

Independent Reporting Mechanism

Action Plan Review:
Mongolia 2021–2023

Open
Government
Partnership



Independent
Reporting
Mechanism

Introduction

Starting in January 2021, the IRM began rolling out the new products that resulted from the IRM Refresh process.¹ The new approach builds on the lessons after more than 350 independent, evidence-based, and robust assessments conducted by the IRM and the inputs from the OGP community. The IRM seeks to put forth simple, timely, fit-for-purpose, and results-oriented products that contribute to learning and accountability in key moments of the OGP action plan cycle.

The new IRM products are:

1. **Co-creation brief:** brings in lessons from previous action plans, serves a learning purpose, and informs co-creation planning and design. This product rolled out in late 2021, beginning with countries co-creating 2022–2024 action plans.
2. **Action Plan Review:** an independent, quick, technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This product rolled out in early 2021 beginning with 2020–2022 action plans. Action Plan Reviews are delivered 3–4 months after the action plan is submitted.
3. **Results Report:** an overall implementation assessment that focuses on policy-level results and how changes happen. It also checks compliance with OGP rules and informs accountability and longer-term learning. This product is scheduled to roll out in a transition phase in early 2022, beginning with 2019–2021 action plans ending implementation on 31 August 2021. Results Reports are delivered up to four months after the end of the implementation cycle.

This product consists of an IRM review of Mongolia’s 2021–2023 action plan. The action plan is made up of nine commitments that the IRM has filtered and clustered into eight. This review emphasizes its analysis on the strength of the action plan to contribute to implementation and results. For the commitment-by-commitment data, see Annex 1. For details regarding the methodology and indicators used by the IRM for this Action Plan Review, see Section IV: Methodology and IRM Indicators.

¹ For more details regarding the IRM Refresh, visit <https://www.opengovpartnership.org/process/accountability/about-the-irm/irm-refresh/>.

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Section I: Overview of the 2021–2023 Action Plan

Civil society led development of the action plan. It includes promising commitments on extractive sector transparency, open public procurement, and freedoms of the press and association. Effective implementation will require continuing to strengthen implementing agencies' ownership of commitments and engagement with civil society.

Mongolia joined the OGP in 2013. This report evaluates the design of Mongolia's fourth action plan, which consists of nine commitments. The action plan includes four commitments with substantial potential for results, reflecting similar ambition as the previous action plan, in which six of thirteen commitments had moderate or transformative potential impact. To aid clarity and assessment, this report clusters Commitments 2 and 8, which aim to strengthen freedom of information and the press.

The action plan addresses diverse policy areas. It introduces Mongolia's first commitment on the enabling environment for civil society. It also carries forward initiatives from the previous action plan through four commitments on extractive industry transparency, public procurement, and e-government. Other commitments revisit policy areas from earlier action plans, such as freedom of the press, legislative public consultation mechanisms, and management of medicine and medical devices.

During a co-creation process largely led by civil society, Mongolia met the OGP threshold for participation. Compared to the previous action plan, when Mongolia was found to be acting contrary to OGP process,¹ this reflected progress on providing reasoned response to the public on how their contributions were considered during development of the action plan. Civil society stakeholders began preparatory design meetings in January 2021. Spurred by receipt of an Under Review Letter from the OGP secretariat,² the prime minister's advisor on governance affairs began to discuss the co-creation process with civil society. Official government participation in the co-creation process commenced in September 2021, with establishment of the Working Group to Develop

AT A GLANCE

Participating since: 2013
Action plan under review: 2021–2023
IRM product: Action plan review
Number of commitments: 9

Overview of commitments:

- Commitments with an open gov. lens: 9 (100%)
- Commitments with substantial potential for results: 4 (44%)
- Promising commitments: 5 (56%)

Policy areas carried over from previous action plans:

- Extractives transparency
- Public procurement
- E-government
- Waste management
- Fiscal transparency
- Freedom of the press
- Legislative public consultation mechanisms

Emerging policy area:

- Freedom of association

Compliance with OGP minimum requirements for co-creation:

- Acted contrary to OGP process: No

the National Action Plan. The Working Group included eight government representatives, thirteen civil society representatives, and five private sector representatives. The process generated over 80 proposals for commitments, which were shortlisted to 35 commitments using a screening process to prioritize proposals. This list was narrowed down to nine commitments. One of these commitments was initiated by a government agency (Commitment 3), and the rest were civil society proposals. This carries the risk of limited buy-in from implementing agencies. During finalization of the action plan in December 2021, the government amended the scope of some proposed commitments without consulting civil society partners.³ Compared to the previous action plan, the process included a more diverse group of civil society stakeholders (for example, engaging new CSOs focused on freedom of the press).⁴ To ensure ongoing dialogue with civil society, the Working Group can regularly meet to collaboratively discuss implementation, with updates on the plan's progress and opportunities for joint problem-solving.

