

# Independent Reporting Mechanism (IRM): Nigeria Design Report 2017–2019

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## Executive Summary: Nigeria

Nigeria's first action plan leveraged ongoing efforts in the country to address important open government challenges like beneficial ownership, open contracting, and implementing the Freedom of Information Act. The thematic scope and ambition of this action plan has set a good foundation to learn and improve future action plans. Moving forward, the IRM recommends strengthening the institutional framework, inter-agency coordination, and engagement with civil society to support implementation of OGP action plans and deliver key reforms.

The Open Government Partnership (OGP) is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. The Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Nigeria joined OGP in 2016. Since then, Nigeria has implemented one action plan. This report evaluates the design of Nigeria's first action plan to provide useful recommendations for implementation of future action plans.

### General overview of action plan

Nigeria's first action plan addressed open governance in the country through fiscal transparency, anticorruption, access to information, and citizen engagement. The action plan furthered previous and ongoing initiatives on these areas.

Development of the action plan in Nigeria was supported by high level political participation during the co-creation process. The co-creation process was characterized by rigorous, technical methodology (e.g., performance indicators, expected results) while engaging thematic experts and including input from government and nongovernment stakeholders.

Areas where the country can improve its OGP process include ensuring greater participation of women, supporting the National Steering Committee (NSC) with resources and an operational institutional framework, and reporting on how civil society input is used to shape decisions throughout the OGP process.

### Table 1. At a glance

Participating since: 2016  
 Action plan under review: 2017–2019  
 Report type: Design  
 Number of commitments: 14

### Action plan development

Is there a multi-stakeholder forum: yes  
 Level of public influence: consult  
 Acted contrary to OGP process: no\*

### Action plan design

Commitments relevant to OGP Values:	14(100%)
Transformative commitments:	2(14%)
Potential stars:	2(0%)

### Action plan implementation

Completed commitments: N/A  
 Commitments with Major DIOG\*\*: N/A  
 Commitments with Outstanding DIOG: N/A

\*\*DIOG: Did it open government?



Nigeria’s first action plan was focused on transparency and access to information. The action plan included commitments in ambitious policy areas like beneficial ownership and open contracting. Commitments 10 and 11 on improving compliance with the Freedom of Information Act (FOIA) were considered the most ambitious. The table below highlights commitments to watch and considerations for ongoing commitment work.

**Table 2. Commitments to Watch**

<b>Commitment description</b>	<b>Moving forward</b>
<i>10 and 11: Improved compliance of public institutions with the Freedom of Information Act (FOIA) in respect to annual reporting obligations of public institutions, responses to information requests, and the proactive disclosure provisions that stipulate mandatory publication requirements.</i>	<i>This area can improve if implementation focuses on educating citizens and public officials on how the FOI Act will be implemented. Implementers must also consider how accountability can ensure enforcement of the law.</i>
<i>2: Full implementation of open contracting and adoption of open contracting data standards in the public sector.</i>	<i>The National Council on Public Procurement and the Open Contracting Forum will play a vital role to ensure compliance with rules mandating open contracting and timelines. Implementers should support this work.</i>  <i>These reforms will also benefit from effective communication encouraging the use of the Open Contracting Portal. Future progress in this area will depend largely on the timely disclosure and quality of data available on the portal.</i>
<i>6: Establish a public register of Beneficial Owners of Companies.</i>	<i>Implementing ongoing and future commitments in this area may benefit from legislative reform coupled mapping and identifying gaps in the current legal framework. Also, facilitating engagement and cooperation among public agencies such as Corporate Affairs Commission (CAC,) Bureau of Public Procurement (BPP) and Central Bank of Nigeria may foster implementation.</i>

## Recommendations

The IRM recommendations from this report aim to support Nigeria in delivering strong open government reforms. The recommendations below are detailed further in Section V of this report and focus on strengthening institutional practices to support Nigeria’s OGP action plan.

Table 3. KEY IRM Recommendations

Strengthen the legal framework and institutional support for OGP in Nigeria.
Consolidate and reaffirm the role of NSC Nigeria to enhance action plan delivery.
Build an enabling environment to strengthen implementation of OGP action plans.
Build on lessons from the first action plan to improve commitment implementation and action plan results.

## ABOUT THE AUTHOR

**Ann Iyonu** is an independent researcher. She has over eleven years of experience working directly with communities on security and justice, education, gender, civic participation and governance, transparency, and accountability. She has worked with R2K and the Institute for War and Peace.

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



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\* *OGP Participation & Co-creation Standards* were updated in 2017 to support participation and co-creation throughout all stages of the OGP cycle. The standards outline “basic requirements” which all OGP member countries are expected to meet, and “advanced steps” which, although not obliged to meet, countries will be supported and encouraged to do so. In this line, the Steering Committee resolved in 2017 that if a government does not meet the IAP “involve” requirement during development, or “inform” during implementation of the NAP, as assessed by the IRM, it will be considered to have acted contrary to OGP Process.

Given that guidance materials were not yet published during the rollout period of this new policy, countries developing 2017–2019 action plans were given a one action plan cycle grace period. Therefore, Nigeria is not considered to have acted against the OGP process. For more information visit Section 6 of the OGP Handbook – Rules and Guidance for Participants: [https://www.opengovpartnership.org/wp-content/uploads/2019/03/OGP\\_Handbook-Rules-Guidance-for-Participants\\_20190313.pdf](https://www.opengovpartnership.org/wp-content/uploads/2019/03/OGP_Handbook-Rules-Guidance-for-Participants_20190313.pdf).

## I. Introduction

The Open Government Partnership is a global partnership that brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive, and accountable. Action plan commitments may build on existing efforts, identify new steps to complete ongoing reforms, or initiate action in an entirely new area. OGP's Independent Reporting Mechanism (IRM) monitors all action plans to ensure governments follow through on commitments. Civil society and government leaders use the evaluations to reflect on their own progress and determine if actions have made an impact on people's lives.

Nigeria joined OGP in 2016. This report covers the development of Nigeria's first action plan for 2017–2019.

The Independent Reporting Mechanism of OGP has partnered with Ann Lyonu, who carried out this evaluation. The IRM aims to inform ongoing dialogue around development and implementation of future commitments. For a full description of the IRM's methodology please visit <https://www.opengovpartnership.org/about/independent-reporting-mechanism>.

## II. Open Government Context in Nigeria

The barriers to open governance create an environment in which mismanagement and corruption are common practice. Nigeria still faces challenges in terms of government responsiveness to the public, fiscal transparency, and public participation in governance. The country's first action plan had 14 commitments that addressed ongoing reforms, such as strengthening access to information, fiscal transparency, anticorruption, and citizen engagement and empowerment.

### Background

Nigeria is Africa's most populous country and predicted to be the third most populous country in the world by 2050.<sup>1</sup>

Nigeria has been one of the top three biggest economy in Africa.<sup>2</sup> However, recent daunting development challenges have caused Nigeria declining revenues and an increase in the number of people living in poverty. Socioeconomic indicators have deteriorated; unemployment was 31.4% in the second quarter of 2016, and headline inflation rose from 17.85% in September 2017 to 18.3% in October 2018.<sup>3</sup>

For many years, entrenched corruption and government opaqueness have diverted resources. Nigeria scored low on governance indicators compared to global averages.<sup>4</sup>

### Access to information

Access to government-held information is pivotal to an effective democracy and Nigeria's constitutional norms. The 1999 constitution reflects the democratic principle of the investiture of sovereignty in the Nigerian people, from whom the government derives its powers.<sup>5</sup> Democracy functions best when the government is open to public scrutiny and receptive and responsive to public opinion; public oversight requires accurate, up-to-date information and accessible proceedings.<sup>6</sup> Thus, the government is the custodian and guardian of information that ultimately belongs to the public.

The Nigerian Freedom of Information (FOI) Act, in force since 2011, was seen as an important step toward government openness. The FOI Act changed the way the government relates with the public by establishing the public's right to access information held by public institutions and relevant private institutions. However, the government saw little progress in compliance with the law, especially regarding proactive disclosures and annual reporting obligations. Since the Act's enactment, proactive disclosure and annual reporting has stood at less than 10% compliance annually.<sup>7</sup>

The FOI Act scored 88 out of 150 in the Global Right to Information rating developed by the Center for Law and Democracy and Access Info Europe.<sup>8</sup> With that score, Nigeria ranked 61 out of 123 countries in transparency, meaning it needed to improve its laws to guarantee access to information.<sup>9</sup> The FOI Act's broad scope is one of its significant strengths. Nevertheless, the fact that it takes a year or more to decide cases, revealed the FOI Act's shortcomings in judicial adjudication and remedies.<sup>10</sup> This interferes with the FOI Act's effective implementation. CSOs also note that the information government releases are limited and not timely. Response exceeds the stipulated time allocated by law, and enforcement of the law was weak.<sup>11</sup>

### Fiscal Transparency

Several decades of opacity and corruption in the oil and gas sector have slowed development in Nigeria. Massive natural resource wealth has been consistently mismanaged with extractive revenues diverted to private pockets and misused by public office holders.<sup>12</sup>

The Nigerian economy is still very dependent on its oil and gas sector, which accounts for about 65% of total government revenue. Lack of transparency has caused significant challenges in managing this sector, including unaccounted lost revenue and corruption.<sup>13</sup> The extractive sector prior to 2017 was shrouded in secrecy, which contributed to under-assessment and under-payment of

government revenue by this sector.<sup>14</sup> This is supported by information from NEITI (Nigeria Extractives Industry Transparency Initiative) and included in a research paper by the World Bank during the Obasanjo Administration (1999–2007), showing that Nigeria was losing revenue to the extractive industry.<sup>15</sup> According to NEITI, an audit revealed that the country was about to lose \$1 billion due to fund mismanagement, but could manage to recoup it.<sup>16</sup> Opacity in the sector also weakened ties between it and other economic sectors, and lack of fiscal transparency has depleted natural reserves, crowded out other economic sectors, and increased unemployment levels.

### **Civic participation**

Nigeria's political history involves colonial rule, military authoritarianism, and civilian rule toward a path of sustained democratization. After 1999, Nigeria has had a stable, peaceful, democratic system of government.

Prior to 2017, a lack of transparency and unavailable clear budget documents hindered citizens' ability to effectively participate and monitor the budget process. Civil society organizations (CSOs) noticed a gap between citizen involvement and the creation of the pre-budget statement.<sup>17</sup> Citizens only had knowledge of what the government planned to spend after the presentation of the budget and its availability online, as the level of engagement and inclusion was low.<sup>18</sup>

In 2017, Nigeria scored 17 out of 100 in transparency by the International Budget Partnership (IBP), an indication that the government only provides the public with minimal budget information.<sup>19</sup> The IBP recommended that Nigeria increase public participation in budgeting. Nigeria's score of 13 out of 100 in public participation indicates that the Nigerian government faces difficulties in enabling the public to engage with the budget process.

### **Anticorruption measures**

Corruption has been Nigeria's biggest challenge. It has become a significant concern both to the government and the people.<sup>20</sup> Corruption has exacerbated and prolonged many of Nigeria's challenges, including slow economic recovery, poverty, and insecurity. Corruption affects public finances, business investments, and the standard of living. Nigeria may have embraced accountability, transparency, participation, and inclusion, however political will is often lacking to realize substantive reforms.<sup>21</sup>

Over the years, Nigerian government has tried tackling corruption by establishing anticorruption agencies and employing diverse strategies.<sup>22</sup> In 2015, the Muhammadu Buhari's administration also launched an anticorruption campaign after taking office, including strengthening whistleblowing incentives and protections, high-profile investigations of prominent individuals for large-scale theft of public funds, and the recovery of billions of naira by Nigeria's anticorruption agencies.<sup>23</sup> These efforts had only achieved very limited success, due to a lack of political will, weak institutions, poor interagency cooperation, and low citizen participation.

Notwithstanding such efforts, Nigeria consistently ranks poorly on Transparency International's Corruption Perceptions Index, ranking 136 of 176 countries assessed in 2016 and 144 out of 180 countries (scoring only 27 out of 100) in 2018.<sup>24</sup> A country's score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean).<sup>25</sup>

### **Civic Space**

Nigeria faces challenges regarding civic space. For instance, according to Spaces for Change (S4C), and cited by Victoria Ibezim-Ohaeri, there were 103 incidents where the government restricted public expression or assembly between 2015 and 2017.<sup>26</sup> The report highlighted that opportunities for civic space were reduced, civil society faced considerable pressure, and that civil society desired greater protection for fundamental rights, including the right to assembly and demonstrate.<sup>27</sup>

### **Scope of Action Plan in Relation to National Context**

Due to the challenges discussed above, the government committed to good governance and eradicating corruption, adopting several initiatives aimed at opening government. These included: implementing the Government Integrated Financial Management Information System (GIFMIS) and the Integrated Payroll and Personnel Information System (IPPIIS) to bring greater transparency to public financial management processes; the Public Procurement Act of 2007; and the Asset Declaration.<sup>28</sup>

Some anticorruption measures were in place prior to the OGP action plan. For instance, the Financial Action Task Force (FATF) created initiatives addressing beneficial ownership. FATF, according to its website, is defined as “an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.”<sup>29</sup> Additionally, the National Assembly sent the Proceeds of Crime (POC) Bill to President Muhammadu Buhari for his approval.<sup>30</sup>

There has been historically poor coordination among law enforcement agencies (LEAs), anticorruption agencies (ACAs), the National Security Adviser (NSA), and financial sector regulators as there was no formal operating procedure for information-sharing between agencies.<sup>31</sup> In 2016, the Presidential Advisory Committee against Corruption (PACAC) developed a standard operating procedure for intelligence-sharing between ACAs.<sup>32</sup> However, it is unclear whether it is routinely used and there is no cohesion between the two largest anticorruption agencies which continued to exist in parallel.<sup>33</sup>

In addition, there was no separation of duties, with crime matters being sent automatically to the Economic and Financial Crimes Commission (EFCC).<sup>34</sup> This resulted in high levels of corruption evidenced by Nigeria’s poor ranking in the 2016 Corruption Perception Index by Transparency International, where Nigeria ranked 136 out of 176 countries.<sup>35</sup> Corruption is a critical area of concern in Nigeria, especially now that the country has the largest population of extreme poor in the world.<sup>36</sup> A lack of transparency enables funds to be diverted from development and growth-generating projects.

During the seventh Assembly (2011–2015), many of the anticorruption bills that were proposed did not reflect the new forms of crime and corruption or how to prevent them. These bills addressed the independence of the Special Control Unit against Money Laundering (SCUML), the authority of the Code of Conduct Tribunal over corruption cases, and the Tribunal’s accountability. These bills needed to be reviewed and updated but there was little or no systematic review, especially involving non-state actor input.<sup>37</sup>

The FOI Act complement the ongoing national anticorruption campaign and strived to make the government more open and participatory.<sup>38</sup> Section 2 (3) (a-f), (4), and (5) provides for government institutions to proactively and publicly disclose information about its activities, income, and expenditures. It prevents public servants from hoarding or falsifying information and records.<sup>39</sup> The FOIA aims to encourage effective and holistic public participation and provide oversight of government activities; however, its success depends on the government’s thorough understanding and positive response.<sup>40</sup>

Nigeria’s first action plan includes commitments that address: (1) access to information so citizens can knowledgably participate in their government; (2) fiscal transparency via citizen participation in the budget process, open contracting in the public sector, disclosures in the extractive industries, and an efficient and effective tax system; (3) fighting corruption through establishing a public beneficial ownership register, a platform for sharing information among government ministries, departments, and agencies (MDAs) to detect and prevent corrupt practices, stronger asset recovery legislation and coordinating anticorruption activities; and (4) deepening citizen engagement in managing resources across all public sectors via a permanent dialogue mechanism between citizens and government, reviewing transparency legislation and accountability issues.



The action plan addresses OGP principles of access to information, civic participation, and public accountability. It also considers crosscutting issues that would empower citizens to engage with the government and ensure proper dissemination and management of information.<sup>41</sup> These issues are: technology and innovation; monitoring and evaluation; and communication.

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<sup>1</sup> Yemisi Adegoke, “UN: Half of world’s population growth is likely to occur in Africa” (CNN, 26 Jun. 2017),

<https://www.cnn.com/2017/06/25/africa/africa-population-growth-un/index.html>.

<sup>2</sup> “These are the biggest economies in Africa – IMF” (Business Report, 10 July 2018), <https://www.iol.co.za/business-report/economy/these-are-the-biggest-economies-in-africa-imf-15929339>.

<sup>3</sup> Nigerian National Bureau of Statistics, *Fiscal Sustainability study of states* (NGF, 2017).

<sup>4</sup> Worldwide Governance Indicators, <http://info.worldbank.org/governance/wgi/#reports>.

<sup>5</sup> 1999 Constitution of the Federal Republic of Nigeria, Preamble and Section 14 (1) & (2).

<sup>6</sup> Daniel Lathrop and Laurel Ruma eds., “Open Government: Transparency, Collaboration and Participation in Practice” (Feb. 2010); John Uhr, “Accountability, Scrutiny and Oversight” (May 2001) (Background paper prepared for the Commonwealth Secretariat Canberra Workshop).

<sup>7</sup> Edetaen Ojo (Executive Director of Media Rights Agenda in Lagos, Co-Chair of the National Steering Committee of the Open Government Partnership (OGP) in Nigeria), interview by IRM researcher, 19 Nov. 2018.

<sup>8</sup> Right To Information, “Nigeria” (Access Info Europe and Centre for Law and Democracy, accessed 21 Nov. 2019), <https://www.rti-rating.org/country-data/Nigeria/>.

<sup>9</sup> *Id.*

<sup>10</sup> Funmilola Olubunmi Omotayo, (University of Nebraska – Lincoln, accessed 21 Jan. 2020) “The Nigeria Freedom of Information Law: Progress, Implementation Challenges and Prospects”,

<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=3192&context=libphilprac>.

<sup>11</sup> Ifeoma Onyebuchi, interview by IRM Researcher, 14 Nov. 2018.

<sup>12</sup> “Nigeria: How oil revenues got diverted to private pockets” (*The Guardian*, 29 Oct. 2015),

<https://guardian.ng/sweetcrude/nigeria-how-oil-revenues-got-diverted-to-private-pockets-report/>.

<sup>13</sup> Nigeria Extractive Industries Transparency Initiative (NEITI), “Nigeria,” (EITI, 3 Oct. 2019), <https://eiti.org/nigeria>.

<sup>14</sup> Dauda Garuba (NEITI), interview by IRM researcher, 27 Feb. 2019.

<sup>15</sup> “Nigeria Country Assistance Evaluation: The World Bank in Nigeria 1998-2007” (The World Bank) 47,

<http://documents.worldbank.org/curated/en/618521468187783259/text/100006-PUB-P079737-Nigeria-CAE-Box393217B-PUBLIC.txt>.

<sup>16</sup> *Id.*

<sup>17</sup> Ayomide Faleye (Budget/Open Alliance Coordinator), interview by IRM researcher, 7 Mar. 2019.

<sup>18</sup> Yomi Akinbo (Budget/Open alliance), interview by IRM Researcher, 15 Nov. 2018.

<sup>19</sup> International Budget Partnership, “Budget Work by Country Listing: Nigeria” (accessed 21 Nov. 2019),

<https://www.internationalbudget.org/budget-work-by-country/finding/group-data/?country=ng>.

