

Open Government Partnership

Criteria and Standards Subcommittee Monthly Call

Thursday, September 19, 2019

Attendees

- Government of Italy: Stefano Pizzicannella
- Government of Georgia: Ketevan Tsanava
- Government of Nigeria: Chidinma Ilechukwu
- Delia Ferreira Rubio, Transparency International
- Lucy McTernan, University of York
- Elisa Peter, Publish What You Pay
- **Apologies:** Government of Croatia, Government of South Africa, Maria Baron, Aidan Eyakuze, Sunneta Kaimal

Call Summary

I. Response Policy Cases

The OGP Support Unit (SU) provided an update on the Mexico and Azerbaijan Response Policy cases.

A. Azerbaijan (non-decisional): The SU provided the following update regarding the status of the milestones outlined in the December 2018 SC resolution in which Azerbaijan's "suspended" status was extended for a full action plan cycle (two years). As per the resolution, Failure to achieve these would automatically result in the finalization of the Response Policy review, making Azerbaijan's suspension from OGP permanent (see complete history of the Azerbaijan RP case documentation [here](#)):

1. By 1 March 2019, prepare a roadmap for the development of the 2019-21 OGP action plan in line with at least the minimum requirements outlined in the OGP Participation and Co-Creation Standards. This roadmap shall also include a timeline of key meetings for the OGP Forum, and the process for involving other stakeholders outside of the OGP Forum to participate in the co-creation of the action plan. This roadmap shall be published by the government, and submitted to the C&S co-chairs by the established deadline. **Completed on 1 March 2019.**
2. By 1 June 2019, appoint a high-level government representative (ministerial level or above) to lead the OGP process in Azerbaijan. **Completed on 22 April 2019.**
3. By 1 June 2019, begin the development of an OGP action plan through an inclusive process that engages a wide array of actors beyond the OGP Forum, and includes reforms to address the civic space constraints highlighted in the updated recommendations and other domestic priorities. **Completed on 15 May 2019.**
4. By 31 December 2019, complete, adopt and submit to the Support Unit a finalized OGP action plan. **Pending, in progress.**

5. By 31 August 2021, complete implementation of the OGP action plan. This action plan will be assessed by the IRM. **Pending**

B. Mexico: On 5 March 2019 Mexico’s “Coordination Committee” - a multi-stakeholder group formed by the Ministry of Public Affairs, the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI, in Spanish) and the Civil Society Core Group (filers of the letter of concern) and established to coordinate the open government agenda in the country - developed a [roadmap of activities](#) to address the challenges that originally led to the filing of the Concern (see complete history of the Mexico RP case documentation [here](#)). Considering this roadmap and the findings of the [review report](#) the C&S Subcommittee resolved at its May 2019 call to maintain the Mexico Response Policy case active through the conclusion of these domestic activities. The C&S further agreed to, in coordination with the Coordination Committee, assess the progress made by the Government of Mexico through 31 August 2019 to determine if further intervention on behalf of OGP, if any, is warranted in line with the policies and procedures outlined in the Response Policy.

On September 13, 2019 the Support Unit received a letter from the Coordinating Committee informing that *“the Committee has incorporated a proactive commitment into the Fourth National Action Plan on illegal State surveillance so as to establish democratic controls on the procurement of surveillance technology, the use of illegal and disproportionate surveillance mechanisms, as well as incorporating transparency and accountability mechanisms on the use of these surveillance tools by the federal government.”* The action plan is set to be delivered in November.

As per the OGP Response Policy, section III.B.9 outlines that *“if the issue(s) raised in the Concern are being satisfactorily addressed domestically, and C&S agrees with the report’s conclusion, [...] OGP will take no further action regarding the Concern.”*

Decision Item(s):

- *Considering that the issues that led to the Response Policy case being filed are being addressed domestically, and in line with the OGP Response Policy procedures, the C&S Subcommittee decided to move towards closing the Mexico Response Policy case.*
- *As next steps, the C&S called on the SU to: i) conduct a final round of consultations with government and civil society actors to communicate the proposed direction of travel; ii) draft a resolution closing the Mexico Response Policy case and offering the continued support of the C&S and the SU to domestic actors. The draft resolution will be tabled for C&S approval at its October 2019 meeting.*



II. Procedural Review Updates

The SU provided an update on the Procedural Review cases that are currently underway. These include:

- A. Trinidad and Tobago (under Inactive Status):** Joined OGP in 2013 and has submitted its first and only OGP action plan in 2014. T&T acted contrary to OGP process due to failure to deliver an action plan for three consecutive cycles since 2016 and was therefore **placed under C&S review in 2017** and unanimously **designated inactive** by the OGP Steering Committee on 5 December 2018.