Government engagement in the action plan could be strengthened.⁵ Continued political instability following the presidential election in 2021 affected government leadership in the co-creation process. Additionally, staff turnover in government ministries relevant to the commitments inhibited transfer of institutional knowledge and process continuity. In terms of the planned transfer of the OGP portfolio from the Cabinet Secretariat to the National Development Agency, civil society stakeholders expressed concerns about potential de-prioritization of the OGP process. Achieving impact will require stronger ownership of action plan's initiatives by government agencies, as well as continued engagement with civil society on implementation planning, activities, monitoring, and assessment. The Working Group could support this engagement through targeted outreach meetings with relevant government stakeholders, preparing a memo to contextualize the OGP process in Mongolia. Throughout implementation, relevant ministers or other high-level representatives can meet at regular intervals to discuss progress, delays, and opportunities to address challenges.

The action plan includes promising commitments on transparency in the extractive sector and public procurement, as well as on freedoms of association and the press. Commitment 1 carries forward an effort to pass the Mineral Resources Transparency Law, a bill considered fundamental to extractives sector transparency. Continued efforts to digitize the public procurement process in Commitment 3 are coupled with public oversight. Under Commitment 4, the action plan aims to safeguard the enabling environment for civil society, responding to potential restrictions posed by the draft Law on Associations and the draft Law on Foundations. Likewise, Commitments 2 and 8 aim to strengthen the operating environment for the media by amending legislation on source anonymity and access to information.

Overall, commitments with more concrete and ambitious targets would strengthen the plan's impact. In terms of design, some commitments aim to evaluate legislation, but do not plan for implementation of resulting recommendations in legislative reforms (Commitments 2 and 5). Other commitments targeting platform updates for the Glass Account Portal (Commitment 6) and the e-Mongolia Platform (Commitment 9) overlook low levels of user uptake and would benefit from efforts to generate public engagement through online and offline outreach. Commitment 7 could also strengthen its open government lens by introducing public participation into efforts to improve procurement, quality, safety, and supply of medicines and medical devices, drawing on lessons learned from a similar initiative in Mongolia's second action plan. For commitments in which the milestones do not fully reflect the stated policy problem or

actions mentioned in the commitment description, implementing agencies could work with stakeholders to concretize milestones and indicators. In future action plans, commitments with overlapping milestones can be consolidated into a single commitment, to streamline coordination and planning for implementers.

¹ OGP, “Procedural Review” (accessed Apr. 2022), <https://www.opengovpartnership.org/procedural-review/>.

² OGP, “Mongolia – Under Review Letter (September 2021)” (13 Sep. 2021), <https://www.opengovpartnership.org/documents/mongolia-under-review-letter-september-2021/>.

³ Undral Gombodorj (Democracy Education Center), interview by IRM researcher, 16 Feb. 2022.

⁴ Namsrai Bayarsaikhan (Steps without Borders), interview by IRM researcher, 14 Feb. 2022.

⁵ Ibid.

Section II: Promising Commitments in Mongolia's 2021–2023 Action Plan

The following review looks at the five commitments that the IRM identified as having the potential to realize the most promising results. This review will inform the IRM's research approach to assess implementation in the Results Report. The IRM Results Report will build on the early identification of potential results from this review to contrast with the outcomes at the end of the implementation period of the action plan. This review also analyzes challenges, opportunities, and recommendations to contribute to the learning and implementation process of this action plan.

Table 1. Promising commitments

Promising Commitments
1. Extractive Industry Transparency: This commitment aims to pass the Mineral Resources Transparency Law. This bill would entail mandatory compliance with the global EITI standard, officially establish the Mongolia EITI national council and secretariat, and release open data on the extractives sector, including beneficial ownership information.
2 and 8. Legislation on Freedom of Information and the Press: This cluster of commitments intends to protect source anonymity for journalists by amending the Law on Whistleblower Legal Status and the Freedom of the Press Law. They would also amend the Law on State and Official Secrets, improving access to information by establishing a legislative procedure for defining the state secrets lists.
3. Public Engagement in Public Procurement: This commitment plans to fully digitize the public procurement process and introduce a new measure to limit awarding bids to companies with high corruption risks. It would also introduce citizen participation to the bid evaluation process.
4. Legislation Protecting Civic Space: In response to the pending draft Law on Associations and the draft Law on Foundations, which are considered restrictive by CSOs, this commitment aims to inclusively revise the bills, develop a state and civil society partnership policy, simplify CSO registration procedures, and introduce a digital CSO registry system.

Commitment 1: Extractive Industry Transparency

For a complete description of the commitment, see Commitment 1 in [Mongolia's 2021-2023 Action Plan](#).

Context and objectives:

In Mongolia, the extractive sector is a central component of the national economy, constituting 24% of the GDP in 2019.¹ Mongolia has participated in the Extractive Industries Transparency Initiative (EITI) since 2006 and became the second country to meet a satisfactory level of progress in implementing EITI standards in 2018.² This commitment aims to strengthen extractive sector transparency by passing the Mineral Resources Transparency Law and establishing an integrated mineral resources information system. This commitment aligns with the OGP value of transparency, as it plans for routine publication of open data on the extractives sector.