<sup>20</sup> Ibidolapo Bolu, “Nigeria: The Anti-corruption legal framework and its effect on Nigeria” (Mondaq, 13 May 2016),

<http://www.mondaq.com/Nigeria/x/490434/White+Collar+Crime+Fraud/The+AntiCorruption+Legal+Framework+And+Its+Effect>; Matthew Page, “A new Taxonomy for Corruption in Nigeria” (Carnegie Endowment for International Peace, 17 Jul. 2018), <https://carnegieendowment.org/2018/07/17/new-taxonomy-for-corruption-in-nigeria-pub-76811>.

<sup>21</sup> Ogbewere Bankole Ijwereme, “Anatomy of Corruption in the Nigerian Public Sector: Theoretical Perspectives” *SAGE Open* 5 no. 2 (4 Jun. 2015), <https://journals.sagepub.com/doi/full/10.1177/2158244015581188>; Thomas Carothers, Saskia Brechenmacher, “Accountability, Transparency, Participation and Inclusion: A new development Consensus?” (Carnegie Endowment for International Peace, 20 Oct., 2014), <https://carnegieendowment.org/2014/10/20/accountability-transparency-participation-and-inclusion-new-development-consensus-pub-56968>.

<sup>22</sup> Jorji A Nwogu and Victor Ushahemba Ijishar “The impact of corruption on economic growth and cultural values in Nigeria: A need for value re-orientation” *International Journal of Economics and Management sciences* 6 no. 388 (30 Nov. 2016), <https://www.omicsonline.org/open-access/the-impact-of-corruption-on-economic-growth-and-cultural-values-in-nigeria-a-need-for-value-reorientation-2162-6359-1000388.php?aid=84416>; Joseph Amenaghawon and Udo Jude Ilo, “In Nigeria, Many Anticorruption Policies – and lots of Corruption too”, (Open Society Foundations, 29 June, 2016),

<https://www.opensocietyfoundations.org/voices/nigeria-many-anticorruption-policies-and-lots-corruption-too>.

<sup>23</sup> “Impact of corruption on Nigeria’s economy” (PricewaterhouseCoopers), <https://www.pwc.com/ng/en/publications/impact-of-corruption-on-nigerias-economy.html>; Isiaka Wakili “Nigeria: Buhari’s policies at a glance” (allAfrica, 30 May, 2017) <https://allafrica.com/stories/201705300531.html>.

<sup>24</sup> Transparency International, “Nigeria” in *Corruption Perception Index 2018* (2018),

<https://www.transparency.org/country/NGA>.

<sup>25</sup> Transparency International, “Corruption Perceptions Index 2018” (2018), <https://www.transparency.org/cpi2018>.

<sup>26</sup> Victoria Ibezim-Ohaeri, “Confronting Closing Civic Spaces in Nigeria” *International Journal on Human Rights* (Dec. 2017),

<https://sur.conectas.org/en/confronting-closing-civic-spaces-in-nigeria/>.

<sup>27</sup> *Id.*

<sup>28</sup> Alemika Etannibi, (member, PACAC), interview by IRM Researcher, 8 Mar. 2019.

<sup>29</sup> Financial Action Task Force, “Who we are” (2019), <https://www.fatf-gafi.org/about/>.

<sup>30</sup> Shola Oyeyipo, “National Assembly Transmits Proceeds of Crime Bill to Buhari” (THISDAY, 21 May 2019),

<https://www.thisdaylive.com/index.php/2019/05/21/national-assembly-transmits-proceeds-of-crime-bill-to-buhari/>.

<sup>31</sup> Etannibi, interview.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Ladidi Abdul, Interview by IRM Researcher, 19 Nov. 2018.

<sup>35</sup> Transparency International, “Corruption Perception Index 2016” (25 Jan. 2017), [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016).

<sup>36</sup> Homi Kharas, Kristofer Hamel, and Martin Hofer, “The start of a new poverty narrative” (Brookings Institute, 19 Jun. 2018), <https://www.brookings.edu/blog/future-development/2018/06/19/the-start-of-a-new-poverty-narrative/>.

<sup>37</sup> Sulayman Dawodu, interview by IRM researcher, 21 Nov. 2018.

<sup>38</sup> Edetaen Ojo (civil society co-chair, OGP/Executive Director, Media Rights Agenda), interview by IRM researcher, 9 Mar. 2019.

<sup>39</sup> See Laws of the Federation of Nigeria, *Freedom of Information Act, 2011*, <https://www.cbn.gov.ng/FOI/Freedom%20of%20Information%20Act.pdf>.

<sup>40</sup> Ojo, interview.

<sup>41</sup> Federal Republic of Nigeria, *OGP Nigeria National Action Plan 2017-2019* (OGP, 10 Jan. 2017) [https://www.opengovpartnership.org/sites/default/files/Nigeria\\_NAP\\_2017-2019.pdf](https://www.opengovpartnership.org/sites/default/files/Nigeria_NAP_2017-2019.pdf).

### III. Leadership and Multistakeholder Process

The Federal Ministry of Justice is the Coordinating Ministry and Co-chair of the OGP National Steering Committee (NSC). As the OGP process requires equal participation between government and civil society, the NSC has a co-chair from each segment. The NSC is made up of representatives from government ministries, agencies, and departments (MDAs), CSOs, and private and professional associations. Together, they created the 30-month (Jan 2017 –June 2019) National Action Plan (NAP).

#### 3.1 Leadership

This subsection describes the OGP leadership and institutional context for OGP in Nigeria.

The OGP secretariat in charge of the OGP process was a coordinating agency and not an implementing agency. The OGP secretariat had both CSO and government representation and was domiciled in the Federal Ministry of Justice (FMOJ). This office had no legal power to enforce policies on other government agencies.<sup>1</sup>

At the time of this report, the OGP process in Nigeria is not mandated by a legally binding document, but there are ongoing consultations to get the President to sign a document to that effect. This will be the legal framework for OGP implementation in Nigeria with legal implications, like allocating the budget, which is currently difficult without legal backing.<sup>2</sup> Most organizations depended on donor funding for OGP activities. The OGP secretariat coordinated activities including intra-government functions.

According to Edetaen Ojo, the nonstate co-chair, apart from publicly announcing the beginning of OGP participation, the president was not involved in the national action plan development; the President's engagement could have been stronger.<sup>3</sup> The vice president was scheduled to represent the president at the Kaduna retreat for action plan development, but the vice president's aide came instead. Nevertheless, there was other high level political participation in the co-creation process: Abubakar Malami, Honorable Minister of Justice and Attorney General of the Federation; Zainab S. Ahmed, Minister of State for Budget and Planning; Ibrahim Magu, acting chairman of (Economic and Financial Crimes Commission (EFCC); Dr. Jumoke, Head of Presidential Ease of Doing Business Council (PEBEC) of the Office of the Vice President; Dr. Joe Abah, Director General, Bureau for Public Service Reforms (BPSR); and Mr. Yusuf Barnabas Bala, the Deputy Governor from the state of Kaduna state.<sup>4</sup>

The amount of staff dedicated to OGP was unstable, as staffing was usually funded from short-term donations, and some contracts lasted as little as six months.<sup>5</sup> The OGP Secretariat had a team of 13 staff that included the national coordinator, the justice sector reform (JSR) team lead, a civil society adviser, a subnational adviser, a communications adviser, a secretariat manager, a program officer, and six support staff. However, some positions remained vacant including the public-sector adviser role, Monitoring and Evaluation (M&E) team lead and other support roles. According to Stanley Achonu, a civil society adviser, the secretariat could not evaluate commitments due to the absence of an M&E team lead.<sup>6</sup>

#### 3.2 Multistakeholder process throughout action plan development

In 2017, OGP adopted the OGP Participation and Co-Creation Standards intended to support participation and co-creation by civil society at all stages of the OGP cycle. All OGP-participating countries are expected to meet these standards. The standards aim to raise ambition and quality of participation during development, implementation, and review of OGP action plans.

OGP's Articles of Governance also establish participation and co-creation requirements a country or entity must meet in their action plan development and implementation to act according to OGP process. Nigeria **did not act** contrary to OGP process.<sup>7</sup>

Please see Annex I for an overview of Nigeria's performance implementing the Co-Creation and Participation Standards throughout the action plan development.

**Table 3.2: Level of Public Influence**

The IRM has adapted the International Association for Public Participation (IAP2) “Spectrum of Participation” to apply to OGP.<sup>8</sup> This spectrum shows the potential level of public influence on the contents of the action plan. In the spirit of OGP, most countries should aspire for “collaborate.”

Level of public influence		During development of action plan
<b>Empower</b>	The government handed decision-making power to members of the public.	
<b>Collaborate</b>	There was iterative dialogue AND the public helped set the agenda.	
<b>Involve</b>	The government gave feedback on how public inputs were considered.	
<b>Consult</b>	The public could give inputs.	✓
<b>Inform</b>	The government provided the public with information on the action plan.	
<b>No Consultation</b>	No consultation	

### Multistakeholder forum

The National Steering Committee (NSC) served as Nigeria’s multistakeholder forum, with technical working groups for each thematic area in the action plan. The NSC was not set up by a formal legal mandate, as OGP does not yet have a legal framework in Nigeria. At the time of this report, the NSC was coordinated by the Federal Ministry of Justice and co-chaired by the Federal Ministry of Justice and a representative of CSOs.<sup>9</sup>

The NSC was made up of 21 government representatives and 21 nonstate actors that included CSOs and private sector and professional associations. There were also technical working groups of government and CSO representatives working on implementation of the various commitments. The technical working groups submitted their reports on implementation of the commitments to the NSC.<sup>10</sup>

The government stakeholders selected their own NSC representatives, and these were approved by the president. For the non-state actors, some of the 21 representatives were selected.<sup>11</sup> Initially, CSOs met and elected seven organizations from different thematic areas and reserved four seats for private sector groups and professionals. When the government increased their number to nineteen members, they appointed CSOs and private businesses without consulting the non-state actors.

Following a further increase of government seats to 21, CSO members of the NSC then agreed to bring in women from the Niger-Delta region as well as a representative from the Northern part of the country.<sup>12</sup>

The NSC agreed that people that could provide technical, financial, or advisory support for the OGP process should be allowed to observe the proceedings. Approved observers included subnational OGP reformers pushing for OGP inclusion in their respective states, across the six geopolitical zones. Membership and attendance of the working groups, was open to organizations who had technical competence in the relevant commitment areas and drawn from all parts of the country.

The development of the plan development did not follow any legal mandate. The stakeholders met at least once a month between October and December 2016, but it was not through the official steering committee. A list of the tentative NSC was drawn up in 2016 along with the action plan; the first official meeting of the NSC was in March 2017.<sup>13</sup>

All meetings of the NSC and the technical working groups were held in Abuja. According to Stanley Achonu, this location allowed engagement by government officials and development organizations, particularly those involved in the OGP process.<sup>14</sup> Forum meetings were not gender-balanced as more males participated than females.<sup>15</sup>

The NSC was the highest OGP advisory and decision-making body in Nigeria and its decisions went to the President.<sup>16</sup> The technical working groups submitted reports on their implementation of commitments to the NSC. NSC members had equal voting rights and could contribute to discussions.

### **Participation and engagement throughout action plan development**

The federal government, along with MDAs and non-state actors, jointly developed a 30-month (January 2017–June 2019) action plan. The FMOJ oversaw commitment implementation and non-state actors provided support in monitoring, evaluating, and funding to ensure completion of commitment goals.<sup>17</sup>

According to the OGP self-assessment report published in 2017,<sup>18</sup> the action plan was developed through open consultations, consistent with co-creation and participation standards.<sup>19</sup> Consultations included as many stakeholders as could be accommodated, including international NGOs and unions from the private sector, media and labor sector. Led by the Ministry of Justice, the government held a retreat to develop the national action plan. The workshop was facilitated by Reboot. Participants discussed priorities and common goals to include in the plan, taking into account the different needs and the availability of resources.<sup>20</sup>

Many public institutions and organizations attended the retreat, including the Office of the Vice-President, the Federal Ministry of Justice (FMOJ), the Independent Corrupt Practices Commission (ICPC), the Economic and Financial Crimes Commission (EFCC), and the Bureau of Public Service Reform (BPSR).

In October 2016, the Nigeria OGP Secretariat prepared and administered questionnaires to key MDAs requesting information on mandates, challenges, and ongoing reforms in areas relevant to the plan's commitments. Responses were received and incorporated into the plan.<sup>21</sup>

The Open Alliance, a civil society OGP coalition, organized a workshop on the plan's development for civil society and the private sector on 23 October 2016.<sup>22</sup> The objective was to set the civil society agenda for the OGP retreat and create an outline for the action plan. At the workshop, civil society developed a draft action plan to be used to enrich the preparation of the final action plan. The draft plan identified priorities for both the government and non-state actors.

A national retreat was then organized and held in Kaduna, Nigeria from 24–26 October 2016 so stakeholders could agree on a draft action plan. Government and non-state participants proposed, validated, and prioritized commitments. While not all commitments could be incorporated into the draft action plan, the final plan did address all issues raised in the CSO draft plan.<sup>23</sup> The commitments addressed four thematic areas: fiscal transparency, anticorruption, access to information, and citizen's engagement.

After consultation, a technical team of non-state and state actors updated participants on the plan's development. On 7 November 2016, the OGP Nigeria Secretariat shared the revised plan on the FMOJ website. CSOs disseminated the draft plan via television, radio, twitter, and their organizational websites. The draft plan was also distributed to all government MDAs and the OGP International Secretariat for review and feedback. It was at this stage that the government included an extra commitment on improving the ease of doing business.<sup>24</sup> This commitment came from the Office of the Vice President after extensive consultation with the Nigeria Economic Summit Group regarding the economic recovery and growth plan of the Buhari administration. There was no further public review after this submission.<sup>25</sup>

A half-day validation workshop was held on 8 November 2016 for senior officials of the NSC. They presented on the four thematic areas and cross-cutting issues, highlighting the logic and impact of the action plan, key performance indicators, and implementing agencies for each commitment. The workshop provided a good opportunity for strengthening and broadening ownership of the action plan. It was an opportunity for senior civil servants who would be responsible for daily implementation of the plan to confirm the outcome's feasibility. They also responded to commitment descriptions and activities; their comments were noted for consideration. The technical team reviewed the feedback and adopted suggestions that fit into the action plan.<sup>26</sup> The workshop ended with participants undertaking a participatory risk analysis of the plan

The completed action plan was presented at the OGP 4<sup>th</sup> Global Summit on 7 December 2016.

### **Co-creation and participation recommendations throughout development**

Nigeria showed evidence of a balanced composition of the teams that drafted the action plan, as each thematic area team was co-chaired by a representative of government and another from non-state actors. Additionally, there was a strong representation from both CSOs and the government at the national retreat that created the action plan. This is in line with the OGP multistakeholder process. Nigeria consulted with the private sector, professional bodies, academia, and citizen groups.<sup>27</sup>

However, one concern was that the NSC was not formally inaugurated on time to be responsible for drafting the action plan. This resulted in the OGP Secretariat having a greater hand in decision-making, which should have been the responsibility of an evenly balanced NSC. This also affected the amount and effectiveness of communication prior to, during, and after consultations.<sup>28</sup>

In order to improve performance in these areas, the IRM researcher suggests the following:

- NSC representatives should be selected prior to the plan's implementation. These representatives must show the ability to properly engage and monitor the commitments.
- Empowering the NSC either by an executive order or legislation to ensure continuity in the OGP process, as well as financial resources.
- The NSC could establish an ongoing, systematic channel to ensure that there is reporting on how inputs are used. This would encourage further engagement throughout action plan cycles.

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<sup>1</sup> Stanley Achonu (civil society adviser), interview by IRM researcher, 9 Nov. 2018.

<sup>2</sup> Edetaen Ojo (OGP co-chair, nonstate actors), interview by IRM researcher, 19 Nov. 2018.

<sup>3</sup> Ojo, interview.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Achonu, interview by IRM researcher, 13 Aug. 2019.

<sup>7</sup> Acting Contrary to Process - Country did not meet (1) "involve" during the development or "inform" during implementation of the NAP (2) government fails to collect, publish and document a repository on the national OGP website/webpage in line with IRM guidance.

<sup>8</sup> "IAP2's Public Participation Spectrum, (IAP2, 2014),

[http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations\\_course/IAP2\\_P2\\_Spectrum\\_FINAL.pdf](http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/foundations_course/IAP2_P2_Spectrum_FINAL.pdf).

<sup>9</sup> Achonu, interview, 9 Nov. 2018.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Achonu, interview, 13 Aug. 2019.

<sup>13</sup> Achonu, interview, 9 Nov. 2018.

<sup>14</sup> Achonu, interview, 13 Aug. 2019.

<sup>15</sup> Chidinma Ilchukwu, (Program Officer, OGP Secretariat), interview by IRM researcher, 12 Nov. 2018.

<sup>16</sup> Achonu, interview 9 Nov. 2018.

<sup>17</sup> Federal Republic of Nigeria, *Open Government Partnership (OGP) Nigeria Mid-Term Self-Assessment 2016-2018* (3 Oct. 2017), [https://www.opengovpartnership.org/wp-content/uploads/2017/10/Nigeria\\_Mid-Term\\_Self-Assessment\\_2016-2018.pdf](https://www.opengovpartnership.org/wp-content/uploads/2017/10/Nigeria_Mid-Term_Self-Assessment_2016-2018.pdf); *Civil Society Shadow Report* (Apr. 2018).

<sup>18</sup> Federal Republic of Nigeria, *Open Government Partnership (OGP) Nigeria Mid-Term Self-Assessment 2016-2018* (3 Oct. 2017), [https://www.opengovpartnership.org/wp-content/uploads/2017/10/Nigeria\\_Mid-Term\\_Self-Assessment\\_2016-2018.pdf](https://www.opengovpartnership.org/wp-content/uploads/2017/10/Nigeria_Mid-Term_Self-Assessment_2016-2018.pdf).

<sup>19</sup> Achonu, interview, 9 Nov. 2019.

- <sup>20</sup> “Co-Creating OGP Commitments for Transparent, Accountable Governance” (Reboot, accessed Nov. 2019), <https://reboot.org/case-studies/co-creating-ogp-commitments-transparent-accountable-governance/>.
- <sup>21</sup> Federal Republic of Nigeria, *OGP Nigeria National Action Plan 2017-2019* (OGP, 10 Jan. 2017) [https://www.opengovpartnership.org/sites/default/files/Nigeria\\_NAP\\_2017-2019.pdf](https://www.opengovpartnership.org/sites/default/files/Nigeria_NAP_2017-2019.pdf).
- <sup>22</sup> *Id*; Open Alliance Nigeria, “Help improve Nigeria’s Open Government Partnership National Action Plan” (Medium, accessed Nov. 2019), <https://medium.com/@OpenAllianceNG/help-improve-nigerias-open-government-partnership-national-action-plan-662f935763db#gp1lbsmv3>.
- <sup>23</sup> Achonu, interview, 13 Aug. 2019.
- <sup>24</sup> Nigeria NAP 2017-2019
- <sup>25</sup> Achonu, interview, 13 Aug. 2019.
- <sup>26</sup> Achonu, interview, 13 Aug. 2019.
- <sup>27</sup> Ojo, interview; Achonu, interview by IRM researcher, 9 and 19 Nov. 2018.
- <sup>28</sup> Ojo, interview.