Over the years, the SU has sent numerous communications to the government of T&T to notify of its status in OGP and to offer all necessary support, including a country visit to work on the development of a plan for re-engagement in OGP, as well as technical support, peer exchange opportunities, and requests to arrange a call between C&S co-chairs and the Minister of Public Administration where OGP is housed in T&T. Although the POC confirmed that these proposals would be communicated to the Minister, no further communication was received, despite ongoing attempts by the Support Unit.

In line with the inactivity resolution, T&T risks being removed from the list of OGP participating countries if the government fails to deliver an OGP action plan or does not re-engage with C&S to determine a work plan to deliver its action plan by 5 December 2019.

- B. Jamaica (under Procedural Review):** The SU conducted a visit in May 2019 to engage with different stakeholders, which included hosting a workshop to activate civil society held on May 9th. A civil society coalition is emerging with leadership from Slashroots, Jamaicans for Justice, and the Jamaican Environmental Trust.

Although civil society signaled its intent to develop an action plan, capacity constraints in the current ministry continue to pose a challenge for the government to engage in the OGP process. Jamaica is a priority country in the Caribbean region and one of the few OGP members in the region. However, Jamaica is at risk of being placed in inactive status if an OGP action plan is not submitted by 31 December 2019. The SU will continue exploring options to re-engage with the Jamaican government.

- C. Pakistan (under Procedural Review):** The delivery of the action plan has been delayed due to the administration change that occurred in 2018. The SU is utilizing all available entry points and partnerships available to try to re-engage Pakistan in OGP, including outreach to senior ministers and engaging the World Bank, Global Affairs Canada, and DFID Pakistan to support outreach efforts. Considering the challenge of bureaucratic capacity, the SU will explore i) if there is appetite within the government to review and revise the draft Action Plan developed under the previous administration instead of starting afresh, and ii) assess the feasibility of

civil society groups using Pakistan's potential inactivity in OGP as an advocacy opportunity to put domestic pressure on the government to resume the process.

The main C&S comments for the Procedural Updates were:

- *OGP should consider whether a government has demonstrated its disposition to remain engaged in the Partnership when determining the type and level of effort to re-engage inactive members.*
- *Since the delivery of an action plan is at the core of the OGP process, a potential rule of the game discussion could be to determine if those who fail to deliver an action plan for an extended period of time should have the same participation status as those who constantly adhere by the established rules and procedures.*

III. Rules of the Game - Flexibility on the length of action plans

Based on feedback received from several OGP member countries regarding the lack of flexibility on the length of action plans, the SU presented a brief overview of the scope of pursuing a more flexible action plan cycle that would allow two or four-year action plans under the following parameters:

1. The country is in good standing with OGP (i.e. not under Procedural Review or Response Policy)
2. The country has an active multi-stakeholder forum
3. The country has achieved "Involve" level in their last IRM report (i.e. compliance with minimum co-creation requirements)
4. The country has an online repository in place
5. At least 3 years of implementation are guaranteed under the current administration.

Decision Item(s):

- *C&S decided to move forward to explore options for implementing a four-year action plan.*
- *C&S further suggested that the proposal should include a way for local actors to revert to a two-year plan should the extended action plan not prove favorable as assessed by the local stakeholders.*
- *As next steps:*
 - *The SU will further explore the options available for action plan flexibility and will develop a proposal and guidance materials for C&S input and comment during its October 2019 call.*
 - *The SU will develop a survey and send it out to key actors that would feed into the design of the proposal.*