Under the previous action plan, a Mineral Resources Transparency Bill was drafted in early 2020 by the Ministry of Mining and Heavy Industry, and later re-drafted and finalized in June 2021, with input from the Asian Development Bank. However, passage of the bill was delayed.³ Parliament has taken a cautious approach to the bill, as it applies to all extractive subsectors (oil, gas, mining, etc.), in comparison with the other currently pending extractive sector bills, which focus exclusively on the mining sector.⁴

Potential for results: Substantial

Prior to this commitment, EITI reports were the only publicly available source of beneficial ownership information in Mongolia. In the 2019 EITI report, only 291 of 2,093 companies published some beneficial ownership information,⁵ although many instead provided legal ownership information. (For context, a legal owner holds the company's legal title under their name, while a beneficial owner receives the benefits of ownership despite the title remaining under another's name). To date, half of extractive sector companies (700 companies) have yet to comply with the 2018 amendment to the Law on State Registration of a Legal Entity and the Law on Combating Money Laundering and Terrorism Financing, which mandated all legal entities to report their beneficial ownership information to the Registration Office by January 2021.⁶ This reported information is not publicly available and noncompliant companies have previously been able to negotiate with government authorities to minimize consequences for non-compliance.

The draft bill and proposed integrated mineral resources information system should, in theory, address these issues. According to EITI Mongolia, the bill requires mandatory compliance with the global EITI standard, including clear sanctions for noncompliance, and foresees the official establishment of the Mongolia EITI national council and secretariat, with state budget allocations. Under the intended legislation, releasing beneficial ownership information would be required to obtain permits to operate in Mongolia. The bill would also formalize civil society membership in the EITI National Committee, guaranteeing their participation.⁷ EITI Mongolia and Steps Without Borders consider passage of this bill to be fundamental to transparency in the extractive sector.⁸

The legislation would also mandate routine publication of an array of open extractive sector information, some of which has not previously been publicly available. This information includes minerals and oil exploration and exploitation licenses; land and water use permits; environmental and social impact assessment reports; environmental management plans and reports; mineral resources reserves, exploration, production and sales, prices, and revenue data; taxes, royalties, and fees paid to state and local budgets; rehabilitated land area and environmental protection expenditures; all contracts awarded by public agencies for subterranean resource exploitation, especially procurement and sales of state-owned enterprises; financial transactions, transfers, and budget allocations done with public agencies; and the Future Heritage Fund income and expenditures, efficiency assessments, and financial reports.⁹ The government intends to incentivize companies' publication of this information by easing automatic reporting, continuing to acknowledge compliant companies, and passing a Ministerial Order.¹⁰ However, the draft bill does not include a verification mechanism for information released. The Ministry of Mining and Heavy Industry did not reply to requests for comment on this commitment.¹¹

Opportunities, challenges, and recommendations during implementation

Under the previous action plan, delays within parliament postponed passage of the Mineral Resources Transparency Law. Moving forward, passage will require identifying parliamentary champions, as beneficial ownership transparency was not high on the agenda of political groups or members of parliament in 2021.¹² As mandated extractive sector information begins to be released, verification of the information may prove challenging. The following recommendations can facilitate effective implementation of this commitment:

- **Engage the Ministry of Finance** in supporting measures for extractive sector transparency under this commitment.
- **If the Mineral Resources Transparency Law does not pass**, add clauses on extractive sector transparency to amend the Mineral Law, the Heavy Industry Law, the Nuclear Energy Law, and the Common Mineral Law.
- **Develop a verification mechanism** for published extractive sector information. Adopt data standards that ensure extractive sector information released is reliable and accurate, with collaboration between government and civil society on development of these standards. Amend the National Audit Law to task the National Audit Office with due diligence on data disclosed.
- **Develop a mechanism for law enforcement agencies** to leverage the database to identify, investigate, and prosecute financial crimes.

Commitment Cluster 2 and 8: Legislation on Freedom of Information and the Press

For a complete description of the commitments included in this cluster, see Commitments 2 and 8 in [Mongolia's 2021-2023 Action Plan](#).

Context and Objectives:

This cluster of commitments intends to strengthen freedom of information and improve the press' operational environment in Mongolia, building on a commitment in Mongolia's second action plan, which supported efforts to pass the Law on Broadcasting adopted in 2019.¹³ Commitment 8 aims to protect source anonymity for journalists through amendments to the Law on Whistleblower Legal Status and the Freedom of the Press Law. To improve access to information, a milestone repeated in both Commitments 2 and 8 plans for an amendment to the Law on State and Official Secrets to establish a legislative procedure for defining the state secrets lists, rather than leaving state secrets to the discretion of cabinet resolutions or government agency decisions.