## IV. Commitments

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

Commitments should be appropriate to each country's/entity's unique circumstances and challenges. OGP commitments should also be relevant to OGP values laid out in the OGP Articles of Governance and Open Government Declaration signed by all OGP-participating countries.<sup>1</sup> The indicators and method used in the IRM research can be found in the IRM Procedures Manual.<sup>2</sup> A summary of key indicators the IRM assesses is below:

- **Verifiability:**
  - Not specific enough to verify: As written in the commitment, do the objectives stated and actions proposed lack sufficient clarity and specificity for their completion to be objectively verified through a subsequent assessment process?
  - Specific enough to verify: As written in the commitment, are the objectives stated and actions proposed sufficiently clear and specific to allow for their completion to be objectively verified through a subsequent assessment process?
- **Relevance:** This variable evaluates the commitment's relevance to OGP values. Based on a close reading of the commitment text as stated in the action plan, the guiding questions to determine the relevance are:
  - **Access to Information:** Will the government disclose more information or improve the quality of the information disclosed to the public?
  - **Civic Participation:** Will the government create or improve opportunities or capabilities for the public to inform or influence decisions or policies?
  - **Public Accountability:** Will the government create or improve public facing opportunities to hold officials answerable for their actions?
  - **Technology & Innovation for Transparency and Accountability:** Will technological innovation be used in conjunction with one of the other three OGP values to advance either transparency or accountability?
- **Potential impact:** This variable assesses the *potential impact* of the commitment, if completed as written. The IRM researcher uses the text from the action plan to:
  - Identify the social, economic, political, or environmental problem;
  - Establish the status quo at the outset of the action plan; and
  - Assess the degree to which the commitment, if implemented, would impact performance and tackle the problem.
- **Completion:** This variable assesses the commitment's implementation and progress. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.
- **Did It Open Government?:** This variable attempts to move beyond measuring outputs and deliverables to looking at how the government practice, in areas relevant to OGP values, has changed as a result of the commitment's implementation. This variable is assessed at the end of the action plan cycle, in the *IRM Implementation Report*.

### What makes a potentially starred commitment?

A potentially starred commitment has more potential to be ambitious and to be implemented. A good commitment is one that clearly describes the:



1. **Problem:** State's the economic, social, political, or environmental problem rather than describing an administrative issue or tool (e.g., 'misallocation of welfare funds' is more helpful than 'lacking a website').
2. **Status quo:** What is the status quo of the policy issue at the beginning of an action plan (e.g., "26% of judicial corruption complaints are not processed currently")?
3. **Change:** Rather than stating intermediary outputs, what is the targeted behavior change that is expected from the commitment's implementation (e.g., "Doubling response rates to information requests" is a stronger goal than "publishing a protocol for response")?

### Starred commitments

One measure, the "starred commitment" (★), deserves further explanation due to its particular interest to readers and usefulness for encouraging a race to the top among OGP-participating countries/entities. Starred commitments are considered exemplary OGP commitments. To receive a star, a commitment must meet several criteria:

- Potential star: the commitment's design should be **verifiable**, **relevant** to OGP values, and have **transformative** potential impact.
- The government must make significant progress on this commitment during the action plan implementation period, receiving an assessment of **Substantial** or **Complete** implementation.

This variable is assessed at the end of the action plan cycle, in the *IRM Implementation report*.

### General Overview of the Commitments

The action plan focused on four key areas: promoting fiscal transparency; access to information; (3) deepen and mainstream transparency mechanisms in the anticorruption fight; and, (4) improvement of citizen engagement and empowerment in governance. The drafting of the national action was a collaborative effort between government and civil society. Some of the commitments also refer to other government initiatives, including the Ease of Doing Business.

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<sup>1</sup> "Open Government Partnership: Articles of Governance," OGP, June 2012 (Updated Mar. 2014 and Apr. 2015), [https://www.opengovpartnership.org/sites/default/files/attachments/OGP\\_Articles-Gov\\_Apr-21-2015.pdf](https://www.opengovpartnership.org/sites/default/files/attachments/OGP_Articles-Gov_Apr-21-2015.pdf)

<sup>2</sup> "IRM Procedures Manual," (OGP) <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

## I. To ensure more effective citizens' participation across the entire budget cycle.

### Language of the commitment as it appears in the action plan:

"This commitment will ensure that citizens participate and make inputs into the budget process starting with the pre-budget statement, executive budget proposal, budget debate through public hearings in the legislature, implementation, monitoring and reporting of the budget. Budget information should also be made accessible to all."

### Milestones:

- I.1. The Ministry of Budget and National Planning will hold two public fora to get citizens' input into the pre-budget statements using the draft MTSS and MTEF document as tools/background documents in these forums.
- I.2. Publish MDA budgets and quarterly and annual budget implementation reports on their websites in both human and machine-readable formats.
- I.3. Conduct Needs Assessment with Reports accompanying budgets in selected sectors including Health, Education etc.
- I.4. Annually publish a comprehensive citizen's guide to the budget.
- I.5. Adopt simple technology-based feedback mechanism for projects at community level for project monitoring by government and CSOs.
- I.6. Conduct annual citizens' satisfaction survey.
- I.7. Publish timely, all key budget documents to facilitate citizens' participation according to the Fiscal Responsibility Act.
- I.8. Advocate for public hearings organized by the National Assembly on the budget.
- I.9. Mobilize CSO and citizen participation in budget hearing.

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
I. Overall		✓	✓	✓		✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

## Context and Objectives

The commitment sought to improve public participation in the budget design and implementation processes in Nigeria.

Prior to the commitment, Nigeria did not have an open budgeting system that accommodated public participation.<sup>1</sup> The International Budget Partnership's 2017 *Open Budget Survey* found that Nigeria provides "few" opportunities for the public to engage in the budget process, with a score of 13 out of possible 100 points in public participation. This is a decline from 2015, when Nigeria scored 25 out of 100 points and "weak" opportunities for public engagement.<sup>2</sup> In Nigeria, the state plays a dominant role in the national political economy. The allocation of resources through the national budget is controlled by the ruling classes who have little incentive to make the budgeting process more open or participatory.<sup>3</sup>

The budgeting process in Nigeria is split between the legislative and executive and involves planning, approval, implementation, and auditing. Most of these processes are not open, and active participation is not encouraged.<sup>4</sup> Most access to information and civic participation occurs at the approval stage through public hearings in the House of Representatives and Senate. At the planning stage, CSOs are not enabled or encouraged to communicate their needs and concerns to government in a way that contributes to the Medium-Term Revenue Framework, the Medium-Term Expenditure Framework (MTEF), or the Draft Budget.<sup>5</sup> This phase tends to be entirely dominated by the executive.<sup>6</sup> There are no formal avenues for citizen participation during the implementation stage, when the Ministry of Finance releases budget allocations to MDAs.<sup>7</sup> The Accountant-General, Auditor-General, and the National Assembly dominate the auditing phase.<sup>8</sup>

Limited civic participation hinders access to information. Prior to the commitment, government contracts were not published, and the budgets and quarterly and annual implementation reports of MDAs were generally only available through requests made under freedom of information legislation.<sup>9</sup> The Budget Office of the Federation did publish some budget documents<sup>10</sup> as well as annual *Citizen's Guides to the Budget* since 2009.<sup>11</sup> However, the office's website didn't consistently publish all key budget documents despite being required by the Fiscal Responsibility Act, 2007; missing documents often included the MTEF, the Annual Budget and its supporting documents,<sup>12</sup> estimates of revenue and expenditure of government-owned corporations and agencies, and the Annual Cash Plan.

The commitment is relevant to the OGP value of civic participation as it proposed a number of activities to increase civic engagement in the budget process, including holding public forums to get citizens' input in pre-budget statements, conducting needs assessments in selected sectors, developing a technology-based feedback mechanism for projects at the community level, and advocating for public hearings organized by the National Assembly on the budget. According to Abayomi Akinbo (BudGiT), it was necessary to infuse people into every aspect of the budget, by getting their feedback at every stage and by incorporating deliberations in the budget process.<sup>13</sup>

The commitment is also relevant to the OGP value of access to information as it calls for additional budget-related documents to be made public, such as MDA budgets and quarterly and annual budget implementation reports, a citizen's guide to the budget, and "all key budget documents" to facilitate public participation according to the Fiscal Responsibility Act.<sup>14</sup> This commitment addresses the OGP value of technology and innovation for transparency and accountability through Milestone 1.5 (technology-based feedback mechanism).

The commitment's activities are mostly verifiable. For example, the two forums on pre-budget planning, the publication of MDA budgets online, the citizen's guide to the budget, and the citizen satisfaction survey could all be verified independently. However, Milestone 1.9 was less clear in its call to "mobilize CSO and citizen participation in budget hearings." Also, Milestone 1.7 did not provide a timeline for the publication of key budget documents.

If implemented, this commitment will moderately impact open budgeting in Nigeria by bolstering access to information and civic participation in all four phases of the budget cycle. Public support for citizen input on pre-budget statements and needs assessments may promote civic participation during the planning phase. Mobilizing CSO and citizen participation in budget hearings, advocating for more public hearings on the budget in the National Assembly, and continuing to publish annual citizen guides to the budget may sustain and improve access to information and civic participation during the approval stage. Timely publication of all key budget documents, quarterly and annual publication of the budget implementation reports of MDAs, and a mechanism for monitoring projects at a community level could significantly improve very low levels of access to information and civic participation during the implementation phase. An annual citizens' satisfaction survey would supplement auditing by the Accountant General and Auditor Generals.

### Next steps

This commitment can make the budgetary process more accessible and participatory and therefore, transparent and accountable.<sup>15</sup> Based on the findings of this commitment's design, future commitments in this area could include:

- Reviewing the Fiscal Responsibility Act of 2007 to strengthen existing provisions<sup>16</sup> that accommodate access to information and public consultation during the four phases of the budget cycle;
- Measuring civic participation during the budget phases and identifying causes for any low participation rates;
- Establishing specific guidelines on national public and CSO participation in budget hearings, particularly, specific guidelines on how citizen feedback will be incorporated into the budget;
- Ensuring that information sources are accessible through different communication channels (leaflets, TV, radio) to accommodate Nigerians who cannot easily access online sources;
- Including more details in some commitments, for example, deadlines for MDAs to publish their quarterly budget implementation reports and annual reports, or the specific sectors in which needs assessments will be conducted;
- Government establishment of specific guidelines on national public participation, highlighting how citizen feedback will be incorporated into the budget; and
- Ensuring that the civic participation spaces exist not just on paper but function in practice, possibly through some form of enforcement from central government.

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<sup>1</sup> Emekah C. Iloh et al., "Open budget systems and participatory budgeting in Africa: A comparative analysis of Nigeria and Ghana 2012, 2015" *Asian Journal of Social Sciences* 17 no. 4 (2018): 45.

<sup>2</sup> International Budget Partnership, "Nigeria" (accessed Nov. 2019), <https://www.internationalbudget.org/budget-work-by-country/findgroup/group-data/?country=ng>.

<sup>3</sup> Iloh et al., 51.

<sup>4</sup> Iloh et al., 53.

<sup>5</sup> Cislac, *Legislative and Budget Processes in Nigeria* (2007).

<sup>6</sup> Iloh et al., 53.

<sup>7</sup> Iloh et al., 54.

<sup>8</sup> Iloh et al., 55.

<sup>9</sup> Alfred Okoh, (Budget Office), interview by IRM researcher, 13 Nov. 2018.

- <sup>10</sup> Budget Office of the Federation, “Budget Document” (accessed Nov. 2019), <https://budgetoffice.gov.ng/index.php/resources/internal-resources/budget-documents>.
- <sup>11</sup> Budget Office of the Federation, “Citizens Guide to the Budget”(accessed Nov. 2019), <https://budgetoffice.gov.ng/index.php/resources/internal-resources/citizens-guide-to-the-budget>.
- <sup>12</sup> Federal Republic of Nigeria, *Fiscal Responsibility Act, 2007* Act no. 31 (International Budget Partnership, accessed Nov. 2009) §19.
- <sup>13</sup> Yomi Akinbo, (BudgiT/Open Alliance), interview by IRM researcher, 15 Nov. 2018.
- <sup>14</sup> Federal Republic of Nigeria, *Fiscal Responsibility Act, 2007*.
- <sup>15</sup> Dr. Anne Nzegwu (Deputy Director, National Budget and Planning Office), interview by IRM researcher, 7 Mar. 2019.
- <sup>16</sup> See, for example, §13(2) of the act allowing public consultation on the MTEF.

## 2. Full implementation of Open Contracting and adoption of Open Contracting Data Standards in the public sector.

### Language of the commitment as it appears in the action plan:

“The Nigerian Government commits to progressive implementation of open contracting and the adoption of open contracting standards to enhance transparency, accountability and citizen engagement in public procurement and fiscal transparency. In this phase, priority will be given to at least 5-10 MDAs at the heart of government development priority (including Power, Transportation, Works, Agriculture, Health, Education, Niger Delta, Environment, and Solid Minerals)”.

### Milestones:

- 2.1 Increase sensitization of citizens on how to engage at every stage of the procurement cycle.
- 2.2 Establish Open Contracting portal with feedback mechanism that is populated with procurement data and available online.
- 2.3 Establish open contracting forum comprising of government, Civil Society and Private Sector to ensure sustained engagement and improved procurement processes.
- 2.4 Establish and properly constitute the National Procurement Council.
- 2.5 Establish administrative directive and guidelines and ethical codes mandating application of open contracting system for public contracts.
- 2.6 BPP to compile and manage a publicly available databank on public sector procurement that is both human and machine-readable.
- 2.7 Clear administrative rules and guidelines issued by the highest level of government mandating open contracting in priority MDAs/sectors and setting timelines for compliance.

**Start Date:** January 2017  
Action plan is available [here](#):

**End Date:** June 2019

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
2. Overall		✓	✓	✓		✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

## Context and Objectives

This commitment aims to improve accountability and transparency of government procurement processes by implementing the Open Contracting Data Standard.

The Nigerian government's commitment to open contracting and to full implementation of the Open Contracting Data Standard dates from 2016,<sup>1</sup> although public procurement reform had been on the agenda since the early 2000s. In 2000, a World Bank Public Procurement Assessment Survey revealed that an average of ten billion US dollars was being lost annually through manipulation of Nigeria's procurement and contracting systems and processes.<sup>2</sup> The Federal government initiated a Public Procurement Reform process in response, which led to the enactment of the Public Procurement Act (PPA) in 2007.<sup>3</sup> Although the PPA did not expressly endorse open contracting, it provided statutory framework for a number of the milestones associated with Commitment 2. For example, the PPA established the National Council on Public Procurement (NCPP) as the overseer of public procurement governance in Nigeria, responsible for setting monetary and application standards and considering and approving public procurement policies.<sup>4</sup> Chaired by the Minister of Finance, the 11-member NCPP represents various government agencies, professional associations, civil society and the media.<sup>5</sup> Before this commitment was proposed, the NCPP did not exist.<sup>6</sup> There were various reasons for this, but they center largely on misconceptions relating to the status, functions, and constituent membership. For example, it was unclear whether the CSO members must be representative of, or simply appointed from their CSOs.<sup>7</sup>

The PPA also established the Bureau of Public Procurement (BPP) as the implementing and supervisory agency responsible for ensuring "probity, accountability and transparency in the procurement process."<sup>8</sup> The BPP's mandated legal functions support open contracting. The BPP, for example, is required to "establish a single internet portal...[to] serve as a primary and definitive source of all information on government procurement containing and displaying all public sector procurement information at all times."<sup>9</sup> Consequently, the BPP established the Nigeria Open Contracting Portal (NOCOPO).<sup>10</sup> The portal won the Open Contracting Innovation Challenge in 2017 and allows citizens and CSOs to access uniform public procurement information, track procurement processes, and give feedback on planning, tender awards, contract, and implementation stages.<sup>11</sup>

The commitment is relevant to the OGP values of access to information, technology and innovation for transparency and accountability, and to a lesser extent, civic participation. Establishing an Open Contracting Portal and a publicly available, electronic database on public sector procurement are relevant to access to information and the electronic, data-driven nature of these activities resonates with technology and innovation for transparency and accountability. The long-awaited constitution of the NCPP and establishment of the multistakeholder Open Contracting Forum are relevant to the value of civic participation. Forming administrative directives, rules, guidelines, and ethical codes might be relevant both to access to information and civic participation depending on their content and their binding effect on PEs.

The commitment and most of its constituent milestones are specific enough to be verifiable. For example, verifying whether an Open Contracting Portal exists or not is straightforward. Milestone 2.1 was vague as the mechanism of "sensitization" was not specified, and Milestones 2.5 and 2.7 – while verifiable on the basis of the content of "open contracting" – reference a wide range of administrative instruments that may be challenging to track.

The activities are expected to have a moderate impact on procurement processes in Nigeria. On the surface, the commitment proposed a comprehensive agenda for increased openness and engagement on how public resources are spent through government contracts – from policy formulation by the NCPP, to administrative rules and directives binding on state organizations, to new avenues for civic participation in the form of electronic portals, databases, and an Open Contracting Forum. However, the commitment does not address the challenges underlying some aspects of public procurement reform. For example, it failed to state the reasons underlying the long-standing failure to constitute the NCPP and to propose remedies for this stalemate. The commitment also includes some activities that were finalized prior to the commitment (for example, launching the NOCOPO). The commitment’s impact may be affected by the level of internet coverage in Nigeria, which stood at 47.1% of the population in 2018, and is set to increase to 84.5% by 2023.<sup>12</sup>

### Next Steps

Future commitments in this area could include:

- Clarifying and addressing failures for constituting the NCPP;
- Sensitizing citizens on engagement in the procurement cycle, which could be specified and tailored for characteristics (e.g., rural or urban) to increase efficacy;
- Addressing the timeliness and frequency of updating procurement data on the online portal and database. Outdated procurement data is not very useful to citizens who want to use it to hold government accountable;
- Agency adoption of a feedback and accountability mechanism when data are disclosed;
- Providing specific information on how the open contracting forum will meet and what exactly it will do to clarify roles, responsibilities, and expectations.

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<sup>1</sup> These commitments were expressed by the Attorney-General and the President at conferences relating to the OGP and anticorruption respectively in May 2016. Seember Nyager, *Open Contracting Scoping Study: Nigeria - West Africa Open Contracting Assessment Project* (Development Gateway and Open Contracting Partnership, 9 Mar. 2017) 24, <https://www.developmentgateway.org/sites/default/files/2017-04/Open%20Contracting%20West%20Africa%20-%20Nigeria%20-%20Development%20Gateway.pdf>.

<sup>2</sup> World Bank, *Nigeria – Country procurement assessment report* vol. 2 (30 Jun. 2000), <http://documents.worldbank.org/curated/en/646631468780898952/Nigeria-Country-procurement-assessment-report-CPAR>.

<sup>3</sup> Bureau for Public Procurement, “Background” (accessed Nov. 2019), <https://www.bpp.gov.ng/background/>.

<sup>4</sup> Laws of the Federation of Nigeria, *Public Procurement Act 2007* §1(2).

<sup>5</sup> *Id.* § 1(1).

<sup>6</sup> Nyager 3, 12.

<sup>7</sup> For a comprehensive discussion with proposed solutions, see Kingsley Tochi Udeh, “Nigerian National Council on Public Procurement: Addressing the unresolved legal issues” *African Public Procurement Law Journal* 2 no. 1 (2015) 10–19.

<sup>8</sup> *Public Procurement Act 2007* §4(a).

<sup>9</sup> *Public Procurement Act 2007* §5(r).

<sup>10</sup> Bureau of Public Procurement, “About Nigeria Open Contracting Portal (NOCOPO)” (2019), <http://nocopo.bpp.gov.ng>.

