C/S review of their ongoing participation in OGP. C/S further agreed that these countries should receive the necessary coaching, outreach and peer exchange opportunities to minimize the likelihood of future breaches.

4. IRM Operational Definition of Relevance

The IRM highlighted some of the challenges related to countries making commitments with unclear relevance to the OGP values of transparency, accountability and/or participation. C/S agreed that IRM researchers should apply a relevance test consistently across countries. C/S agreed the IRM should clearly communicate its preferred methodology for defining relevance so that countries are aware of the criteria. C/S members in particular asked that the IRM make it clear that the value of technology should be related to transparency, participation and accountability. C/S endorsed the IRM operational definition for relevance in keeping with the IRM guiding principles and requested the Support Unit to use it in its coaching and outreach to countries.

C/S members suggested that other operational definitions be agreed and published to ensure countries knew what they were being assessed against by the IRM. The operational definitions will be formally published as part of an IRM Procedures Manual to be developed over the next 3-4 months.

5. Response Mechanism on Upholding the Values and Principles in the Open Government Declaration

C/S members discussed the possibility of setting up a rapid response mechanism to respond to issues that are outside of the scope of participating country action plans and the IRM reports, but could undermine the success of OGP at the national and international level. C/S members emphasized the importance of designing a mechanism that focused on issues closely related to OGP's theory of change, and the value and principles articulated in the Open Government Declaration that all participating countries have endorsed. An example of this type of issue raised by C/S members would be restrictions on civil society that undermine dialogue and ability to engage in the OGP process.

C/S members discussed proactive and reactive steps that could be taken and agreed that in keeping with OGP's philosophy, initial engagement with countries should be positive, and offer expertise or other technical resources. C/S members agreed to only focus on interventions that would have an impact either in the country in question, or were felt necessary to protect the credibility of OGP.

The mechanism for bringing an issue to the attention of C/S will be further outlined at the next C/S meeting. Initial discussion included a proposal that a Steering Committee member would need to bring the issue to C/S in order for it to be considered for OGP action. C/S agreed that there would need to be a very clear trigger mechanism, followed by a flexible case-by-case approach once the trigger had been activated. This will mean clearly explaining the process and then the possible interventions, including where the full Steering Committee will be consulted.

Having agreed on the necessity of designing a rapid response mechanism, a subset of C/S members were tasked with producing a detailed proposal for consideration by the full group in time for it to be tabled at the May Steering Committee meeting.

6. Biannual Calendar

The Support Unit presented a detailed proposal for how the rolling biannual calendar will operate using cohort 1 as an example and emphasizing the importance of predictability. C/S members endorsed the rolling calendar approach and asked the Support Unit to produce a similar visual representation of the calendar for other OGP country cohorts.

The C/S members then discussed the implications for the government self-assessment process and the IRM. C/S agreed that self-assessment by governments should take place at the same time each year and that there should be guidelines for an interim and final report. Each report would contain broadly similar information, but with the emphasis in the interim report on how the consultation process was conducted and in the final report on providing a final accountability record of commitment implementation. A subset of C/S members and the IRM will develop draft self-assessment report guidelines for consideration by the full group in time for the proposed guidelines to be tabled at the May Steering Committee meeting.

The IRM presented its proposal for a short close-out report at the end of the two-year action plan implementation period, to complement the main progress report which will continue to be produced earlier in the cycle. The main progress report is needed before the end of the implementation period so recommendations can be made in time to improve the next country action plan. The close-out report will focus on the commitments that were advanced after the main progress report is published.

C/S agreed with this model, and emphasized the importance of adjusting the government self-assessment reporting model so that the most useful information could be provided to each stage of the IRM. C/S members also raised concerns about ensuring the IRM had adequate financial and human resources to handle the additional close-out reports. The IRM agreed to produce a mock-up close-out report and to provide further details on the budget implications of this shift. The IRM also agreed to produce a proposal on the size and make-up of the International Experts Panel that would be needed to provide adequate peer review of the reports.

7. Eligibility Criteria

Brazil presented a paper on the history of the OGP eligibility criteria, including the parameters of the original design process. C/S members welcomed the paper and requested that the Support Unit use it for a public guidance note explaining the eligibility criteria. C/S members emphasized the importance of improving communications on the intended purpose of the eligibility criteria.

C/S members agreed that any changes to the eligibility criteria would need to be made with clear scenarios for how shifts in weighting or replacing indicators would alter the list of eligible countries. C/S members also agreed that this process would be best conducted as part of a planned external review of OGP overall, which the Steering Committee has discussed in previous meetings.

In the short-term C/S agreed that OGP should maintain and encourage dialogue with external organizations responsible for the current data used in the eligibility criteria, and with organizations that may be developing new indicators that could potentially be adopted by OGP in the future.

Participant List
OGP Criteria and Standards Subcommittee Strategy Session

Government of Brazil:
Roberta Solis Ribeiro   Office of the Comptroller General
Otavio Moreira de Castro Neves   Office of the Comptroller General
Rafael Porto   Embassy Official (observing)

Government of United States of America:
Heather Flynn   State Department
Corinne Graff   White House NSS
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Lawrence Sperling (observing)   State Department

Government of Tanzania:
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Civil-society members of Criteria and Standards Subcommittee:
Alejandro Gonzalez   GESOC (Mexico)
Maryati Abdullah   Publish What You Pay (Indonesia)

OGP Support Unit:
Joe Powell   Deputy Director
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International Expert Panel of the Independent Reporting Mechanism:
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Regrets:
Warren Krafchik   International Budget Partnership (US)