Potential for Results: Substantial

The Democracy Education Center considers this initiative to have substantial potential to achieve meaningful impact on freedom of the press.¹⁴ According to Reporters Without Borders, the Mongolian media's watchdog role has been limited to date by issues with government transparency and media legislation.¹⁵

Source anonymity is a key concern for journalists in Mongolia. The Public Radio and Television Management Law is the only law that protects source anonymity. In other sectors of journalism, these legal protections are absent. In response to critical reporting, investigative journalists are sometimes compelled to reveal the identity of their sources. According to the Globe International Center, a Mongolian CSO, coercion to disclose sources was common in 2020. For example, a journalist from the Arkhangai province received a letter from the province's police department urgently requesting collaboration in disclosing information on officers that had been sources for an article. Likewise, Zarig.mn received a similar letter from the national police

agency.¹⁶ Amendments to the Law on Whistleblower Legal Status and the Freedom of the Press Law could widen protection of source anonymity, filling an important legislative gap. Reporters Without Borders highlights protection of sources as an important area for media reform.¹⁷

A survey of 81 Mongolian journalists or media workers also revealed that access to information was considered an obstacle to free media by 95% of respondents. Respondents described a culture of silence in the government and civil service bureaucracy. Government bodies that refused to provide information to the journalists reportedly often saw the information as falling into the categories of private secrets, organizational secrets, or state secrets.¹⁸ Amendment to the Law on State and Official Secrets, including annulment of Articles 13.2 and 14.1, could open access to government information by limiting the discretion of cabinet resolutions or government agency decisions to withhold information. It is intended to narrow permissible limitations on the right to information to scenarios in which information is pertinent to the interests defined by law, assessment finds material damages would be caused by information disclosure, and these damages take precedence over the public interest of freedom of information.

Other milestones included in Commitment 2 have modest potential for results, and some are more relevant to other commitments. The commitment does not offer sufficient clarity on planned citizen participation in anti-corruption efforts, an initiative that is not aligned with the commitment's overall objective. It also does not offer details on the pandemic related information transparency measures or legislative amendments on citizens' right to know about environmental impact of mineral resource consumption. One of its milestones repeats milestones in Commitment 5 (which aim to evaluate the Law on Legislation, the Law on Public Hearing, and the General Administrative Law) but does not plan for implementing the resulting recommendations in legislative reforms. The milestones' lack of coherence and verifiability gaps limit the potential impact of this commitment.

Opportunities, challenges, and recommendations during implementation

To achieve legislative amendments on media freedoms, this initiative can leverage high-level political backing and engagement of the Mongolian Press Council and the Press Institute of Mongolia, organizations new to Mongolia's open government process.¹⁹ However, in terms of efficacy of planned legislative amendments, existing media freedom legislation has suffered from weak implementation,²⁰ which could continue to pose a challenge. As such, the IRM recommends the following:

- **Incorporate enforcement mechanisms** into planned amendments to the Law on Whistleblower Legal Status, the Freedom of the Press Law, and the Law on State and Official Secrets, to strengthen future implementation of these legislative measures.
- **Train relevant government officials** to build a culture supportive of proactive release of information.
- **Concretize indicators for milestones** without clear targets in Commitment 2, collaboratively including implementing agencies and civil society stakeholders. This would benefit initiatives on citizen participation in anti-corruption efforts, pandemic related information transparency measures, and legislative amendments on citizens' right to know about environmental impact of mineral resource consumption.
- **In future action plans, consolidate commitments** with overlapping milestones into a single commitment to streamline coordination and planning. Ensure that only

milestones which contribute to the commitment objective are included in each commitment.

Commitment 3: Public Engagement in Public Procurement

For a complete description of the commitment, see Commitment 3 in [Mongolia's 2021–2023 Action Plan](#).

Context and objectives:

According to GAN Integrity, Mongolia's public procurement process faces high corruption risks of bribes, irregular payments, and conflicts of interest.²¹ In recent years, the Independent Authority Against Corruption, journalists, and activists have reported many breaches of public procurement rules.²² This commitment is led by the State Procurement Agency and is the only commitment in the action plan initiated by a government agency.²³ It builds on the previous action plan, which progressed efforts to open access to online procurement data. This commitment aligns with the OGP value of transparency, as it aims to include a clause supporting open data principles in the Bill to Amend the Law on Procurement of Goods, Works and Services with State and Local Funds. It aims to fully digitize the public procurement process and introduce a new measure to limit awarding bids to companies with high corruption risks. Consistent with the value of civic participation, it includes efforts to increase citizens' engagement in evaluating procurement bids and hence improve public oversight of the process.

Potential for results: Substantial

To reduce misallocation of public funds, this commitment addresses gaps in citizen oversight of the public procurement process. Prior to this commitment, the contract transparency website publicly posted tenders online, accepted online bid proposal submissions, and listed entities that won tenders and copies of contracts.²⁴ Some paper-based bids were submitted manually and uploaded in a scanned non-machine-readable format. The process for awarding bids did not include citizens and was not sufficiently digitized to systematically cross-check bidders against criteria like those set by the Independent Authority Against Corruption. As a result, some companies won bids for which they were ineligible. No information was available on the contract transparency website regarding contract implementation.²⁵

In order to address these issues, this commitment plans to systematize Mongolia's public procurement process and widen opportunities for public oversight. In an interview with the IRM, the State Procurement Agency reported that it aims to stop accepting paper-based bids. With all bids available in a machine-readable format, it intends to introduce a system that automatically filters out bids using "red flag indicators" that signal noncompliance with criteria set by the Independent Authority Against Corruption. They would draw on data indicating corruption risks from government reports, beneficial ownership reports, public audits, and other data sources. This systematization of bid evaluation could help minimize misallocation of public procurement funds. Through this commitment, the State Procurement Agency also reported plans to form citizen-led groups to serve as their counterpart in evaluating procurement bids, which could improve the accountability of the procurement process (although this is not clearly delineated in the commitment text). Additionally, the commitment envisions uploading information on contract implementation to the contract transparency website,²⁶ in compliance with the Open Contracting Data Standard,²⁷ which could facilitate public and civil society monitoring of procurement projects. These measures would be supported by planned amendment of the procurement law, introducing clauses on transparency and open data principles.