<sup>11</sup> Open Contracting Partnership, “Government Innovation Award winner and six grand prize finalists of Open Contracting innovation challenge announced” (14 Jun. 2017), <https://www.open-contracting.org/news/government-innovation-award-winner-six-grand-prize-finalists-open-contracting-innovation-challenge-announced/>.

<sup>12</sup> J. Clement, “Number of internet users in Nigeria from 2017 to 2023” (Statista, 9 Aug. 2019), <https://www.statista.com/statistics/183849/internet-users-nigeria/>.



### 3. Work together with all stakeholders to enhance transparency in the extractive sector through a concrete set of disclosures related to payments by companies and receipts by governments on all transactions across the sector’s value chain.

#### Language of the commitment as it appears in the action plan:

“Nigeria’s extractive industry has failed to deliver development and improve the well being of the vast majority of her citizens. The wide spread opacity in the industry has allowed corruption to thrive, thus, deepening issues of under-assessment, under-payment and under-remittance/non-remittance of revenues due to government, thereby limiting what the government can deliver to improve the lives of citizens. A backlog of remedial actions to improve accountability across financial, processes and production has been prioritized or implementation has been too slow leading to further leakage and loss in citizens’ confidence”.

#### Milestones:

- 3.1: Disclose oil, gas and mining contracts in the area of exploration and production, exports, off taking and swaps on a publicly accessible portal in both human and machine readable formats.
- 3.2: Quarterly disclosures by NNPC, its subsidiaries and PPMC of sale-level data on oil and gas sales.
- 3.3: Develop Beneficial ownership register for companies that hold exploration, production and export licenses and publish in publicly accessible formats that are human and machine readable.
- 3.4: Develop policy on custody transfer meters in the oil and gas sector.
- 3.5: Get all extractive sector companies to adopt Global Memorandum of Understanding as an approach to the CSR programme.
- 3.6: Mandate all relevant players (government and private sector) to develop, disseminate and annually report on individual plans (including timelines) for treatment (clearing) of remediation plans (from the NEITI audits).
- 3.7: All key stakeholders responsible for remedial actions hold annual open briefing sessions for sector stakeholders and interested public (including CSOs).

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
3. Overall		✓	✓	✓	✓	✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

## Context and Objectives

This commitment seeks to increase access to information on extractive sector revenue and production, and enhance civic participation and accountability, including through technological innovation.

Petroleum (oil and gas) has dominated Nigeria's extractives sector, with total revenue amounting to USD 17.055 billion in 2016 (65% of total revenue).<sup>1</sup> The Nigerian National Petroleum Corporation (NNPC) is the entity through which the Nigerian government regulates and participates in the petroleum industry.<sup>2</sup> The Products and Pipelines Marketing Company (PPMC) is a subsidiary of the NNPC and responsible for sourcing and distributing petroleum to all parts of Nigeria.<sup>3</sup> Since at least 2004, various reports have detailed NNPC's acceptance of bribes and failure to remit the proceeds of crude oil sales to the government, with the missing funds amounting to billions of US dollars.<sup>4</sup>

Corruption and a lack of transparency have been addressed through Nigeria's active participation in the Extractive Industries Transparency Initiative (EITI), a global initiative to promote transparency and accountability in the oil, gas, and mining sectors.<sup>5</sup> The Nigeria EITI claimed to have identified USD 9.8 billion owed to the federal government, of which USD 2.4 billion were recovered through its efforts.<sup>6</sup> In February 2019, the EITI Board validated Nigeria's compliance with the EITI Standards, positioning Nigeria as the first anglophone country to have done so.<sup>7</sup>

This commitment is relevant to all four OGP values. Milestones 3.1, 3.2, and 3.3 are relevant to access to information; Milestone 3.6 relates to civic participation; Milestones 3.6 and 3.7 are relevant to public accountability as they incorporate a public-facing element to NEITI remediation plans;<sup>8</sup> and Milestones 3.1 and 3.3 address technology and innovation in support of transparency and accountability.

This commitment's activities are verifiable. The objects of Milestones 3.1, 3.2, 3.3, 3.4, and 3.5 are identifiable: a portal disclosing oil, gas, and mining contracts; quarterly disclosures by the NNPC, etc.; a beneficial ownership register; a custody transfer policy; and extractive sector companies' adoption of the Global Memorandum of Understanding. The relevant players in Milestones 3.6 and 3.7 are also identifiable, through the NEITI remediation plans.

Commitment 3 continues an already established initiative. The milestones support the NEITI, and in some instances, go beyond. For example, the 2016 EITI Standard encourages countries to disclose contracts;<sup>9</sup> Milestone 3.1 mandates disclosure on a publicly accessible portal. EITI countries were expected to disclose the value and volume of production data for the fiscal year covered by the EITI report;<sup>10</sup> Milestone 3.2 requires quarterly disclosures by the NNPC and PPMC. The EITI Standard recommends that implementing countries maintain a publicly available register of beneficial ownership in the extractives sector, and from 1 January 2020, beneficial ownership information must be included in the EITI report.<sup>11</sup> In December 2016, Nigeria published a detailed roadmap on how it intends to disclose beneficial ownership in the extractives sector, which included a commitment to a register that is machine readable and in open data format (same initiative Milestone 3.3 supports).<sup>12</sup> Milestone 3.5, which extends Shell Nigeria's approach to local civic participation to the rest of the petroleum sector,<sup>13</sup> goes beyond EITI support of civic engagement. Milestone 3.4, on custody transfer meters (instruments that record fluid measurements in the sale of oil) was not covered by the EITI standard but relates to a long-standing policy issue in Nigeria referenced in the new Petroleum Industry Governance Bill, 2017.<sup>14</sup>

The NEITI's work in transforming the culture of opacity that previously characterised the Nigerian petroleum sector has been recognized<sup>15</sup> and eight cycles of EITI audits have been completed.<sup>16</sup> The OGP commitments largely extended and consolidated existing EITI commitments.<sup>17</sup> Further, Ejiogu and others challenged the assumption that transparency in the form of enhanced information disclosure inevitably leads to reduced corruption and enhanced accountability.<sup>18</sup> Finally, according to Dauda Garba of the NEITI, parts of the commitment were too ambitious to be achieved in the stipulated timeframe. However, according to Sarah Muyonga (Nigeria Officer, Natural Resource Governance Institute), the expectation was that if fully implemented the commitment would advance greater transparency in the extractive sector, as disclosure of contracts would create some level of trust and also increase the level of competitiveness in procurement process<sup>19</sup>. Kolawole Banwo (CISLAC) was also of the opinion that if implemented, the prospects of transforming the sector were high<sup>20</sup>. Therefore, this commitment was preliminary coded as having a moderate impact.

## Next Steps

The IRM researcher acknowledges the importance of this commitment to Nigeria's revenue. Future commitments in this area could include elements such as focusing on the quality, instead of the quantity, of data disclosures. Information could be clear, meet the needs of NEITI's data users, and attest to NEITI's independence.

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<sup>1</sup> Extractive Industries Transparency Initiative (EITI), "Nigeria Extractive Industries Transparency Initiative" (22 Nov. 2019), <https://eiti.org/nigeria>.

<sup>2</sup> The NNPC, established in 1977, has powers and operational interests in oil refining, petrochemicals and product transportation and marketing. Nigerian National Petroleum Corporation, "About NNPC," <https://www.nnpcgroup.com/About-NNPC/Pages/Corporate-Information.aspx#.asp>.

<sup>3</sup> Pipelines and Products Marketing Company, "Welcome to PPMC," <https://ppmc.nnpcgroup.com/pages/home.aspx>.

<sup>4</sup> See PriceWaterhouse Coopers, *Auditor-General for the Federation: Investigative forensic audit into the allegations of unremitted funds into the Federation accounts by the NNPC* (Feb. 2015), [http://www.wgei.org/wp-content/uploads/2015/10/Full-report-20billion-dollars-missing-oil-money\\_SAI-Nigeria.pdf](http://www.wgei.org/wp-content/uploads/2015/10/Full-report-20billion-dollars-missing-oil-money_SAI-Nigeria.pdf). For an overview of reports and allegations, see Wikipedia, "Nigerian National Petroleum Corporation" (accessed Nov. 2019), [https://en.wikipedia.org/wiki/Nigerian\\_National\\_Petroleum\\_Corporation](https://en.wikipedia.org/wiki/Nigerian_National_Petroleum_Corporation).

<sup>5</sup> The EITI principles and the EITI Standard (latest version is 2016), promote payment transparency throughout the extractives value chain, beneficial ownership, and civic engagement. Nigeria joined the EITI as a candidate country in 2003 and became the first country in the world to domesticate the EITI with the passage of the Nigeria Extractive Industries Transparency Initiative Act (NEITA) in 2007 (see Nigeria Extractive Industries Transparency Initiative, *2016 Oil and Gas Industry Audit Report* (2016), 13).

<sup>6</sup> EITI.

<sup>7</sup> EITI Board, "Nigeria Validation: Decision reference: 2019-20/BM-42" (27 Feb. 2019), <https://eiti.org/scorecard-pdf?filter%5Bcountry%5D=32&filter%5Byear%5D=2018>.

<sup>8</sup> Extractive 360, "NEITI Audit Reports and Mounting Remedial Issues" (17 Apr. 2018), <https://extractive360.com/2018/04/17/neiti-audit-reports-and-mounting-remedial-issues/>.

<sup>9</sup> EITI, *The EITI Standard 2016* (24 May 2017), standard 2.4 (a), <https://eiti.org/document/eiti-standard-requirements-2016#r2-4>.

<sup>10</sup> *Id.* standard 3.2.

<sup>11</sup> *Id.* standards 2.5(a) and (c).

<sup>12</sup> NEITI, *Roadmap on the Implementation of Beneficial Ownership disclosure in Nigeria* (Dec. 2016) page 18, <https://eiti.org/files/documents/neiti-bor-281216.pdf>.

<sup>13</sup> See Shell Nigeria, "Global Memorandum of Understanding" <https://www.shell.com.ng/sustainability/communities/gmou.html>.

<sup>14</sup> Senate of the Federal Republic of Nigeria, *Report of the Senate Joint Committee on the Petroleum Industry Governance Bill, 2017*, <http://www.petroleumindustrybill.com/wp-content/uploads/2017/05/FINAL-COPY-OF-PETROLEUM-INDUSTRY-GOVERNANCE-BILL-2017-May-15.pdf>.

<sup>15</sup> Agency Reporter, "EITI rates Nigeria's oil, gas, extractive sector high" (*The Independent*, 6 Mar. 2019), <https://www.independent.ng/eiti-rates-nigerias-oil-gas-extractive-sector-high/>.

<sup>16</sup> Extractive 360.

<sup>17</sup> Dauda Garba (NEITI Consultant, NEITI), interview by IRM researcher, 15 Nov. 2018.

<sup>18</sup> Amanze Ejiogu, Chibuzo Ejiogu, and Ambisisi Ambituuni, "The dark side of transparency: Does the Nigeria extractive industries initiative help or hinder accountability and corruption control?" (*The British Accounting Review*, Oct. 2016), [https://www.researchgate.net/publication/328312022\\_The\\_dark\\_side\\_of\\_transparency\\_Does\\_the\\_Nigeria\\_extractive\\_industries\\_transparency\\_initiative\\_help\\_or\\_hinder\\_accountability\\_and\\_corruption\\_control](https://www.researchgate.net/publication/328312022_The_dark_side_of_transparency_Does_the_Nigeria_extractive_industries_transparency_initiative_help_or_hinder_accountability_and_corruption_control).

<sup>19</sup> Sarah Muyonga, (Natural Resource Governance Institute, NRGi), interview by IRM Researcher, 27 Feb. 2019.

<sup>20</sup> Kolawole Banwo, (CISLAC), interview by IRM researcher, 27 Feb. 2019.

## 4. Improving the fairness, transparency, efficiency and effectiveness of the tax system

### Language of the commitment as it appears in the action plan:

“The commitment seeks to promote increased tax revenues by ensuring the prevention of tax avoidance and evasion. This will address the issues of multiple taxation and make businesses pay their fair share of tax. It will also create equity such that local businesses are competitive, can create jobs and contribute to economic development. Tax avoidance and evasion have resulted in reduction of revenue needed to finance development and created an unfavorable environment for local entrepreneurs. This results in the inability of government to provide sound services for citizens’ welfare and failure of small businesses, thereby increasing poverty.”

### Milestones:

4.1: Signing and formal commitment to Common Reporting Standard (CRS) and Addis Tax Initiative

4.2: Sensitization of corporate organizations on the content and requirements of Common Reporting Standard

4.3: Issuance of directives to relevant stakeholders for compliance with Common Reporting Standard

4.4: Review and enforcement of penalties for non-compliance to standards

**Start Date:** January 2017

**End Date:** January 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
4. Overall		✓				✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

This commitment seeks to improve Nigeria’s tax system by committing to using the Common Reporting Standard (CRS) and the Addis Tax Initiative.

Evasion of personal and corporate taxes in Nigeria has been rampant and linked to unscrupulous tax consultants and accounting firms, corrupt tax officials, and a hardened attitude among taxpayers.<sup>1</sup> In 2015, the AU’s High Level Panel on Illicit Financial Flows revealed that N 6.87 trillion had been lost to illicit financial flows traceable to Nigeria.<sup>2</sup> Prior to the commitment, federal, state, and local authorities had attempted to close tax loopholes and deal with tax evaders. At a federal level, the Personal Income Tax Act of 1993, the Companies Income Tax Act of 1977, and the Federal Inland Revenue Service

(Establishment) (FIRS) Act of 2007 empower authorities to deal with late or nonpayment of taxes and establish a variety of offences and penalties.<sup>3</sup> According to academic Nwocha Enya, the FIRS Act granted the Federal Board of Inland Revenue “enormous powers” to recover taxes owed to the government. For the purpose of enforcing taxes, the Board may distrain the taxpayer of his possessions, bonds, and securities.<sup>4</sup> Similar powers and enforcement measures were replicated at a state level. For example, in a move to ensure tax remittance, the Lagos State Internal Revenue Service closed the premises of an oil and gas consulting company for failure to remit the personal income taxes of their workers to the value of N4.9 billion.<sup>5</sup>

President Buhari’s administration committed to the OECD’s Common Reporting Standard (CRS), and the Addis Tax Initiative.<sup>6</sup> The CRS was approved by the OECD Council in 2014 and details a common reporting standard for financial institutions that allows jurisdictions to exchange taxpayer information on an annual basis.<sup>7</sup> The CRS set which financial information would be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures.<sup>8</sup> Countries subscribing to the Addis tax initiative are required to declare their commitment to enhance mobilization and effective use of domestic revenue and improve fairness, transparency, efficiency, and effectiveness of their tax systems.<sup>9</sup>

The commitment is specific enough to be measured. Milestone 4.1 is the most specific; it is possible to verify whether directives are issued or reviewed and penalties are enforced (Milestones 4.3 and 4.4). However, Milestone 4.2 could have been more verifiable by specifying which education activities should be conducted. Finally, each milestone lacked the responsible agency or organization.

The commitment was relevant to the OGP value of technology for transparency as the CRS included guidance on technical solutions for the secure transmission of financial information, covering data safeguards and confidentiality, transmission, and encryption.<sup>10</sup> The issuance of CRS compliance directives to stakeholders and the review and enforcement of penalties for non-compliance was internal and has no public-facing element.

If fully implemented, the commitment should have a moderate potential impact. According to Abu Ocheme (Deputy Director, FIRS), if fully implemented, the CRS and Addis Tax Initiative will expose tax evaders and close loopholes in Nigeria’s tax system.<sup>11</sup> This will reduce the erosion of tax base, obtain financial information from each institution, and check illicit financial flows and unexplained wealth.<sup>12</sup> The government will be better able to identify tax avoidance and evasion if there is co-operation between state officials and financial institutions, and if these institutions exchange financial information more effectively amongst themselves. Further, the fair, transparent, effective, and efficient use of tax revenue may reduce the distrust that discourages Nigerians from paying taxes.<sup>13</sup> However, this must be made public and the commitment lacks a public facing element to encourage citizens to pay taxes. It is unclear how this will help change citizen behavior.

### **Next Steps**

Future commitments in this area could include:

- Specifying which corporations need education about the CRS and the criteria that triggers directives and penalties for non-compliance;
- Focusing on the tax authority and not only on the taxpayer – federal and state tax authorities should disclose the amount and composition of tax revenue that the government receives from the public, possibly through a portal that is publicly accessible and in a format that is easy to understand;
- Disclosing the proportion of revenue that goes into the Federation Account and then to the public;

- Institutionalizing a mechanism for citizens to be sensitized on taxation matters, and to make taxation complaints or requests to the government; and
- Disclosing the use of tax revenue and explicitly mandating the responsible agency for implementing and disclosing such use.

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<sup>1</sup> Abu Ocheme (Deputy Director, Federal Inland Revenue Service (FIRS)), interview by IRM researcher, Mar. 2019; Oladele Rotimi and Dr. Uduma Samuel Aka Udu, "Revenue generation and engagement of tax consultants in Lagos State, Nigeria: Continuous tax evasion and irregularities" *European Journal of Business and Social Sciences* 1 no. 10 (2013) 25.

<sup>2</sup> Bassey Udo, "N6.87 trillion stolen from Nigeria – AU Report" (*Premium Times* 2 Feb. 2015), <https://www.premiumtimesng.com/news/headlines/176141-n6-87trillion-stolen-from-nigeria-au-report.html>.

<sup>3</sup> Nwocha Matthew Enya, "Tax evasion and the law in Nigeria" *Problems of Legality* 139 (2017) 286, 288, [https://www.researchgate.net/publication/321893115\\_Tax\\_evasion\\_and\\_the\\_law\\_in\\_Nigeria](https://www.researchgate.net/publication/321893115_Tax_evasion_and_the_law_in_Nigeria)

<sup>4</sup> Enya.

<sup>5</sup> Staff reporter, "Lagos shuts oil firm over N4.9 billion tax evasion" (*PM News* 19 Jun. 2014), <https://www.pmnewsnigeria.com/2014/06/19/lagos-shuts-oil-firm-over-n4-9bn-tax-evasion/>.

<sup>6</sup> Garba Shehu, "As AU moves to make Buhari the first ever anti-corruption champion" (*The News*, 24 Jan. 2018), <https://www.thenewsnigeria.com.ng/2018/01/as-au-moves-to-make-buhari-the-first-ever-anti-corruption-champion/>.

<sup>7</sup> OECD, "What is the CRS?" (accessed Nov. 2019), <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>.

<sup>8</sup> OECD, "Standard for automatic exchange of financial account information in tax matters" (21 Jul. 2014), <http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters-9789264216525-en.htm>.

<sup>9</sup> Addis Tax Initiative, [www.addistaxinitiative.net](http://www.addistaxinitiative.net).

<sup>10</sup> OECD, "Standard for automatic exchange of financial account information in tax matters."

<sup>11</sup> Ifeanyi Ekwatu and Nurudeen (Federal Ministry of Finance), interview by IRM researcher, 15 Nov. 2018.

<sup>12</sup> Mr Ifeanyi Ekwatu and Mr Nurudeen, Federal Ministry of Finance (FMF), interview with IRM researcher, 15 November, 2018.

<sup>13</sup> Joseph Athanasius, "Causes of tax evasion in Nigeria and effects on the economy" (11 May 2018), <https://infoguidenigeria.com/causes-tax-evasion/>.

## 5. To improve the ease of doing business and Nigeria’s ranking on the World Bank Doing Business Index.

### Language of the commitment as it appears in the action plan:

“This commitment seeks to initiate and implement reforms which will make it easier for the private sector to engage with government agencies involved with business process-related services by streamlining the existing processes using innovative technology. The commitment will encourage improvements in infrastructure that is critical to the success of businesses and promote timely and efficient service delivery in all business process-related services including business registration, licensing, taxation, applying for credit, extending credit facilities etc.”

### Milestones:

- 5.1 Move Nigeria up by at least 20 points on the World Bank Ease of Doing Business Index
- 5.2: Make process of Land documentation / obtaining titles easier
- 5.3: Improved coordination and collaboration between agencies of government involved in business process related services
- 5.4: Downward review of business registration and fees
- 5.5: Improve critical infrastructure including power transmission and distribution by establishing more power transmission and distribution and licensing fees stations, rail lines, inland waterways, etc.
- 5.6: Establish a registry of credit information to be accessible by financial institutions
- 5.7: Enact laws that allow lenders to access borrowers’ data in the credit bureau or credit registry
- 5.8: Develop road map for improving sectoral value chains for MSMEs

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
5. Overall	✓		✓				✓				Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				



## Context and Objectives

This commitment aims to improve the ease of establishing and operating a business in Nigeria.

“Ease of doing business” indicates how favorable an economy is for business operations. In the past, investors were easily turned away by the difficult process of registering a business, filing returns, and other business administration matters in Nigeria. This is evidenced by Nigeria’s poor ranking; Nigeria ranked 169 on the World Bank’s Ease of Doing Business Index in 2017 and 170 in 2016.<sup>1</sup> Prior to 2017, promoters of a business name were required to engage a Corporate Affairs Commission (CAC) accredited, chartered accountant, chartered secretary or lawyer to register such company on their behalf.<sup>2</sup> According to the director of compliance at the CAC,<sup>3</sup> the cost of setting up a business in terms of getting electricity, land, or rent is very high. There are also nine steps for getting new electricity connections to the national grid, all within a timeline of 198 days.<sup>4</sup> Obtaining land documentation within the time limit is not an easy task, as property usually takes about 77 days to register, coupled with submitting a sworn affidavit for conducting a title search.<sup>5</sup>

This commitment is relevant to the OGP value of access to information. The commitment supports the Presidential Order of May 18, 2017, requiring all government agencies to publish all necessary requirements to conduct businesses via online and paper format.<sup>6</sup> However, Commitment 5 does not seem to be relevant to the OGP values of public accountability and civic participation, as it is unclear how the milestones will positively affect government openness or improve government accountability, participation or engagement.

The Commitment’s activities will better facilitate establishing a business in Nigeria by enhancing the infrastructure required to enhance business performance and making government involvement in business processes more efficient and transparent. Many of the commitment’s milestones are not specific enough to be verifiable. For example, Milestone 5.2 does not explain how the land documentation would be made easier to obtain, and it was unclear who would undertake a downward review of business registration and fees (Milestone 5.4). Finally, Milestone 5.1 is more of an indicator than a milestone.

The commitment should have a minor potential impact. According to Ayokunu Ojeniyi (Enabling Business Environment Secretariat), the commitment has the potential to bring about change. Improvement in the World Bank, coupled with adequate, transparent, credit information available to financial institutions are expected to encourage the overall climate business, which in turn may incentivize the government to be more transparent.<sup>7</sup> The milestones addressed factors previously identified as hampering conducting businesses in Nigeria (critical infrastructure, business registration, access to credit), but the lack of specificity (specifying responsible agencies) mitigate the commitment’s potential impact.

## Next Steps

This is an important policy goal which could be part of the country’s agenda.

If this is considered in future action plans it should have broader implementation. The government could form work plans that clearly indicate responsible agencies and the strategies for removing red tape during implementation. The government could also consider providing citizens with a platform to give opinions and make queries, and to hold the government accountable on the various elements that affect the country’s ease of doing business ranking.

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<sup>1</sup> The World Bank Ease of Doing Business Index measures the regulations that enhance business activity and those that constrain it. World Bank, *Doing Business 2017: Equal Opportunity for All* (2017), <https://openknowledge.worldbank.org/bitstream/handle/10986/25592/WVP-DB17-PUBLIC-Nigeria.pdf?sequence=1&isAllowed=y>.



<sup>2</sup> Damilare Odusanya, “The Ease of Doing Business in Nigeria,” <http://saharahub.com/the-ease-of-doing-business-in-nigeria/>.

<sup>3</sup> A.G. Abubakar (Director, Compliance (CAC)), interview by IRM researcher, 8 Mar. 2019.

<sup>4</sup> “NERC reduces number of days for access to electricity in new buildings”, Nigerian Electricity Regulatory Commission (NERC), <https://www.energymixreport.com/nerc-reduces-number-days-access-electricity-new-buildings/>, 17 May 2017.

<sup>5</sup> Endurance Okafor, “Ease of Doing Business in Nigeria,” Business Day, in <https://businessday.ng/real-estate/article/land-documentation-process-in-nigeria-a-mixed-bag-of-experiences/>, 19 March 2019

<sup>6</sup> Federal Republic of Nigeria, *Open Government Partnership (OGP) Nigeria Mid-Term Self-Assessment 2016-2018* (3 Oct. 2017), 36, [opengovpartnership.org/wp-content/uploads/2017/10/Nigeria\\_Mid-Term\\_Self-Assessment\\_2016-2018.pdf](https://opengovpartnership.org/wp-content/uploads/2017/10/Nigeria_Mid-Term_Self-Assessment_2016-2018.pdf).

<sup>7</sup> Ayokunnu Ojeniyi (Enabling Business Environment Secretariat (EBES)), interview by IRM researcher, 20 Nov. 2018.

## 6. To establish a public central register of beneficial owners of companies

### Language of the commitment as it appears in the action plan:

“Nigeria commits to establish a register that will make it possible to identify the natural persons who directly or indirectly own, control or enjoy the benefits of the corporate entity.”

### Milestones:

- 6.1. CAC to commence consultations, workshops and process of establishment of Register of Beneficial Ownership.
- 6.2. Capacity building on Beneficial Ownership for public officials, civil society and investigative journalists.
- 6.3. Establishment of Beneficial Register designed according to open data standards.
- 6.4. Regular update of the Register using innovative technology.
- 6.5. Dissemination of Information on Beneficial Ownership.
- 6.6. Establish clear rules on beneficial ownership, constitute coordinating committee with CAC and NEITI as lead organisations.

**Start Date:** January 2017

**End Date:** December 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
6. Overall		✓	✓	✓		✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

This commitment aims to enhance civic participation through access to beneficial ownership information via a register using open data standards.

In Nigeria, a lack of due diligence requirements relating to beneficial ownership has been linked to money laundering, drug trafficking, terrorism and corruption.<sup>1</sup> According to Kolawole Banwo (CISLAC), people use proxies and fronts to register companies and the legal owners are usually not those who control and benefit from the companies. There is a lot of political interference in economic and commercial decisions, and officials use their position to further enrich themselves through procurement processes or acquisition of assets and properties.<sup>2</sup> Banwo believes this information should be public, since what ensures transparency is public scrutiny.<sup>3</sup> Nigeria has an extended history of engagement with the Financial Action Task Force (FATF)<sup>4</sup> and the Inter-Governmental Action Group against

Money Laundering in West Africa (GIABA). This engagement has remedied some of the legal and institutional gaps relating to anti-money laundering and counter-financing of terrorism.<sup>5</sup>

But the law, as set out in the Companies and Allied Matters Act, Cap 59, 1990 (CAMA), does not provide for the systematic identification of beneficial owners, nor the establishment of a publicly-accessible beneficial ownership register. For example, section 94 of CAMA allows a public company to require a member of that company to disclose the capacity in which he holds company shares and if he holds them otherwise as a beneficial owner. Section 95 addresses the notification of substantial, not beneficial, ownership. These provisions reflect a concern with concentration and control, rather than with transparency and accountability. They have not prevented false fronts in the company register maintained by the Corporate Affairs Commission (CAC)<sup>6</sup> and allegations of grand corruption continue to surface. For example, in 2015, the media reported that 15 ex-governors who had won Senate seats in the country's elections had misappropriated and laundered N 172 billion.<sup>7</sup> In 2016, the Panama Papers revealed that 106 Nigerians and firms owned companies and assets in offshore tax havens.<sup>8</sup>

In May 2016, President Buhari recognized the Nigerian Extractive Industries Transparency Initiative (NEITI) and their efforts to implement beneficial ownership disclosure in the extractive industries (the NEITI published its roadmap in this regard in December 2016, see Commitment 3)<sup>9</sup> and announced that a disclosure requirement would be extended to other sectors.<sup>10</sup>

Commitment 6 is relevant to three OGP values (access to information, civic participation and technology and innovation for transparency and accountability). A beneficial ownership register designed according to open data standards, along with the creation of clear rules and dissemination of information on beneficial ownership, should advance access to information and technology and innovation for transparency and accountability. Robust consultations and workshops on establishing the register would promote civic participation. Overall, the commitment is specific enough to be verifiable, although Milestones 6.1, 6.2, and 6.5 lack important detail. Milestone 6.1 does not expressly state that consultation will occur with civil society, and the "capacity building" envisaged by Milestone 6.2 is vague. Milestone 6.5 does not specify how beneficial ownership information will be disseminated to the public, but this is important given the technical nature of the information. Milestone 6.4 could be more measurable by specifying how regularly the register would be updated.

Civil society stakeholders are of the view that the commitment will have a transformative impact.<sup>11</sup> Nigeria should achieve beneficial ownership reforms given President Buhari's political support, alongside the institutional and technical capacity of the CAC, the Bureau of Public Procurement, and the Central Bank of Nigeria.<sup>12</sup> However, although Milestone 6.6 mentions the need for "clear rules" on beneficial ownership, failure to mention legislative reforms, specifically of the CAMA, lowers the commitment's potential impact to "moderate."

## Next Steps

This commitment covers a critical policy area for the country. Future commitments in this area could include:

- A specific timeline and strategy for legislative reform; this is instrumental to realize the ambition of this policy area. A clear analysis of gaps in the current legal framework would be helpful to identify the adjustments needed to enable beneficial ownership reforms in Nigeria;
- Consider articulating a strategy for public agency coordination and engagement, particularly relevant agencies like the CAC, BPP, and Central Bank of Nigeria. Their involvement and collaboration are key to deliver implementation in this policy aim; and
- Set concrete targets to update the register and promote the register's use.

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<sup>1</sup> Inter-Governmental Action Group Against Money Laundering in West Africa, *Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism: Nigeria* (7 May 2008), 9, [https://www.giaba.org/media/fi/99\\_giab--rapport-annuel-ang-ok-1-.pdf](https://www.giaba.org/media/fi/99_giab--rapport-annuel-ang-ok-1-.pdf).

<sup>2</sup> Kolawole Banwo (CISLAC), interview by IRM researcher, 27 Feb. 2019.

<sup>3</sup> *Id.*

<sup>4</sup> A.G. Abubakar (Dir. Compliance, Corporate Affairs Commission), interview by IRM researcher, 14 Nov. 2018

<sup>5</sup> See Ehi Eric Esoimeme, "The Nigerian Money Laundering (Prevention and Prohibition) Bill, 2016: A critical appraisal" *Journal of Money Laundering Control* 20 no. 1 (2016).

<sup>6</sup> Abubakar, interview.

<sup>7</sup> Punch "N172bn fraud cases against ex-governors turned senators" (MaDailyGist.ng, 16 May 2015), <https://madedailygist.ng/2015/n172bn-fraud-cases-against-ex-governors-turned-senators-a-must-read/>.

<sup>8</sup> Nicholas Ibekwe "#Panama Papers: Nigeria agrees to expose beneficial owners of companies" (*Premium Times* 12 May 2016), <https://www.premiumtimesng.com/news/headlines/203324-panamapapers-nigeria-agrees-expose-beneficial-owners-companies.html>.

<sup>9</sup> NEITI, *Roadmap on the Implementation of Beneficial Ownership disclosure in Nigeria* (Dec. 2016), <https://eiti.org/files/documents/neiti-bor-281216.pdf>.

<sup>10</sup> Ibekwe.

<sup>11</sup> Banwo; Edwin Ikhuredia (One Campagin), interview by IRM researcher, 28 Feb. 2019.

<sup>12</sup> Africa Network for Environment and Economic Justice "Is beneficial ownership transparency possible in Nigeria?" (11 Jul. 2017), <http://www.aneej.org/beneficial-ownership-transparency-possible-nigeria/>.

## 7. To establish a platform for sharing information among Law Enforcement Agencies (LEAs), Anti-Corruption Agencies (ACAs), National Security Advisors (NSA) and financial sector regulators to detect, prevent and disrupt corrupt practices

### Language of the commitment as it appears in the action plan:

“This commitment aims to set up two platforms, the first, for information sharing, co-ordination and synergy among anti-corruption and security agencies to detect and prevent corruption; and the second, for maintaining an accurate database of convicted companies and persons in Nigeria as required by the Administration of Criminal Justice Act, 2015”.

### Milestones:

7.1: Set up a technology-aided platform for sharing information.

7.2: Regularly update the platform.

7.3: Set up the inter-agency committee to co-ordinate the activities of Anti-Corruption Agencies (ACAs).

7.4: Establish and regularly update database of blacklisted and Convicted Companies and persons.

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
7. Overall		✓				✓		✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

## Context and Objectives

This commitment aims to institutionalize information-sharing among anticorruption agencies (ACAs) in Nigeria. Prior to the action plan, ACAs in Nigeria could not easily obtain information from each other, and information-sharing was based on informal contacts and relationships.<sup>1</sup> The Technical Unit on Governance and Anti-Corruption Reforms (TUGAR) was set up as a “one stop” federal agency for data, information, policy and diagnostic reports on anticorruption and governance initiatives across all sectors in Nigeria.<sup>2</sup> There was no other institutional or technical mechanism for information-sharing.<sup>3</sup> According to Ladidi Abdul, Head of the Asset Recovery Management Unit in the Federal Ministry of Justice, the lack of coordination among ACAs led to inefficiency, duplication of effort, and in some cases, controversy.<sup>4</sup> In August 2017, for example, the media reported on a number of examples of “inter-agency rivalry” that were hampering President Buhari’s “anti-corruption war.” These included an operation by the State Security Service (SSS) to search the homes of judges allegedly involved in corruption, a task many thought fell clearly within the purview of the Economic and Financial Crimes Commission (EFCC).<sup>5</sup>

The commitment is relevant to the OGP value of technology and innovation for transparency and accountability as it calls for an information-sharing platform and a database of blacklisted and convicted companies and persons; these databases will prevent fraudulent companies from doing business with the Nigerian government. It also calls for an interagency committee to coordinate ACA efforts. However, while the commitment involves inter-government coordination, it does not clarify whether the database on blacklisted companies and persons will be publicly available.

The milestones are mostly verifiable. For example, 7.1 and 7.2 identify the technology-aided platform. The milestones could nevertheless be more specific. For example, Milestone 7.2 could have been more measurable by specifying how frequently the technology-aided platform should be updated.

This commitment is expected to have a minor impact. Calls for anticorruption agencies to “join forces” in the fight against corruption predate the commitment.<sup>6</sup> The establishment of an information-sharing platform and an interagency committee are incremental and positive steps toward coordinating the work of Nigeria’s ACAs. However, failure to identify the respective agencies, clarify their legislative mandate (or to undertake legislative reform), and to outline details of the information-sharing platform lower the commitment’s potential impact.

## Next Steps

Although this commitment’s focus is important to the fight against corruption, its scope could have been more ambitious. If this continues to be part of the open government agenda in the country, the IRM recommends:

- Making non-sensitive information available to the public;
- A legislative review of the mandate of ACAs;
- Building a system of accountability, whether internal or public-facing; and
- Aiming beyond the scope of setting up information-sharing platforms to specifying how agency coordination will be carried out and setting timelines and indicators for coordination activities.

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<sup>1</sup> Barbara Maigari (Partners West Africa Nigeria), interview by IRM researcher, 5 Mar. 2019.

<sup>2</sup> Technical Unit on Governance and Anti-Corruption Reforms, “About us” (accessed Nov. 2019), <http://tugar.org/ng/us/>.

<sup>3</sup> David Ugolor (ANEEJ), interview by IRM researcher, 6 Mar. 2019.

<sup>4</sup> Ladidi Abdul (FMJ), interview by IRM researcher, 21 Nov. 2018.

<sup>5</sup> Unini Chioma, “Inter-agency rivalry hurting anti-corruption war” (*The Nigeria Lawyer*, 10 Aug. 2017), <https://thenigerialawyer.com/inter-agency-rivalry-hurting-anti-corruption-war/>.

<sup>6</sup> See Sani Tukur, “Anti-corruption agencies to join forces against corruption” (*Premium Times* 19 Sept. 2012), <https://www.premiumtimesng.com/news/100687-anti-corruption-agencies-to-join-forces-against-corruption.html>.

## 8: To strengthen Nigeria’s asset recovery legislation including non-conviction based confiscation powers and the introduction of unexplained wealth orders

### Language of the commitment as it appears in the action plan:

“This commitment aims to strengthen Nigerian laws with regards to asset recovery especially non-conviction based confiscation powers and unexplained wealth orders and ensure proper management of assets and proceeds.”

### Milestones:

- 8.1. Enactment of the Proceeds of Crime Act
- 8.2. Capacity building for the ACAs to implement non-conviction based asset forfeiture regime
- 8.3. Federal Ministry of Justice to develop guidelines for transparent management of recovered assets pending the enactment of the law

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
8. Overall		✓	✓		✓			✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

This commitment seeks to enact legislation that would aid asset recovery and ensure proper and transparent management of recovered assets.

President Buhari positioned the recovery of stolen assets at the forefront of his political agenda.<sup>1</sup> Between May 2015 and November 2017, MDAs reportedly recovered assets worth millions of Naira.<sup>2</sup> In 2017, the president set up a committee on the Audit of Recovered Public Assets to audit recovered assets, which reported a year later that assets worth *billions* of Naira had been recovered.<sup>3</sup>

The success of these asset recovery efforts is difficult to measure given a substantial lack of transparency in data, which causes concern that recovered assets are being re-looted.<sup>4</sup>

Lack of transparency has been exacerbated by a fragmented and inefficient legal and institutional framework for asset recovery. As far back as 2000, Nigeria had laws and agencies addressing the proceeds of crime and corruption,<sup>5</sup> including the Independent Corrupt Practices and Other Related Offences Act of 2000,<sup>6</sup> the Economic and Financial



Crimes Commission (Establishment) Act, 2002,<sup>7</sup> and the National Drug Law Enforcement Agency Act, 2004.<sup>8</sup> However these laws (among others) have failed to provide a harmonized legal and institutional framework for the confiscation, seizure, recovery, and management of assets and property derived from illegal activities.<sup>9</sup>

In response, the Nigerian government created the Proceeds of Crime Bill which establishes the Proceeds of Crime Recovery and Management Agency (PCRMA).<sup>10</sup> According to the Bill, the PCRMA deals specifically with asset recovery, including non-conviction asset forfeiture which was unavailable in the asset recovery regime.<sup>11</sup> The Nigeria Senate passed the Proceeds of Crime Bill in 2015,<sup>12</sup> but the law is not yet passed in the National Assembly.<sup>13</sup> Support for the Proceeds of Crime Bill in civil society is split; some believe it will more clearly define the roles and powers of relevant institutions,<sup>14</sup> and others maintain that the existing laws must simply be strengthened and establishing an additional agency was not warranted.<sup>15</sup> The Civil Society Legislative Advocacy Centre (CISLAC) argued that the Bill needs to provide for a central database for recovered assets, and a new institution responsible for the transparent management of all assets. These institutions should include civil society representation on their executive boards.<sup>16</sup>

This commitment is relevant to the OGP values of access to information and public accountability. Although the IRM researcher was not able to review the Proceeds of Crime Bill, commentary on the draft legislation suggests that there were no provisions that would require agencies to publish information on recovered assets.<sup>17</sup> The commitment nevertheless included outcomes of published guidelines on transparent management of assets and publicly available information on the use of recovered assets.