Opportunities, challenges, and recommendations during implementation

The positive engagement of the State Procurement Agency in the open government process offers an opportunity to ambitiously implement this commitment's initiatives. However, the State Procurement Agency has not identified civil society partners for implementation. Additionally, it may be difficult to fully eliminate paper-based bid submissions from the public procurement process, given continued internet access gaps in Mongolia. To support this commitment's potential on the public procurement process, the IRM recommends the following:

- **Include civil society partners** in commitment planning and implementation. Build a formal partnership between the State Procurement Agency and relevant civil society organizations.
- **Engage CSOs in the citizen-led groups** to evaluate procurement bids, in addition to individual citizens.
- **If paper-based submissions continue** to be received, the State Procurement Agency could digitize paper-based submissions in a machine-readable open data format, rather than scanning these submissions.

Commitment 4: Legislation Protecting Civic Space

For a complete description of the commitment, see Commitment 3 in [Mongolia's 2021–2023 Action Plan](#).

Context and Objectives:

In November 2021, Mongolia's Ministry of Justice and Internal Affairs submitted the draft Law on Associations and the draft Law on Foundations to parliament. This legislation reflects the trend of a CSO registration process that has become increasingly restrictive since 1997, according to Steps Without Borders.²⁸ CSOs were not included in developing the laws and are concerned that they will restrict the rights to assembly and organization.²⁹ Consistent with the value of civic participation, this commitment plans to include civil society stakeholders in revising these draft laws. It also aims to develop a state and civil society partnership policy, simplify CSO registration procedures, and introduce a digital CSO registry system.

Potential for results: Modest

Through this commitment, CSOs stakeholders reported that they intend to leverage the open government process to incorporate their perspective into the pending draft Law on Associations and draft Law on Foundations.³⁰ CSOs are committed to withdrawal of these draft laws and development of a new law that responds to civil society needs. However, as written, the commitment does not explicitly refer to the pending bills or specify the particularities of how CSOs plan to influence them. Its relevant milestone broadly plans for "revision and improvement of the legal environment to ensure civic space for freedom of association, freedom of expression and independence of civic initiatives." Laying out targeted revisions to the draft bills would improve the verifiability of this central initiative.

Given concerns about the draft Law on Associations and draft Law on Foundations, this commitment is a key priority for civil society stakeholders involved in the open government process.³¹ The Mongolian Women's Employment Supporting Federation explains that in their current form, the draft laws could debilitate smaller CSOs. In order to register, CSOs would need to prepare documentation, make trips to the capital, and fulfill requirements like having a local bank account with at least 10 million MNT (\$3,450.95 USD). Informal CSOs with little

funding would not be able to meet these requirements and the laws could criminalize CSOs unable to register.³² The risks to CSOs' operating environment have elicited campaigns for withdrawal of the draft laws, spearheaded by the Democracy Education Center, Amnesty International Mongolia, the Media Council, and the Human Rights Forum, a union of 57 CSOs.³³

In terms of the commitment's other milestones, introducing the state and civil society partnership policy would bring a stalled, decade-long policy development process to fruition. This process was first initiated in 2012, but following elections that year, was abandoned until 2019, with progress stalling after 2020.³⁴ The government added the CSO registry to the commitment, and civil society stakeholders have not expressed concerns. The registry would collect information about CSOs working in Mongolia for monitoring purposes.³⁵

Opportunities, challenges, and recommendations during implementation

This commitment is an important opportunity for civil society to participate in developing a new draft law that responds to civil society needs. Beyond safeguarding against restrictive regulations, this process can support CSOs' self-governance, accountability, finances, and other resources.³⁶ However, the opportunity for a participatory process depends on engaging the support of champions in parliament, particularly in the Standing Committee on State Structure. In order to achieve this commitment's objectives, the IRM recommends the following:

- **To ensure a participatory deliberation process**, the Standing Committee on State Structure needs to organize public hearings involving civil society representatives to identify and assess the potential impact of provisions included in the draft Law on Associations and the draft Law on Foundations. Including CSOs with structural and financial limitations in deliberations will allow for development of more inclusive regulations.
- **Clarify concrete targeted revisions** to the draft Law on Associations and the draft Law on Foundations. Draw on international standards, engaging the technical support of partners like the International Center for Not-for-Profit Law, CIVICUS, or the OECD.
- **Ensure public accessibility** of all information on the CSO registry.