Overall, the milestones are objectively verifiable. The enactment of the POCA is straight forward to determine, and it should be possible to identify the FMOJ's guidelines on asset recovery. The capacity-building activities in Milestone 8.2 seem less verifiable.

This commitment should have a minor impact. There was no consensus amongst stakeholders that the bill provides the robust regulatory framework needed for the transparent management of recovered assets.<sup>18</sup> David Ugolor, Executive Director of ANEEJ, believes the bill will provide agencies with a specific mandate to deal with asset recovery and non-conviction based asset forfeiture, which is currently unavailable.<sup>19</sup> However, the commitment is vague regarding the ACAs' capacity building exercises and the FMOJ guidelines. Although failing to address the problem of transparent management of recovered assets, the commitment is nevertheless a positive and incremental step toward a more functional legal and institutional framework for asset recovery.

### Next Steps

Asset recovery legislation is an important tool that will benefit open government initiatives in Nigeria. Future commitments in this policy area should include:

- Developing specific activities such as a central database on recovered assets, civil society representation on, or engagement with, the PCRMA, and indicators on monitoring and publishing information on resolved cases;
- Government publication of information on recovered assets on a dedicated platform; and
- Considering technology or innovative processes to implement this commitment.

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<sup>1</sup> CIFAR, "Asset recovery in Nigeria: The good and the bad" (9 Dec. 2018), <https://cifar.eu/nigeria-asset-recovery/>.

<sup>2</sup> *Id.*

<sup>3</sup> In 2018, the Committee reported to the president that it had recovered N769 billion. Johnbosco Agbakwuru, “Buhari begs NASS to pass Proceeds of Crime Bill, recovers N796bn stolen assets” (*Vanguard* 11 Sept. 2018), <https://www.vanguardngr.com/2018/09/buhari-begs-nass-to-pass-proceeds-of-crime-bill-recovers-n796bn-stolen-assets/>.

<sup>4</sup> CIFAR.

<sup>5</sup> Derin Fagbure, “Asset recovery in Nigeria” (14 Dec. 2015), <https://oal.law/asset-recovery-in-nigeria/>.

<sup>6</sup> Laws of the Federation of Nigeria, *The Corrupt Practices and other Related Offences Act 2000* (2000), <http://www.nigeria-law.org/Corrupt%20Practices%20and%20other%20Related%20Offences%20Act%202000.htm>.

<sup>7</sup> See [http://www.nigeria-law.org/Economic%20And%20Financial%20Crimes%20Commission%20\(Establishment\)%20Act.htm](http://www.nigeria-law.org/Economic%20And%20Financial%20Crimes%20Commission%20(Establishment)%20Act.htm)

<sup>8</sup> See

<http://lawsfnigeria.placng.org/laws/NATIONAL%20DRUG%20LAW%20ENFORCEMENT%20AGENCY%20ACT.pdf>

<sup>9</sup> David Ugolor (Africa Network for Environment and Economic Justice), interview by IRM researcher, 6 Mar. 2019.

<sup>10</sup> The IRM researcher was unable to locate the Proceeds of Crime Bill online.

<sup>11</sup> Ugolor, interview.

<sup>12</sup> Bamidele Ademola-Olateju, “President Buhari, Sign the Proceeds of Crime Bill into law” (*Premium Times*, 14 Jul. 2015), <https://opinion.premiumtimesng.com/2015/07/14/president-buhari-sign-the-proceeds-of-crime-bill-into-law-by-bamidele-ademola-olateju/>.

<sup>13</sup> Agbakwuru.

<sup>14</sup> CIFAR; Ugolor, interview.

<sup>15</sup> Policy and Legal Advocacy Centre, “Observations on the Proceeds of Crime Bill, 2017 (SB376),” <http://placng.org/wp/wp-content/uploads/2017/06/Observations-on-the-proceeds-of-crime-bill-1.pdf>.

<sup>16</sup> Transparency International, “Returning Nigerians’ stolen millions” (2 Aug. 2018), [https://www.transparency.org/news/feature/returning\\_nigerians\\_stolen\\_millions](https://www.transparency.org/news/feature/returning_nigerians_stolen_millions).

<sup>17</sup> Policy and Legal Advocacy Centre.

<sup>18</sup> Transparency International; CIFAR.

<sup>19</sup> “CIFAR; Ugolor, interview.

## 9: Commit to taking appropriate action to co-ordinate anti-corruption activities; improve integrity, transparency and accountability

### Language of the commitment as it appears in the action plan:

“This commitment is to take a wide range of actions that will change the culture of corruption and create the enabling environment for building institutional integrity in Nigeria.”

### Milestones:

- 9.1. To set up a cabinet to co-ordinate anti-corruption efforts of government and provide national accountability on the implementation of anti-corruption strategy.
- 9.2. To join the International Sports Integrity Partnership.
- 9.3. To launch a Practitioner Partnership on Institutional Integrity in the Public and Private Sector with special emphasis on the extractives, health, education, professional bodies, anti-corruption institutions and infrastructure development.
- 9.4. To adopt the National Anti-Corruption Strategy (NACS), working closely with CSOs.
- 9.5. To create an innovation hub that will facilitate the update of new approaches and technologies to tackle corruption and improve access to information.
- 9.6. Introduction and passage of the Whistleblower Act.

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
9. Overall		✓	✓	✓	✓	✓			✓		Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

This commitment brings together a wide-ranging set of milestones that address corruption, which remains widespread in Nigeria.

The country has consistently ranked poorly on Transparency International’s Corruption Perceptions Index—ranking 136 out of 176 countries in 2016, and 148 in 2017.<sup>1</sup> A 2017 Afrobarometer survey found that although many Nigerians believe the government is doing “fairly well” or “very well” in fighting corruption, public perception of corruption is still high for police officers, National Assembly members, and local government councilors.<sup>2</sup> Between 2015 and 2016, almost a third of Nigerian adults paid bribes when in contact with public officials, almost one bribe was paid by every adult Nigerian per year, and roughly 400 billion Nigerian Naira was spent on bribes each year.<sup>3</sup> There is little or no transparency or

accountability in sports, leading to allegations of corruption.<sup>4</sup> For example, in 2016, the Super Falcons (the female national football team) staged open protests against the Nigerian Football Federation (NFF) for denying them their allowances after they won the Nations Cup in Cameroon.<sup>5</sup> In December 2016, the International Football Federation suspended its development grant to the NFF claiming that the organization could not account for an earlier grant of \$1.1 million.<sup>6</sup>

A variety of actions under Commitment 9 were initiated prior to the commitment period. For example, regarding Milestones 9.1. and 9.4, there have been various efforts over a decade to develop a Nigerian national anticorruption plan. Between 2009 and 2016, no less than three draft national anticorruption plans or strategies were formulated.<sup>7</sup> Launching a Practitioner Partnership on Institutional Integrity (Milestone 9.3) derives from commitments made by Nigeria and the United Kingdom during the 2016 Anti-Corruption Conference.<sup>8</sup>

Between 2008 and 2009, various whistleblower protection bills (Milestone 9.6) were developed,<sup>9</sup> but at the time of this report, there is still no law that establishes a comprehensive framework for whistleblower protection in Nigeria.<sup>10</sup> A Whistle Blower Protection Bill, 2017 [HB. 17.06. 1073] is being processed before the National Assembly.<sup>11</sup> At the time of this report, only public officers are protected against civil or criminal proceedings for the disclosure of information in good faith under section 27 of the Freedom of Information Act, 2011.<sup>12</sup>

In 2016, the Federal Ministry of Finance introduced a whistleblowing policy, designed to encourage anyone with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud, or theft to submit such information to the authorities.<sup>13</sup> Information can be submitted via the FMF-Whistle, a secure online portal,<sup>14</sup> which also permits the person disclosing the information to check the status of reported matters.<sup>15</sup>

This commitment is relevant to all three OGP core values. The innovation hub under Milestone 9.5 can improve access to information on Nigeria's anticorruption efforts, while Milestone 9.4 calls for working closely with civil society in adopting the NACS and thus is relevant to civic participation. Additionally, passing the long-awaited Whistleblower Protection Act is relevant to public accountability. The commitment also addresses the OGP value of technology and innovation for transparency and accountability via Milestone 9.5.

The activities are mostly verifiable. Verifiable milestones included setting up the anticorruption cabinet and joining the ISIP. Milestone 9.4, however, does not explain how civil society will be consulted in developing the NACS, nor how their input will be incorporated and there is little detail provided for the innovation hub (Milestone 9.5).

This commitment has a moderate potential impact on addressing corruption in Nigeria. The mere finalization and adoption of a national anticorruption strategy will be a major step forward, as no previous anticorruption strategy reached this stage. The proposed NACS is also comprehensive and calls for civil society support to cement the Nigerian government's commitment to tackle corruption and close gaps in existing initiatives. The NACS is based on corruption prevention, enforcement and sanctions, public engagement, a campaign for ethical reorientation, and recovery of stolen assets.<sup>16</sup>

Practitioner partnerships for institutional integrity are located within the United Kingdom's new international program aimed at eliminating corruption and strengthening government integrity.<sup>17</sup> Based on development economist Paul Collier's notion of "twinning," the program seeks countries to share high professional standards and best practices in taxes, budgets, natural resource management and accounting.

If successful, the partnership between Nigeria and the UK will strengthen government capacity in the areas listed in Milestone 9.3.

According to Barbara Maigari, Program Manager of Partners West Africa (PWA), joining the International Sports Integrity Partnership (Milestone 9.2)<sup>18</sup> could prevent corruption in sports, therefore protecting its integrity and encouraging investments in Nigerian sports.<sup>19</sup> ISIP members are required to improve information-sharing between international sports organizations and law enforcement; take legislative or other measures to combat practices such as match-fixing, illegal betting, and doping; and enact whistleblower protection.

Adopting the Whistleblower Act (Milestone 9.6) will make the principles and mechanisms set out in the 2017 bill binding.<sup>20</sup> These include immunity for protected disclosures (extending to immunity from civil or criminal liability alongside protection from disciplinary actions, loss of employment, or termination of services),<sup>21</sup> and compensation for victimization of whistleblowers.<sup>22</sup>

### Next Steps

Future commitments in this area should include:

- Narrowing down the scope of the commitment to the groups that are specifically perceived as corrupt (police officers, National Assembly members, and local government councilors);
- Tailoring milestones to address corruption in these sectors; and
- Including civil society in developing the NACS and report how their input influences the final strategy.

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<sup>1</sup> Transparency International, “Corruption Perception Index 2017” (21 Feb. 2018),

[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017).

<sup>2</sup> Oluwole Ojewale and Josephine Appiah-Nyamekye, “In Nigeria, perceived corruption remains high despite praise for president’s anti-graft fight” Dispatch No. 187 (Afrobarometer 8 Feb. 2018),

[http://afrobarometer.org/sites/default/files/publications/Dispatches/ab\\_r7\\_dispatchno187\\_corruption\\_in\\_nigeria\\_1.pdf](http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno187_corruption_in_nigeria_1.pdf).

<sup>3</sup> United Nations Office on Drugs and Crime and Nigerian National Bureau of Statistics, *Corruption in Nigeria, Bribery: Public experience and response* (Jul. 2017), [https://www.unodc.org/documents/data-and-analysis/Crime-statistics/Nigeria/Corruption\\_Nigeria\\_2017\\_07\\_31\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/Crime-statistics/Nigeria/Corruption_Nigeria_2017_07_31_web.pdf).

<sup>4</sup> Barbara Maigari (program manager, PWA), interview by IRM researcher, 5 Mar. 2019.

<sup>5</sup> Punch, “Taint of Corruption in Nigerian Football” (21 Mar. 2017), <https://punchng.com/taint-of-corruption-in-nigerian-football/>.

<sup>6</sup> *Id.*

<sup>7</sup> In 2015, President Buhari prepared a draft National Anti-Corruption Plan (NACP). The NACP was based on an earlier draft National Strategy to Combat Corruption developed between 2009 and 2011 by a public sector Inter-Agency Task Team under the auspices of the United Nations Convention Against Corruption. President Buhari established a Presidential Advisory Committee Against Corruption in August 2015 to finalize the NACP in collaboration with all relevant stakeholders, including CSOs. A consultative NACP was submitted to the Attorney-General in November 2015, but in December 2016, yet another anticorruption document was put forward by the Federal Ministry of Justice. Fatima Waziri-Azi, “An evaluation of the Nigerian national anti-corruption strategy” *European Journal of Research in Social Sciences* 5 no. 5 (2017) 1, 3 – 4.

<sup>8</sup> The establishment of Practitioner Partnerships on Institutional Integrity with various countries is part of the United Kingdom’s cross-government 2016 Anti-Corruption Strategy. “Anti-Corruption Summit, London, 2016, UK Country Statement,”

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/522749/United\\_Kingdom.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522749/United_Kingdom.pdf).

<sup>9</sup> Ibrahim Sule, “Whistleblowers’ protection legislation: In search for a model for Nigeria” *Nigerian Journal of Law Practice and Procedure of Legislature* (2009),

<http://www.ippa.org/IPPC4/Proceedings/18TransparencyAccountabilityinProcurement/Paper18-8.pdf>; a

Whistleblower Protection Bill [SB233] is also available on the website of the Nigerian National Assembly, see <http://www.nassnig.org/document/download/1343>.

<sup>10</sup> NaijaLegalTalk, “An appraisal of the whistle-blowing policy in Nigeria” (9 May 2017), <https://naijalegaltalkng.com/article/other-important-legal-info/287-an-appraisal-of-the-whistleblowing-policy-in-nigeria>.

<sup>11</sup> Nigerian National Assembly, <http://www.nassnig.org/document/download/8725>.

<sup>12</sup> Freedom of Information (FOA) Act, 2011 §27 <https://www.cbn.gov.ng/FOI/Freedom%20Of%20Information%20Act.pdf>.

<sup>13</sup> Federal Ministry of Finance, Nigeria, “FMF Whistle Blowing – Frequently Asked Questions”, [“http://whistle.finance.gov.ng/\\_catalogs/masterpage/MOFWhistle/assets/FMF%20WHISTLEBLOWING%20FREQUENTLY%20ASKED%20QUESTIONS.pdf](http://whistle.finance.gov.ng/_catalogs/masterpage/MOFWhistle/assets/FMF%20WHISTLEBLOWING%20FREQUENTLY%20ASKED%20QUESTIONS.pdf).

<sup>14</sup> See <http://whistle.finance.gov.ng/Pages/default.aspx>.

<sup>15</sup> Federal Ministry of Finance, Nigeria “FMF Whistle Blowing – Frequently Asked Questions”, [“http://whistle.finance.gov.ng/\\_catalogs/masterpage/MOFWhistle/assets/FMF%20WHISTLEBLOWING%20FREQUENTLY%20ASKED%20QUESTIONS.pdf](http://whistle.finance.gov.ng/_catalogs/masterpage/MOFWhistle/assets/FMF%20WHISTLEBLOWING%20FREQUENTLY%20ASKED%20QUESTIONS.pdf).

<sup>16</sup> Omole Temitope Alice, “Highlights of the National Anti-corruption Strategy (NACS) for Nigeria” (Nigerian Institute of Advanced Legal Studies), <http://nials.edu.ng/index.php/2015-12-10-16-05-04/seminar/282-a-highlight-of-the-national-anti-corruption-strategy-nacs-for-nigeria>.

<sup>17</sup> UK Government, “UK to lead global partnerships to tackle corruption” (12 May 2016), <https://www.gov.uk/government/news/uk-to-lead-global-partnerships-to-tackle-corruption>.

<sup>18</sup> The ISIP, launched in 2017, is an initiative to support and strengthen efforts to implement high standards of transparency and good governance to eliminate corruption in sports. See <http://ukanticorruptionpledgetracker.org/pledges/sports/>.

<sup>19</sup> Maigari, interview.

<sup>20</sup> *Id.*

<sup>21</sup> Whistleblower Protection Bill, 2017 §23.

<sup>22</sup> *Id.* §26.

## 10: Improved compliance of public institutions with the Freedom of Information Act (FOIA) in respect to the annual reporting obligations by public institutions and level of responses to requests

### Language of the commitment as it appears in the action plan:

“This commitment seeks to enhance compliance with the provisions of the FOI Act”.

### Milestones:

10.1. Awareness and sensitization campaigns for all staff of public institutions and continuous sensitization of citizens on the provisions of the FOI Act.

10.2. Training of the key staff involved in the implementation of FOI on the requirements of the law and how to create and implement a system for handling requests.

10.3. Designation of a Freedom of Information (FOI) officer/unit in each MDA and publication of their contact details.

10.4. Integrate the FOI role into the individual or group performance review of the FOI responsible individual and/or unit.

10.5. Punitive administrative measures to be adopted and applied against public institutions and officials adjudged to be undermining the effectiveness of the Act or breaching its provisions.

10.6. Each MDA should deploy an E-FOI portal, similar to the BPSR Portal or any other digital platform where citizens can make FOI requests and receive responses.

10.7. Develop and issue a practice direction to the Judiciary through the Chief Justice of Nigeria to guide the court on FOI cases.

10.8: Adoption of technology-based information systems and standards that will ensure that information is collected, collated and stored in a form that enables public officials to efficiently and effectively retrieve the required information within the 7-day time-limit for response to FOI requests as prescribed by the FOI Act.

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
10. Overall		✓	✓		✓	✓				✓	Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

## Context and Objectives

This commitment seeks to enhance compliance with the Freedom of Information (FOI) Act of 2011. When enacted, the FOI Act represented a collaboration between CSOs, citizens, and government that many hoped would end the culture of secrecy that had cloaked government operations following decades of military rule.<sup>1</sup>

The FOI Act established the right of any person to access information in the custody of any public official, agency, or institution;<sup>2</sup> required proactive information disclosures by public institutions (see Commitment 11);<sup>3</sup> stipulated that a public institution must respond to information requests within seven days;<sup>4</sup> required public institutions to ensure proper organization and maintenance of records and train officers;<sup>5</sup> and obligated all public institutions to submit a report to the Attorney General on FOI requests received and responded to for that year.<sup>6</sup> While the FOI Act established broad exemptions and grounds for refusing access to information, it also criminalized wrongful denial of access, with a fine of ₦500,000.<sup>7</sup> The FOI law requires public institutions to identify an officer to whom information requests must be sent,<sup>8</sup> but does not expressly require institutions to establish an E-FOI portal.

Since its enactment however, and despite budgetary provision for the FOI Act in some MDAs,<sup>9</sup> compliance with the act has been very poor. For example, the International Centre for Investigative Reporting, an investigative journalism CSO, documented delays of 32 to 41 days in response time to their information requests.<sup>10</sup> According to Edetaen Ojo, Executive Director of the Media Rights Agenda, between 2011 to 2016, less than 10% of public institutions in Nigeria had submitted their annual reports to the Attorney-General,<sup>11</sup> although the compliance rate has slowly increased since.<sup>12</sup> According to the Bureau of Public Service Reforms, most public institutions lack a dedicated FOI Act unit staffed with trained officers,<sup>13</sup> and at the time of this report, only three MDAs (BPSR, NEITI, and FMOJ) are known to have e-FOI portals.<sup>14</sup> According to a representative from Right to Know, these three MDAs had faster response times to FOI requests than those without.<sup>15</sup> Academic Funmilola Omotayo argues that “there ha[s] been an increase in the number of FOI requests, where these ha[ve] been denied or ignored, requesters ha[ve] approached the courts and been successful in a number of cases.”<sup>16</sup> However, this is a time-consuming, cumbersome, and expensive solution and does not fundamentally change the entrenched culture of secrecy within government.

Omotayo has documented a variety of reasons underlying the slow implementation of the FOI Act. These include the official secrets and anti-access laws that remain in force,<sup>17</sup> low levels of awareness of the FOI Act among public officials and the general population, poor record-keeping and infrastructure,<sup>18</sup> and no provision for a Federal Information Commissioner, a position that would obviate the need for requesters to resort to the courts.<sup>19</sup>

The commitment’s aim to improve compliance with the FOI Act makes it relevant to the OGP value of access to information, while the e-FOI portals under Milestone 10.6 and the information systems under 10.8 made it relevant to technology and innovation. The punitive administrative measures against public institutions and officials who undermine the effectiveness of the act make this commitment also relevant to the OGP value of public accountability.

The milestones are mostly verifiable, particularly the designation of a FOI officer or unit for each MDA, development of the e-FOI portals, and the information system to ensure more efficient response to FOI requests. It should be noted, however, that Milestone 10.5 does not describe the “punitive measures” to be taken against public institutions or officials judged to be undermining the FOI Act.



This commitment has the potential to be transformative as it addresses a number of the root causes underlying noncompliance with the FOI Act. For example, Milestones 10.1, 10.2, 10.3, and 10.4 all address low levels of awareness of the FOI Act among public officials, while Milestone 10.5 incorporates a strong public accountability element. Milestone 10.1 addresses low levels of FOI Act awareness among the general public, while Milestone 10.6 will facilitate access to information requests. According to Edetaen Ojo, the commitment will provide citizens more convenient and timely access to information and reduce wasted public resources and corrupt practices.<sup>20</sup> Milestone 10.8 addresses the problem of poor record-keeping and infrastructure, while Milestone 10.7 aims to build judicial capacity in FOI cases. The development and issuance of a practice direction (10.7) could expedite adjudication of FOI cases. At the moment of this report, FOI cases were treated like other routine court processes, spanning several months or years. The practice direction could define “summary adjudication” and provide a framework for obtaining the summary adjudication. There is draft practice direction for judges on FOI cases, but it has not been approved or adopted by the appropriate authorities.<sup>21</sup> The impact of the commitment would be even greater if the problem of official secrets and other anti-access laws was directly addressed, and if it recognized the need for a Federal Information Commissioner.

### Next Steps

Future commitments in this area could include:

- A mechanism for citizens to hold public officials accountable if they are denied a FOIA request without explanation;
- Focusing on citizen education to demand information; and
- Addressing the Official Secrets Act and other anti-access laws and consider the value of establishing a Federal Information Commissioner.
- A draft practice direction for judges on FOI cases to be approved or adopted by relevant authorities; and
- Provide more specific and detailed information to the public, for instance, an explanation of how the government envisions educating citizens on the provisions of the FOI Act (Milestone 10.1), the names of the entities responsible for prosecuting public officials and evaluating standards (Milestone 10.5), as well as the deadlines and details of the E-FOI portal (Milestone 10.6).

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<sup>1</sup> Bureau of Public Service Reforms *A Policy Brief: Policy Recommendations for Strengthening the Implementation of the Freedom of Information Act in the Nigeria Federal Public Service* (Dec. 2018) 5; Funmilola Olubunmi Omotayo, “The Nigeria Freedom of Information Law: Progress, implementation challenges and prospects” (*Library Philosophy and Practice*, 2015) 1, 4,

<https://digitalcommons.unl.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=31192&context=libphilprac>.

<sup>2</sup> Laws of the Federation of Nigeria, *Freedom of Information Act* § 1, <http://lawnigeria.com/LawsOfTheFederation/FREEDOM-OF-INFORMATION-ACT,-2011.html>.

<sup>3</sup> *Id.* § 2.

<sup>4</sup> *Id.* § 4 and 5.

<sup>5</sup> *Id.* § 9(2) and 13.

<sup>6</sup> *Id.* § 29.

<sup>7</sup> *Id.* § 7(5).

<sup>8</sup> *Id.* § 2(3)(f).

<sup>9</sup> Damilola Ojetunde, “Despite N514 million budget in 6 years, public institutions still ignore FOI requests” (International Centre for Investigative Reporting, 2 May 2018), <https://www.icirnigeria.org/despite-n514-million-budget-in-6-years-public-institutions-still-ignore-foi-requests/>.

<sup>10</sup> Bureau of Public Service Reforms, *A Policy Brief: Policy Recommendations for Strengthening the Implementation of the Freedom of Information Act in the Nigeria Federal Public Service* (Dec. 2018) 6.

<sup>11</sup> Edetaen Ojo (civil society co-chair, OGP/Executive Director, Media Rights Agenda), interview by IRM researcher, 19 Nov. 2018.

<sup>12</sup> Benjamin Okolo, (FOI Unit, FMoj) pointed out that in 2015, out of over 800 public institutions in Nigeria, only 44 submitted an annual report, while in 2016, 64 MDAs did so. The highest number of compliant MDAs was

achieved in 2017, when 73 MDAs submitted their annual reports. Interview by IRM researcher, 5 Mar. 2019; Damilola Ojetunde, “Only 73 out of 900 public institutions submitted their 2017 FOI annual report” (ICIR, 12 Oct. 2018), <https://www.icirnigeria.org/only-73-out-of-900-public-institutions-submitted-their-2017-foi-annual-report/>.

<sup>13</sup> Bureau of Public Service Reforms, 40.

<sup>14</sup> The BPSR’s FOI Portal is available at <http://www.bpsr.gov.ng/index.php/publications/external-resources/foi-act>; see also Right2Know, “NEITI unveils FOI portal” (31 Jan. 2017), <http://r2knigeria.org/index.php/8-frontpage/142-neiti-unveils-foi-portal>; and Right2Know, “Right to Know (R2K), Nigeria and the Federal Ministry of Justice (FMOJ) unveil a freedom of information web portal” (3 Aug. 2017), <http://r2knigeria.org/index.php/media-r2k/press-release/144-right-to-know-r2k-nigeria-and-the-federal-ministry-of-justice-fmoj-unveil-a-freedom-of-information-web-portal>.

<sup>15</sup> Victoria Etim (Program Officer, R2K, Nigeria), interview by IRM researcher, 5 Mar. 2019.

<sup>16</sup> See the cases cited in Omotayo, “The Nigeria Freedom of Information Law: Progress, implementation challenges and prospects,” 1, 7–8.

<sup>17</sup> The Official Secrets Act, 1911, makes it an offense for public servants to give out government information or anyone to reproduce that information. Anti-access legal provisions can also be found in the Criminal Code, the Penal Code, and the Public Complaints Commission.

<sup>18</sup> Omotayo notes that records in public institutions in Nigeria are still largely paper-based and stacked in bundles and files. A “majority” of the documents containing information have been eaten by insects or rodents. “The Nigeria Freedom of Information Law: Progress, implementation challenges and prospects,” 10.

<sup>19</sup> Omotayo, 9–10.

<sup>20</sup> Ojo, interview.

**11: Improved compliance of public institutions with the Freedom of Information Act (FOIA) with respect to the proactive disclosure provisions, stipulating mandatory publication requirements.**

**Language of the commitment as it appears in the action plan:**

“This commitment seeks to improve compliance with the FOIA mandatory publication requirements and secure the right of citizens to information”.

**Milestones:**

11.1. Design and implement the publication of fully compliant information as provided in the FOI Act, regardless of platform/form by at least 200 public institutions and make it easily accessible to the public.

11.2. Punitive administrative measures to be applied against public institutions adjudged to be in breach of the mandatory publication requirements of the FOI Act.

11.3. Publish responses to recurrent FOI requests on the public platform/in the publication.

**Start Date:** January 2017

**End Date:** December 2018

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
11. Overall		✓	✓		✓					✓	Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

**Context and Objectives**

Section 2(3) of Nigeria’s 2011 Freedom of Information (FOI) Act outlines an extensive list of information that public institutions must disclose proactively. These categories include information to be listed (e.g., records under the public institution’s control);<sup>1</sup> information to be described (e.g., a organization and responsibilities of the institution);<sup>2</sup> and information to be disclosed in full (e.g., the names, salaries, titles, and dates of employment of all employees in an institution).<sup>3</sup> Section 2(4) states that a public institution must ensure information is “widely disseminated” through “various means,” including print, electronic, and online sources.<sup>4</sup>

At the time of this report, the law did not provide for specific criminal or administrative measures<sup>5</sup> to be applied against public institutions violating mandatory disclosure requirements, however every provision of the Act may be enforced through court proceedings.<sup>6</sup>

In the past, proactive disclosure compliance among Nigeria's approximately 800 public institutions were sub-par. The Nigerian CSO, Right to Know Nigeria (R2K), has conducted several annual surveys of compliance with sections 2(3) and (4) of the FOI Act. In 2015, R2K sampled 39 public institutions (selected on the basis of their compliance with the duty to submit an annual report to the Attorney-General per section 29 of the FOI Act), and found that the average compliance rate was 9.35%, with the most compliant institution achieving 19.5%.<sup>7</sup> For the 2016 report, 44 institutions were sampled. More than half were "below average" in their proactive disclosure, although one, the Bureau of Public Service Reforms, was fully compliant.<sup>8</sup>

This commitment seeks to improve compliance with the FOI Act's proactive disclosure requirements and ensure that basic information on government activities is readily available to citizens. This commitment proposes to:

- Design and implement publication of fully compliant information per the FOI Act by at least 200 public institutions and make it publicly accessible;
- Apply punitive administrative measures against public institutions judged to be in breach of the mandatory publication requirements; and
- Publish responses to recurrent FOI requests on the public platform/in the publication (an information category not currently mandated by the current law).

The emphasis on proactive information disclosure made this commitment relevant to the OGP value of access to information. The "punitive measures" to be applied against public institutions in breach of the mandatory publication requirements (Milestone 11.2) relate to the OGP value of public accountability, as they will require public officials to accept responsibility for not performing legal commitments.

The commitment and its milestones are all specific and measurable. For example, the number of institutions expected to be fully compliant, and the nature of that compliance (proactive information disclosure under the FOI) is clear from Milestone 11.1. Milestone 11.3 could have been more specific by stating the frequency with which responses to recurrent FOI requests should be published on the platform.

If fully implemented, this commitment would be a major step forward for proactive disclosure, and thus a transformative impact. Given that the R2K surveys of proactive disclosure found low levels of disclosure in a small sample of public institutions that were already compliant in other respects (submitting section 29 reports), extending *full* compliance with mandatory FOI information categories to 200 institutions (25% of the approximate total) would be a major achievement. Stakeholders in access to information believe that punitive administrative measures would improve compliance significantly,<sup>9</sup> as a lack of consequences for non-compliance had contributed greatly to the near total disregard for this requirement of the FOI Act.<sup>10</sup> According to Edetaen Ojo, Executive Director of Media Rights Agenda, the activities can significantly improve compliance with proactive disclosure. However, as the FOI did not provide for punitive administrative (or criminal) measures, the design of these measures and their basis in the legal framework needs clarification.

The commitment lacks civic engagement. It's performance indicators include a reduction in the number of FOI requests submitted to public institutions, based on the rationale that proactive, mandatory disclosure would negate some information requests. Yet the milestones do not aim to help citizens better understand the law and the categories of the information the government must proactively publish (through leaflets, community radio programs, SMS campaigns, or workshops).

## Next Steps

Future commitments in this area could include:

- Clarifying the “punitive administrative measures” under Milestone 11.2 and their legal basis i.e., it is important to say what punitive measures exist and when they would be enforced, the criteria to determine when institutions are in breach, and the level of non-response determining the status of breach;
- Ensuring that the information proactively published is regularly updated;
- Stating the frequency with which responses to recurrent FOI requests should be published on the platform;
- Creating a platform for citizens to track submitted FOIA requests; and
- Strengthening the civic engagement component of the commitment through public awareness campaigns on the proactive mandatory disclosure requirements of the FOI.

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<sup>1</sup> Edetaen Ojo (civil society co-chair, OGP/Executive Director, Media Rights Agenda), interview by IRM researcher, 19 Nov. 2018.

<sup>1</sup> Laws of the Federation of Nigeria, *Freedom of Information Act, 2011* §2(3)(b)(i).

<sup>2</sup> *Id.* §2(3)(a).

<sup>3</sup> *Id.* §2(3)(c)(vi).

<sup>4</sup> *Id.* §2(4).

<sup>5</sup> Criminal measures would involve state prosecution and the involvement of the judiciary. Punitive administrative measures, on the other hand, involve measures imposed by the executive only; the national prosecution system is not invoked.

<sup>6</sup> *Freedom of Information Act*, §1(3).

<sup>7</sup> Right2Know, *Proactive Disclosure Assessment Report (2015)* 31, <http://r2knigeria.org/index.php/foi-assessments-reports/2011-2015>.

<sup>8</sup> Right2Know, *Nigeria's Freedom of Information Act, 2011: Compliance Assessment Report (2016)* 22–23, <http://r2knigeria.org/index.php/foi-assessments-reports/2016>.

<sup>9</sup> Victoria Etim, (Program Officer, R2K), interview by IRM researcher, 5 Mar. 2019.

<sup>10</sup> Ojo, interview.

## 12: Develop a Permanent Dialogue Mechanism on transparency, accountability and good governance between citizens and government to facilitate a culture of openness

### Language of the commitment as it appears in the action plan:

“Citizens can be categorized into different publics like media, private sector, youth groups, women groups, rural and urban communities, traditional and religious institutions, etc. and each can be reached through different channels like information portals, town hall meetings, Local Government Assembly sessions, media roundtables, policy dialogues, focus group discussions and others”.

### Milestones:

- 12.1. Establish baseline for all the performance indicators
- 12.2. Institutionalize citizens’ forum in key Ministries and MDAs, like Power, Finance, Transport, FIRS, NEITI, CAC, BPP, etc. at least annually
- 12.3. Citizens’ engagement activities captured in Ministries’ and MDAs’ budgets.
- 12.4. Produce a simplified citizens’ budget in at least three major local languages

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
12. Overall		✓	✓	✓				✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

This commitment will increase civic participation through the institutionalization of a permanent dialogue mechanism between government and citizens. Nigeria has attempted to stimulate public-private dialogue since the early 2000s as a means to achieve growth, reduce poverty, and combat corruption.<sup>1</sup> According to Simon Idoko of the National Orientation Agency, various dialogue initiatives were spearheaded with state and donors such as ad hoc and roundtable meetings.<sup>2</sup> However, no permanent, formal mechanism existed prior to the commitment and ad hoc initiatives depended upon the political will of particular administrations.<sup>3</sup>

In a 2014 study, academic D.A. Falade found low citizen engagement in political processes and decision-making. More than half (57%) of participants in this study were not actively involved in political activities, and there was a strong gender imbalance in the percentage of

participants that were active (favoring males).<sup>4</sup> In Nigeria, Falade claims, “politics is seen as a dirty game which must be avoided.”<sup>5</sup>

Prior to this commitment, budgets were only available online in English, inaccessible to non-English speaking populations or those without internet access.<sup>6</sup> When a simplified or translated budget was published, it was usually a CSO initiative.<sup>7</sup> Although English is the official language of Nigeria, many Nigerians use local languages in daily communication. Of Nigeria’s 186 million inhabitants, only about 79 million people speak English; major languages like Hausa, Yoruba, and Igbo are spoken by millions of people.<sup>8</sup>

As part of the new permanent dialogue mechanism, this commitment proposes a baseline of performance indicators: institutionalize citizens’ forums in key MDAs at least annually; ensure citizen engagement activities are captured in MDA budgets; and produce a simplified citizens’ budget in at least three major local languages.

The commitment is relevant to the OGP values of access to information and civic participation. Publishing simplified citizens’ budgets in local languages can increase access to information and thus help citizens understand the budget. The institutionalization of citizen forums in MDAs<sup>9</sup> can improve opportunities for citizens to engage in government decision-making processes. Publishing the budget in three local languages can empower more citizens to engage with the government. This can improve their capacity to participate in the budget and implementation process and ultimately in its monitoring and evaluation.<sup>10</sup>

Overall, the commitment is verifiable. Milestone 12.2 provides examples of MDAs where citizen forums will be institutionalized and a timeline (“at least annually”), while Milestone 12.4 gives a specific number of local languages for the citizens’ budget.

This commitment has a potential minor impact. According to Uchenna Arisikwu of the Centre for Leadership, Strategy and Development, institutionalizing citizen forums in key MDAs such as Power, Finance, and the Internal Revenue Service can ensure that the dialogue traditions outlive administrations and are not limited by which political party is in power.<sup>11</sup> The publication of a simplified citizen’s budget in three local languages is also a major positive step forward in terms of opening government. The commitment, however, fails to address the need for formal and informal political education among the general public to convince citizens of the value of participation in political processes.

### Next Steps

Future commitments in this area should include:

- High level participation in the citizen forum and engagement initiatives to improve their effectiveness, so that decisions can be taken forward;
- Formal and informal initiatives to persuade the public on the value of participating in the permanent dialogue mechanism and community engagement activities; and
- An implementation strategy that indicates the location and dissemination strategies for publishing simplified budgets, when these budgets will be available, and whether citizens can participate in the forums taking into account the information available in local languages.

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<sup>1</sup> See Murtala S. Sagagi, “Public-private dialogue: Myth or reality” (paper presented at the Joint Annual General Meeting of the Manufacturers Association of Nigeria held at Royal Tropicana Hotel) (13 Dec. 2007).

<sup>2</sup> See Martins Asuquo, “Citizens’ dialogue on current trends of corruption in Nigeria” (NAN, 28 Apr. 2018), <http://www.nanprwire.com/citizens-dialogue-on-current-trends-of-corruption-in-nigeria/>.

<sup>3</sup> Simon Idoko (National Orientation Agency, interview by IRM researcher, 14 Nov. 2018).

<sup>4</sup> D.A. Falade, “Political participation in Nigerian democracy: A study of some selected local government areas in Ondo State, Nigeria” *Global Journal of Human-Social Science* 14 no. 8 (2014) 1, [https://globaljournals.org/GJHSS\\_Volume14/3-Political-Participation-in-Nigerian.pdf](https://globaljournals.org/GJHSS_Volume14/3-Political-Participation-in-Nigerian.pdf).

<sup>5</sup> *Id.*

<sup>6</sup> Idoko, interview.

<sup>7</sup> See BudgIT's work since 2011 (Thematic and Research Network on Data and Statistics, "BudgIT empowers Nigerian citizens through open data" (27 Sept. 2018), <https://www.sdsntrends.org/research/2018/9/27/case-study-open-data-budgit-nigeria>; Edetaen Ojo (MRA), interview by IRM researcher, 9 Mar. 2019.

<sup>8</sup> Joyce Chepkemoi, "What languages are spoken in Nigeria?" (World Atlas, 1 Aug. 2019), <https://www.worldatlas.com/articles/what-languages-are-spoken-in-nigeria.html>.