¹ EITI, "Mongolia" *EITI Mongolia* (26 Jan. 2022), <https://eiti.org/countries/mongolia>.

² IRM staff, *Independent Reporting Mechanism (IRM): Mongolia Design Report 2019–2021* (OGP, 3 Nov. 2021), 39, <https://www.opengovpartnership.org/documents/mongolia-design-report-2019-2021/>.

³ Erdenechimeg Dashdorj and Enkhtsetseg Dagva (Open Society Forum), interview by the IRM, 9 Nov. 2021.

⁴ Shar Tsolmon (EITI Mongolia), interview by the IRM, 5 Dec. 2021 and 2 Feb. 2022.

⁵ Grant Thornton Audit LLC, *Mongolia Fourteenth EITI Reconciliation Report 2019* (EITI, 2020), <https://www.eitimongolia.mn/p/68?locale=en>.

⁶ Mongol Advocates, "Reporting a Beneficial Owner" (accessed Apr. 2022), <https://advocate.mn/en/news/133/single/137>.

⁷ Tsolmon, interviews.

⁸ Ibid.; Namsrai Bayarsaikhan (Steps without Borders), interview by the IRM, 14 Feb. 2022.

⁹ Bayarsaikhan, interview.

¹⁰ Tsolmon, interview, 2 Feb. 2022.

¹¹ The IRM researcher contacted three representatives of the Ministry of Mining and Heavy Industry on 7 February 2022 but did not receive a reply.

¹² Michael Barron et al., *Beneficial ownership in Mongolia: A way forward* (Brookings, 23 Sep. 2021), <https://www.brookings.edu/research/beneficial-ownership-in-mongolia-a-way-forward/>.

¹³ Batbold Zagdragchaa, *Independent Reporting Mechanism (IRM): Mongolia End-of-Term Report 2016–2018* (OGP, 20 Aug. 2020), <https://www.opengovpartnership.org/documents/mongolia-end-of-term-report-2016-2018/>; T.

Baljmaa, "Law on Broadcasting adopted" (*Monstsame*, 12 Dec. 2019),

<https://montsame.mn/en/read/209738#:~:text=Ulaanbaatar%20%2FMONTSAME%2F.,contents%20and%20promoting%20media%20independence>.

¹⁴ Gombodorj, interview.

¹⁵ Reporters Without Borders, “Mongolia” (accessed 21 Mar. 2022), <https://rsf.org/en/mongolia>.

¹⁶ Purevsuren Boldkhuyag et al., *Media Freedom Report 2020* (Globe International Center (3 May 2021), https://www.gic.mn/public/docs/freedom_report/media_freedom_report_2020_en.pdf).

¹⁷ Reporters Without Borders, “UN human rights review on Mongolia: RSF urges members to join its call for press freedom reforms” (28 Oct. 2020), <https://rsf.org/en/news/un-human-rights-review-mongolia-rsf-urges-members-join-its-call-press-freedom-reforms>.

¹⁸ Boldkhuyag et al., *Media Freedom Report 2020*.

¹⁹ Gombodorj, interview.

²⁰ United Nations Democracy Fund, “Mongolia project strengthens media freedom and access to quality information in digital age” (accessed 21 Mar. 2022), <https://www.un.org/democracyfund/news/mongolia-project-strengthens-media-freedom-and-access-quality-information-digital-age>.

²¹ Risk & Compliance Portal, “Mongolia Corruption Report,” *GAN Integrity* (May 2020), <https://www.ganintegrity.com/portal/country-profiles/mongolia/>.

²² BTI Transformation Index, “Mongolia Country Report 2022” (Bertelsmann Stiftung, 2022), <https://bti-project.org/en/reports/country-report/MNG>.

²³ Undral Gombodorj (Democracy Education Center), interview by the IRM, 16 Feb. 2022.

²⁴ See “ТЕНДЕРИЙН УРИЛГА ХАЙХ” [Search for Tender Invitation] (accessed Apr. 2022), <https://www.tender.gov.mn/mn/index/>.

²⁵ Tserensambuu Nurenzedgombo (State Procurement Agency), interview by the IRM, 10 Nov. 2021 and 22 Feb. 2022.

²⁶ Nurenzedgombo, interview, 22 Feb. 2022.

²⁷ Open Contracting Partnership, “Open Contracting Data Standard” (accessed Apr. 2022), <https://standard.open-contracting.org/latest/en/>.

²⁸ Bayarsaikhan, interview.

²⁹ CIVICUS, “Arrest of Activist and Restrictive NGO Laws Proposed A Regressive Step by Mongolian Authorities,” (9 Mar. 2022), <https://monitor.civicus.org/country/mongolia/>; International Center for Not-for-Profit Law, “Mongolia” (3 Apr. 2022), <https://www.icnl.org/resources/civic-freedom-monitor/mongolia>.

³⁰ Ariuuna Shagdarsuren (Mongolian Women’s Employment Supporting Federation), interview by the IRM (17 Feb. 2022).

³¹ Gombodorj, interview.

³² Shagdarsuren, interview.

³³ International Center for Not-for-Profit Law, “Mongolia.”