<sup>9</sup> Uchenna Arisukwu (Program Manager, Centre for Leadership, Strategy and Development), interview by IRM researcher, 15 Apr. 2019.

<sup>10</sup> Edetaen Ojo (MRA), interview by IRM researcher, 9 Mar. 2019.

<sup>11</sup> Arisikuwu, interview.



### 13: Government – civil society to jointly review existing legislations on transparency and accountability issues and make recommendations to the National Assembly

**Language of the commitment as it appears in the action plan:**

“Comprehensive review of all laws and legislations relevant to the OGP process like the Economic and Financial Crimes Commission (EFCC) Act, Nigeria Extractive Industries Transparency Initiative (NEITI) Act, Freedom of Information (FOI) Act, Independent Corrupt Practices and other Related Offences Commission (ICPC) Act, Money Laundering Prohibition Act (2011) and others.”

**Milestones:**

13.1: Development of Frequently Asked Questions on identified laws and review plan

13.2: Government-CSOs Roundtable discussion on reviews of gaps in existing laws

**Start Date:** January 2017

**End Date:** June 2019

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
13. Overall		✓		✓				✓			Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

#### Context and Objectives

This commitment seeks to address gaps in existing legislation related to transparency and accountability in Nigeria. These laws are outdated and needed to be reviewed to ensure that they met current best practices, including those required to ensure Nigeria’s continued membership in global bodies.<sup>1</sup> For example, soon after the start of the commitment period, Nigeria was suspended from the Egmont Group, an informal network of 154 national Financial Intelligence Units (FIUs).<sup>2</sup> Although it later transpired that the suspension was sparked by an former embittered director submitting false information, and that Nigeria’s suspension was since lifted, the Egmont Group raised concern about the autonomy of the Nigerian FIU. This will necessitate amendments to section 1(2)(c) of the Economic and Financial Crimes Commission (Establishment) Act, 2002.<sup>3</sup>

The commitment proposes frequently asked questions (FAQ) on particular laws and a review plan and to hold government-CSO roundtable discussions on gaps in existing laws. These discussions make the commitment relevant to the OGP value of civic participation.

Although the FAQs and roundtable are generally verifiable, the commitment lacks key details such as how frequently the FAQs will be updated or how many roundtable discussions will be held.

While reviewing Nigeria's existing transparency and accountability legislation is timely, publication of law FAQs and a single government-civil society roundtable are unlikely to have more than a minor impact on strengthening laws. Nevertheless, collaboration between civil society and government on a comprehensive legislative review project for opening government appears to be the first of its kind. In light of other developments, such as the feared reduction of civic space due to new regulations for nongovernmental organizations, this is a positive development.<sup>4</sup> It is unclear, however how the results of the discussion will update legislation.<sup>5</sup>

### Next Steps

The IRM believes this initiative can continue beyond the OGP framework, as it enables broader open government reforms. In doing so, the IRM recommends the clarifying how findings of the review process will reform the legislative process.

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<sup>1</sup> Sulayman Dawodu (FMO), interview by IRM researcher, 21 Nov. 2018.

<sup>2</sup> See "Egmont group," <https://egmontgroup.org>. The Egmont Group provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering, terrorist financing, and related offences.

<sup>3</sup> Ben Ezeamalu, "Why Nigeria's NFIU was suspended by Egmont Group – EFCC" (*Premium Times*, 20 Jul. 2017), <https://www.premiumtimesng.com/news/top-news/237547-nigerias-nfiu-suspended-egmont-group-efcc.html>.

<sup>4</sup> Civicus, "Worrying legislation to restrict Nigerian civil society sector underway" (2 Nov. 2016), <https://civicus.org/index.php/media-resources/media-releases/2635-worrying-legislation-to-restrict-nigerian-civil-society-sector-underway>.

<sup>5</sup> Uchenna Arisikuwu (Program Manager, Centre for Leadership, Strategy and Development), interview by IRM researcher, 15 Apr. 2019.

## 14: Adopt a technology-based citizens’ feedback on projects and programs across transparency and accountability

### Language of the commitment as it appears in the action plan:

“This commitment seeks the introduction of technology-driven applications, portals and platforms that will enhance citizens’ access to government policy processes for regular input and monitoring.”

### Milestones:

14.1: Mapping of MDAs already having a technology-based platform for transparency and accountability

14.2: Creation of the citizens’ interactive platform for government institutions

**Start Date:** January 2017

**End Date:** June 2018

Action plan is available [here](#):

Commitment Overview	Verifiability		OGP Value Relevance (as written)				Potential Impact				Completion				Did It Open Government?				
	Not specific enough to be verifiable	Specific enough to be verifiable	Access to Information	Civic Participation	Public Accountability	Technology & Innovation for Transparency & Accountability	None	Minor	Moderate	Transformative	Not Started	Limited	Substantial	Completed	Worsened	Did Not Change	Marginal	Major	Outstanding
14. Overall	✓		✓	✓		✓					Assessed at the end of action plan cycle.				Assessed at the end of action plan cycle.				

### Context and Objectives

This commitment aims to increase citizen access, particularly from rural areas, to decision-making processes in government. At the start of the commitment, a limited number of MDAs had a technology-based platform for transparency and openness.<sup>1</sup> According to Dr. Usman Abdullahi of the Nigerian Information Technology Development Agency, one of the challenges of governance in Nigeria is that the government takes major decisions on behalf of people in the rural areas without consulting them first.<sup>2</sup> Nigeria’s rank in the United Nation’s E-Participation Index has been deteriorating: from ranking 75 out of 193 countries in 2012, to 97 in 2014 and 118 in 2016.<sup>3</sup> The upswing in mobile and internet users in Nigeria nevertheless presents opportunities to expand e-governance platforms, even in rural areas.<sup>4</sup>

Specifically, this commitment calls for a mapping exercise, to determine which MDAs already maintain a technology-based platform for transparency and accountability, and the creation of a “citizens’ interactive platform” in order for government institutions to receive citizen input from any location (urban or rural) on decisions that affect communities. The commitment relates to civic participation as creating a citizen engagement platform should create an avenue for engagement.

The commitment lacks verifiable indicators for implementation beyond “increased accountability in government service delivery” and “improved access to government processes.” The vagueness of the planned activities make it difficult to assess how it improves the opportunities for citizens to participate in decision-making. Moreover, the commitment does not discuss how the government will use the platform to engage rural communities (which seems to be a focal point of the commitment). Therefore, the potential impact is considered as minor.

### Next Steps

Technology can facilitate better open government practices. Future commitments in this area should include:

- Consider how to enable rural communities to participate in government decision making and ensure that citizen feedback influences government decision making. This may increase the scope of results;
- Strengthen mechanisms for ensuring citizens can receive feedback, e.g., innovations like mobile phone usage;
- Consistently share the communication channels and set expectations about how government institutions will receive inputs from citizens and whether the platform or another mechanism will be used to inform citizens on how their input is used.

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<sup>1</sup> Eight MDAs are listed on the Federal Republic of Nigeria’s site as having an e-governance presence, including the Corporate Affairs Commission, Tax, and the Nigeria Immigration Service. Federal Republic of Nigeria, “E-governance,” <http://www.nigeria.gov.ng>.

<sup>2</sup> Dr. Usman Abdullahi (Director, Nigerian Information Technology Development Agency), interview by IRM researcher, 8 Mar. 2019.

<sup>3</sup> UN E-government Knowledgebase, “Nigeria” (accessed Nov. 2019),

<https://publicadministration.un.org/egovkb/en-us/Data/Country-Information/id/125-Nigeria/dataYear/2016>.

<sup>4</sup> By early 2017, the penetration rates for mobile subscribers and internet users in Nigeria were estimated at 81% (150 million) and 53% (97.2 million) respectively. Jessica Smith and Kevin Tran, “Smartphone adoption on the upswing in Nigeria” (Business Insider, 28 Apr. 2017), <https://www.businessinsider.com/smartphone-adoption-on-the-upswing-in-nigeria-2017-4?IR=T>.

## V. General Recommendations

This section aims to guide implementation of the current action plan. It is divided into two sections: 1) IRM key recommendations to improve the OGP process and action plans in the country or entity and, 2) an assessment of how the government responded to previous IRM key recommendations.

### 5.1 IRM Recommendations

The following strategic next steps should be taken by OGP Nigeria to improve the process and outcomes of OGP action plans:

Strengthen the legal framework and institutional support for OGP in Nigeria:

- A recurring concern from interviewees was the absence of a legal framework supporting OGP reforms. An inadequate institutional framework affects the ability to secure budgetary allocations for implementing the action plan. Nigeria should identify a stronger institutional mandate to support implementing OGP commitments across the government. The IRM recommends that Nigeria take steps for a cross-government engagement strategy and use the action plan's implementation as a moment to catalyze ownership and involvement.
- High-level political leadership should reaffirm the action plan goals; this can help spark enthusiasm across the federal government and motivate other stakeholders to engaged in national action plans and the OGP process overall.

Consolidate and reaffirm the role of NSC Nigeria to enhance action plan delivery:

- During implementation, the National Steering Committee (NSC) should have a clear mandate to accompany the process and have an active role in convening leadership from both state and nonstate participants. The role of the NSC may also include leading a communication strategy to maintain the energy and engagement of stakeholders after the co-creation process.
- Currently the NSC lacks gender balance. This should be considered for improving inclusion in the makeup of the NSC and how public engagement strategies are shaped.

Build an enabling environment to strengthen implementation of OGP action plans:

- Continue efforts to engage with civil society. This is key for successful implementation. Among these practices, it is recommended to provide more advance notice of roles, explanations on the OGP process, action plan progress, expectations for the action plan implementation, and accountability of the action plan as a whole. This will help participants have better informed discussions and improve the OGP process.
- As the OGP process matures in Nigeria, the IRM recommends that a monitoring and evaluation mechanism is considered as part of the implementation strategy of action plans. This can be part of the NCS remit or housed in OGP's leading agency in Nigeria (MoJ). This can include a set number of status meetings to discuss progress on commitment implementation and specific workshops to reflect on successes and failures to redefine implementation strategies.

Use lessons from the first action plan to improve commitment implementation and action plan results:

- Some policy areas continue to be opportunities to expand the open government agenda in Nigeria. Action plans are a good platform to advance reforms for improving access to information, government integrity, beneficial ownership, and civic participation.
- Commitments for increasing participation could include clear mechanisms for participation or clearly state how engagement will occur. While publishing information is key to inform the public, participation will not increase just by releasing data if there isn't a clear mechanism to engage the public with the information as a part of the commitment's activities.

**Table 5.1: IRM Key Recommendations**

<b>1</b>	<b>Strengthen the legal framework and institutional support for OGP in Nigeria.</b>
<b>2</b>	<b>Consolidate and reaffirm the role of NSC Nigeria to enhance action plan delivery.</b>
<b>3</b>	<b>Build an enabling environment to strengthen implementation of OGP action plans.</b>
<b>4</b>	<b>Build on lessons from first action plan to improve commitment implementation and action plan results.</b>

## VI. Methodology and Sources

The IRM reports are written by researchers for each OGP-participating country or entity. All IRM reports undergo a process of quality control to ensure that the highest standards of research and due diligence have been applied.

Analysis of progress on OGP action plans is a combination of interviews, desk research, observation, and feedback from nongovernmental stakeholders. The IRM report builds on the evidence available from the Nigerian government website<sup>1</sup>, findings in the government's own self-assessments, and any other assessments of process and progress put out by civil society, the private sector, or international organizations. At the beginning of each reporting cycle, IRM staff share a research plan with governments to open a seven-day period of comments or feedback regarding the proposed research approach.

Each IRM researcher carries out stakeholder interviews to ensure an accurate portrayal of events. Given budgetary and calendar constraints, the IRM cannot consult all interested parties or visit implementation sites. Some contexts require anonymity of interviewees and the IRM reviews the right to remove personal identifying information of these participants. Due to the necessary limitations of the method, the IRM strongly encourages commentary during the pre-publication review period of each report.

Each report undergoes a quality-control process that includes an internal review by IRM staff and the IRM's International Experts Panel (IEP). Each report also undergoes an external review where governments and civil society are invited to provide comments on the content of the draft IRM report.

This review process, including the procedure for incorporating comments received, is outlined in greater detail in Section III of the Procedures Manual.<sup>2</sup>

### Interviews and stakeholder input

For each of the 14 commitments of the Nigerian NAP, at least two stakeholders were selected and interviewed. The interviewees were selected from the government, CSOs, or private sector. These stakeholders were selected based on their involvement with the commitments either at the stage of drafting of the NAP, or at the implementation.

Stakeholders who were directly responsible for implementing certain commitments and experts in such areas were also identified and interviewed.

Stakeholders representing the following organizations were interviewed:

- Alfred Okoh, Budget Office of the Federation, 13 November 2018
- Simon Idoko, National Orientation Agency (NOA), 14 November 2018
- Ifeanyi Ewguatu, Federal Ministry of Finance, 15 November 2018
- Dr. Orji, Nigeria Extractive Industries Transparency Initiative (NEITI), 19 November 2018
- Ayokunnu Ojeniyi, Enabling Business Environment Secretariat (EBES), 20 November 2018
- Peter Egbule, Publish What You Pay (PWYP), 22 November 2018
- Tayo Aduloju, Nigerian Economic Summit Group (NESG), 22 November 2019
- Ifeoma Onyebuchi, Public and Private Development Centre (PPDC), 26 February 2019 and 14 November 2018
- Dauda Garuba, (NEITI) 27 February 2019 and 15 November 2018
- Kolawole Banwo, CISLAC, 27 February 2019
- Sarah Muyonga, Natural Resource Governance Institute (NRGI), 27 February 2019
- Inyang Anang, Bureau for Public Sector Reform (BPSR), 28 February 2019

- Edwin Ikhurelia, ONE Campaign, 28 February 2019
- Victoria Etim, Right to Know (R2K), Nigeria 5 March 2019
- Abu Ocheme, Federal Inland Revenue Service (FIRS) 5 March 2019 and 21 November 2018
- Barbara Maigari, Partners West Africa Nigeria (PWAN), 5 March 2019 and 22 November 2018
- Benjamin Okolo, (Head FOI Unit) Ladidi Abdul (Asset Recovery and Management Unit) and Sulayman Dawodu (Justice Reforms Units) under the Federal Ministry of Justice (FMOJ), 5 March 2019, 15,19 and 21 November 2018
- Newton Otsemaye, Actionaid Nigeria, 6 March 2019
- David Ugolor, the Africa Network for Environment and Economic Justice (ANEEJ), 6 March 2019
- Dr. Anne Nzegwu, Ministry of Budget and National Planning, 7 March 2019
- Abayomi Akinbo and Ayomide Faleye Budget/Open Alliance, 7 March 2019 and 15 November 2018
- Dr. Usman Abdullahi, National Information Technology Development Agency (NITDA), 8 March 2019
- A.G Abubakar, Corporate Affairs Commission (CAC), 8 March 2019 and 14 November 2018
- Prof. Etannibi Alemika, Presidential Advisory Committee against Corruption (PACAC), 8 March 2019
- Uchenna Arisukwu, African Centre for Leadership, and Strategy and Development (Centre LSD) 15 April 2019 and 16 November 2018
- Stanley Achonu, CS Adviser 9 November and 13 August 2019
- Aliyu Aliyu, Bureau for Public Procurement (BPP).

Three members of the OGP secretariat were interviewed to assess co-creation and the processes during development of the NAP. These included the OGP Civil Society Adviser, the Program/Admin Officer, and the Communications Program Officer. The co-chair for Nigeria representing nonstate actors, Edetaen Ojo, was also interviewed on the co-creation process, as well as commitments on Freedom of Information (FOI), based on his capacity as Executive Director of Media Rights Agenda, one of the CSO implementers of the commitments.

In addition, the IRM researcher attended the NSC meeting held on 16 November 2018 in order to brief the members on the ongoing IRM research and solicit their support and assistance through interviews and supplying secondary data information. The meeting had in attendance both government and nonstate members of the NSC, as well as the various co-chairs or their representatives.

It is important to note that Nigeria had its general election in February which was postponed to a later date – this delay affected scheduling interviews as most stakeholders were actively involved in the electoral process. Besides, elections in Nigeria grinds activities, especially government activities, to a slow pace.



### **About the Independent Reporting Mechanism**

The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries and entities. The International Experts Panel (IEP) oversees the quality control of each report. The IEP is comprised of experts in transparency, participation, accountability, and social science research methods.

The current membership of the International Experts Panel is

- César Cruz-Rubio
- Mary Francoli
- Brendan Halloran
- Jeff Lovitt
- Fredline M'Cormack-Hale
- Showers Mawowa
- Juanita Olaya
- Quentin Reed
- Rick Snell
- Jean-Patrick Villeneuve

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

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<sup>1</sup> OGP Website. Federal Ministry of Justice. Federal Republic of Nigeria.

<https://www.justice.gov.ng/index.php/ogp-nigeria>

<sup>2</sup> IRM Procedures Manual, V.3 : <https://www.opengovpartnership.org/documents/irm-procedures-manual>.

## Annex I. Overview of Nigeria's performance throughout action plan development

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

<b>Multistakeholder Forum</b>	
<b>1a. Forum established: There is a forum to oversee the OGP process</b>	Green
1b. Regularity: The forum meets at least every quarter, in person or remotely	Green
1c. Collaborative mandate development: Members of the forum jointly develop its remit, membership and governance structure	Green
1d. Mandate public: Information on the forum's remit, membership and governance structure is available on the OGP website/page	Yellow
<b>2a. Multistakeholder: The forum includes both governmental and nongovernment representatives</b>	Green
2b. Parity: The forum includes an even balance of governmental and nongovernmental representatives	Green
<b>2c. Transparent selection: Nongovernmental members of the forum are selected through a fair and transparent process.</b>	Yellow
2d. High-level government representation: The forum includes high-level representatives with decision making authority from government	Yellow
<b>3d. Openness: The forum accepts inputs and representation on the action plan process from any civil society or other stakeholders outside the forum</b>	Green
3e. Remote participation: There are opportunities for remote participation in at least some meetings and events	Yellow
3f. Minutes: The OGP forum proactively communicates and reports back on its decisions, activities and results to wider government and civil society stakeholders	Green

Key:

Green= Meets standard

Yellow= In progress (steps have been taken to meet this standard, but standard is not met)

Red= No evidence of action

<b>Action Plan Development</b>	
4a. Process transparency: There is a national OGP website (or OGP webpage on a government website) where information on all aspects of the national OGP process is proactively published	Green
4b. Documentation in advance: The forum shares information about OGP to stakeholders in advance to guarantee they are informed and prepared to participate in all stages of the process	Yellow
4c. Awareness-raising: The forum conducts outreach and awareness raising activities with relevant stakeholders to inform them of the OGP process	Green
4d. Communication channels: The government facilitates direct communication with stakeholders to respond to action plan process questions, particularly during times of intense OGP activity	Green
<b>4e. Reasoned response: The multistakeholder forum publishes its reasoning behind decisions and responds to major categories of public comment</b>	Yellow
<b>5a. Repository: Government collects and publishes a document repository on the national OGP website/webpage, which provides a historical record and access to all documents related to the national OGP process, including (but not limited to) consultation documents, National Action Plans, government self-assessments, IRM reports and supporting documentation of commitment implementation (e.g., links to databases, evidence of meetings, publications)</b>	Green

**Editorial note:** If a country “meets” the six standards in bold IRM will recognize the country’s process as a Starred Process.