³⁴ Ibid.

³⁵ Shagdarsuren, interview.

³⁶ International Center for Not-for-Profit Law, “Mongolia.”

Section III: Methodology and IRM Indicators

The purpose of this review is not an evaluation as former IRM reports. It is intended as an independent, quick technical review of the characteristics of the action plan and the strengths and challenges the IRM identifies to inform a stronger implementation process. This approach allows the IRM to highlight the strongest and most promising commitments in the action plan based on an assessment of the commitment per the key IRM indicators, particularly commitments with the highest potential for results, the priority of the commitment for country stakeholders, and the priorities in the national open government context. To determine which reforms or commitments the IRM identifies as promising, the IRM follows a filtering and clustering process:

Step 1: Determine what is reviewable and what is not based on the verifiability of the commitment as written in the action plan.

Step 2: Determine if the commitment has an open government lens. Is it relevant to OGP values?

Step 3: Commitments that are verifiable and have an open government lens are reviewed to identify if certain commitment needs to be clustered. Commitments that have a common policy objective or commitments that contribute to the same reform or policy issue should be clustered and its “potential for results” should be reviewed as a whole. The clustering process is conducted by IRM staff, following the steps below:

- a. Determine overarching themes. They may be as stated in the action plan or if the action plan is not already grouped by themes, IRM staff may use as reference the thematic tagging done by OGP.
- b. Review objectives of commitments to identify commitments that address the same policy issue or contribute to the same broader policy or government reform.
- c. Organize commitments by clusters as needed. Commitments may already be organized in the action plan under specific policy or government reforms or may be standalone and therefore not clustered.

Step 4: Assess the potential for results of the cluster or standalone commitment.

The filtering process is an internal process and data for individual commitments is available in Annex I below. In addition, during the internal review process of this product, the IRM verifies the accuracy of findings and collects further input through peer review, the OGP Support Unit feedback as needed, interviews and validation with country-stakeholders, and sign-off by the IRM’s International Experts Panel (IEP).

As described in the filtering process above, the IRM relies on **three key indicators** for this review:

I. Verifiability

- “Yes” Specific enough to review. As written in the action plan the objectives stated and actions proposed are sufficiently clear and includes objectively verifiable activities to assess implementation.

- “No”: Not specific enough to review. As written in the action plan the objectives stated and proposed actions lack clarity and do not include explicit verifiable activities to assess implementation.

* Commitments that are not verifiable will be considered “not reviewable” and further assessment will not be carried out.

II. Does it have an open government lens? (Relevant)

This indicator determines if the commitment relates to open government values of transparency, civic participation, or public accountability as defined by the *Open Government Declaration*, the *OGP Articles of Governance*, and by responding to the guiding questions below. Based on a close reading of the commitment text, the IRM first determines whether the commitment has an open government lens:

- **Yes/No:** Does the commitment set out to make a policy area, institutions, or decision-making process more transparent, participatory, or accountable to the public?

The IRM uses the OGP values as defined in the *Articles of Governance*. In addition, the following questions for each OGP value may be used as a reference to identify the specific open government lens in commitment analysis:

- **Transparency:** Will the government disclose more information, improve the legal or institutional frameworks to guarantee the right to information, improve the quality of the information disclosed to the public, or improve the transparency of government decision-making processes or institutions?
- **Civic Participation:** Will government create or improve opportunities, processes, or mechanisms for the public to inform or influence decisions? Will the government create, enable, or improve participatory mechanisms for minorities or underrepresented groups? Will the government enable a legal environment to guarantee freedoms of assembly, association, and peaceful protest?
- **Public Accountability:** Will the government create or improve opportunities to hold officials answerable for their actions? Will the government enable a legal, policy, or institutional framework to foster accountability of public officials?

III. Potential for results

Formerly known as the “potential impact” indicator, it was adjusted taking into account the feedback from the IRM Refresh consultation process with the OGP community. With the new results-oriented strategic focus of IRM products, this indicator was modified so that in this first review, it laid out the expected results and potential that would later be verified in the IRM Results Report, after implementation. Given the purpose of this Action Plan Review, the assessment of “potential for results” is only an early indication of the possibility the commitment has to yield meaningful results based on its articulation in the action plan in contrast with the state of play in the respective policy area.

The scale of the indicator is defined as:

- **Unclear:** the commitment is aimed at continuing ongoing practices in line with existing legislation, requirements, or policies without indication of the added value or enhanced open government approach in contrast with existing practice.
- **Modest:** a positive but standalone initiative or changes to process, practice, or policies. Commitments that do not generate binding or institutionalized changes across

government or institutions that govern a policy area. For example, tools like websites, or data release, training, or pilot projects.

- **Substantial:** a possible game changer to the rules of the game (or the creation of new ones), practices, policies, or institutions that govern a policy area, public sector, and/or relationship between citizens and state. The commitment generates binding and institutionalized changes across government.

This review was prepared by the IRM in collaboration with Ravio Patra and reviewed by Andy McDevitt. The IRM methodology, quality of IRM products, and review process is overseen by the IRM's International Experts Panel (IEP).

For more information about the IRM refer to the "About IRM" section of the OGP website, available [here](#).

Annex I: Commitment-by-Commitment Data¹

Commitment 1: Extractive Industry Transparency <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Substantial
Commitment 2: Access to Government Information <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • This commitment has been clustered as: Legislation on Freedom of Information and the Press (Commitments 2 and 8) • Potential for results: Substantial
Commitment 3: Public Engagement in Public Procurement <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Substantial
Commitment 4: Legislation Protecting Civic Space <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
Commitment 5: Public Participation on the Law on Public Hearing, the General Administrative Law, the Law on Legislation, and the Waste Management Law <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
Commitment 6: Public Participation in State Budget and Public Investment <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest
Commitment 7: Transparency of Medicine and Medical Devices <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Unclear
Commitment 8: Legal Environment Enabling Freedom of the Press <ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • This commitment has been clustered as: Legislation on Freedom of Information and the Press (Commitments 2 and 8)

<ul style="list-style-type: none"> • Potential for results: Substantial
Commitment 9: Digitalization, Availability, and Accessibility of Government Services
<ul style="list-style-type: none"> • Verifiable: Yes • Does it have an open government lens? Yes • Potential for results: Modest

¹ **Editorial notes:**

1. For commitments that are clustered: the assessment of potential for results is conducted at the cluster level, rather than the individual commitments.
2. Commitment short titles may have been edited for brevity. For the complete text of commitments, please see [Mongolia's 2021-2023 Action Plan](#).

Annex 2: Minimum Requirements for Acting According to OGP Process

According to OGP’s Procedural Review Policy, during development of an action plan, OGP participating countries must meet the “involve” level of public influence per the IRM’s assessment of the co-creation process.

To determine whether a country falls within the category of “involve” on the spectrum, the IRM assesses different elements from *OGP Participation and Co-creation Standards*. The IRM will assess whether the country complied with the following aspects of the standards during the development of the action plan, which constitute the minimum threshold:

1. **A forum exists:** There is a forum to oversee the OGP process.
2. **The forum is multistakeholder:** Both government and civil society participate in it.
3. **Reasoned response:** The government or multistakeholder forum documents or can demonstrate how they provided feedback during the co-creation process. This may include a summary of major categories and/or themes proposed for inclusion, amendment, or rejection.

The table below summarizes the IRM assessment of the three standards that apply for purposes of the procedural review. The purpose of this summary is to verify compliance with procedural review minimum requirements, and it is not a full assessment of performance under *OGP Participation and Co-creation Standards*. A full assessment of co-creation and participation throughout the OGP cycle will be provided in the Results Report.

Table 2. Summary of minimum requirements to act according to OGP Process

<i>OGP Standard</i>	<i>Was the standard met?</i>
A forum exists: The OGP National Council, Mongolia’s official multistakeholder forum, was established in 2014, but has not met since 2016. The National Council’s role in the co-creation process was to approve the action plan by email, after the action plan was finalized. The Working Group to Develop the National Action Plan (formed in September 2021) played an active role in conducting the co-creation process. ¹	Green
The forum is multistakeholder: The OGP National Council includes three civil society representatives and a greater number of high-level government officials, including ministers and chairs of agencies.	Green

Neither government nor civil society stakeholders were able to confirm the exact composition of the National Council to the IRM. The Working Group included eight representatives from government institutions, thirteen from civil society, and five from the private sector. ²	
The government provided a reasoned response on how the public’s feedback was used to shape the action plan: The government provided some verbal responses to proposals submitted during the co-creation process, but none were written, reasoned responses on how the public’s feedback was used to shape the action plan. ³	Yellow

While developing the action plan, Mongolia met the “involve” level of public influence per the IRM’s assessment of the co-creation process. Compared to the previous action plan, this reflects progress on providing a degree of reasoned response on how the public’s feedback was used to shape the action plan. Under the previous action plan, Mongolia was found to be acting contrary to OGP process,⁴ having not published a repository and fallen short of the minimum requirement for public influence during co-creation and implementation of the action plan, as required by the *OGP Participation and Co-Creation Standards*.⁵ To meet OGP standards during implementation, the IRM recommends:

- **Publish a repository** online, without barriers to access, linked to evidence, and updated regularly, in line with [IRM guidance](#).
- **Provide the public with information on action plan implementation.** To ensure ongoing dialogue with civil society, the Working Group to Develop the National Action Plan can continue to meet regularly to collaboratively discuss implementation, with updates on progress of the action plan and opportunities for joint problem-solving.

¹ Undral Gombodorj (Democracy Education Center), interview by the IRM, 16 Nov. 2021 and 16 Feb. 2022.

² Gombodorj, interview, 16 Feb. 2022.

³ Ibid.

⁴ OGP, “Procedural Review” (2022), <https://www.opengovpartnership.org/procedural-review/>.

⁵ Acting Contrary to Process: Country did not meet (1) “involve” during the development or “inform” during implementation of the action plan, or (2) the government fails to collect, publish, and document a repository on the national OGP webpage in line with IRM guidance.