



CENTRE FOR LAW
AND DEMOCRACY

Making the OGP Effective: Guidelines for Assessing OGP Action Plans

December 2012



Making the OGP Effective: Guidelines for Assessing OGP Action Plans



Centre for Law and Democracy (CLD)

**39 Chartwell Lane
Halifax, N.S.
B3M 3S7
Canada**

**Tel: +1 902 431-3688
Fax: +1 902 431-3689
Email: info@law-democracy.org
www.law-democracy.org**

Acknowledgements

This Analysis was drafted by Michael Karanicolas, Legal Officer, Centre for Law and Democracy, and Toby Mendel, Executive Director, Centre for Law and Democracy. Additional research was carried out by Maha al Aswad, Ahrum Lee, Katie Sammon and Helen Seifu, Interns, Centre for Law and Democracy.

© CLD, Halifax
ISBN – 978-0-9878751-5-0

This work is licensed under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Unported Licence.

You are free to copy, distribute and display this work and to make derivative works, provided you:

1. Give credit to Centre for Law and Democracy;
2. Do not use this work for commercial purposes;
3. Distribute any works derived from this publication under a licence identical to this one.

To view a copy of this license, visit:

<http://creativecommons.org/licenses/by-nc-sa/3.0/>

or send a letter to

Creative Commons,

444 Castro Street, Suite 900,

Mountain View, California, 94041, USA.

Table of Contents

Introduction	1
1. Consultations	3
2. Diverse, Targeted and Ambitious	10
3. Relevance to Core OGP Goals.....	14
4. Concrete and Specific	15
5. New Commitments	17
6. Timeframes	19
7. Scope of Coverage.....	20
8. Progressive Improvement.....	22
9. Monitoring and Evaluation.....	24
Conclusion	28

Introduction

Since it was launched in September 2011, the Open Government Partnership (OGP) has quickly become the world's most prominent international movement for improving government transparency. With the support of such high profile promoters as United States President Barack Obama and Brazilian President Dilma Rousseff, the OGP has, as of December 2012, attracted 58 Participating States. All of these have endorsed the OGP's Open Government Declaration, and thereby made a commitment to take concrete steps to advance the OGP's four core goals of enhancing transparency, citizen participation and accountability, and using technology and innovation to do so.¹

Although the commitment to these four goals is universal within the OGP, the specific measures Participating States take to advance them vary considerably based, among other things, on different countries' current level of achievement, ambition and capacity. The OGP Articles of Governance state explicitly that Participating States are free to map their own path forward: "No action plan, standard or specific commitments are to be forced on any country."²

Instead, the Articles of Governance highlight five common expectations. These include, in addition to endorsing the Declaration, that Participating States make concrete commitments through an action plan that "stretches the country beyond its current practice", develop that action plan "through a multi-stakeholder process", commit to a self-assessment and independent reporting on progress, and contribute to progress in other countries.³

The OGP envisages a process whereby Participating States deliver on their commitments to the OGP goals through the development and implementation of action plans. Only very basic substantive standards are set for those action plans, namely that they include concrete commitments that go beyond current practice. Thus, although Participating States commit to the stated goals of the OGP, precisely how these bold words will be translated into concrete reforms depends on the nature of the action plan which each country presents.

The OGP sets more developed procedural criteria for Action Plans, the first of which is the requirement of consultation with local stakeholders. On this, specifically, the common expectation is that plans will be developed, "through a multi-stakeholder process, with the active engagement of citizens and civil society." The Articles of

¹ The Declaration is available at: <http://www.opengovpartnership.org/open-government-declaration>.

² Articles of Governance, Addendum B: OGP Country Commitments, p. 21. Available at: <http://www.opengovpartnership.org/governance-staff-donors>.

³ The common expectations are found in the Expectations of OGP Stakeholders section of the Articles of Governance, at p. 3.

Governance go on to say that Action Plans are “living documents, [which] can and should be continually updated based on ongoing consultations with civil society.”⁴ As a result, the OGP places important reliance on the advocacy and involvement of civil society to ensure that action plans include proposals that will have a significant and targeted effect in terms of delivering OGP goals.

The second important procedural system within the OGP is the framework for reviewing action plans. Participating States are expected to publish annual progress reports on how they have met their action plan commitments. As a complement to the self-assessments, the OGP envisages an Independent Review Mechanism (IRM), whereby respected local experts will prepare an independent assessment report, under the overall guidance of an international expert panel. The OGP appears to have limited the scope of IRM feedback to three categories, namely the extent to which the action plan reflects the OGP’s “values and principles”, the extent to which the development of the plan was consultative and progress on implementing the commitments outlined in the plan: “The recommendations will not extend beyond the commitments articulated in the OGP action plan [and] the process that took place to develop them”.⁵ As a result, the IRM appears to have no mandate to evaluate the scope, scale or ambition of the commitments made in action plans.⁶

The OGP’s impact depends on the strength of Participating States’ action plans and this, in turn, depends in key ways on the effective engagement of local civil society and other stakeholders. It is, as a result, very important to the success of the OGP programme that civil society actors have the tools and expertise to participate successfully in the development and evaluation of proposed action plans.

This Report aims to assist in that process by proposing and providing an analysis of nine guidelines for assessing the quality of OGP action plans. These guidelines, which have been drawn in part from an analysis of the 47 OGP action plans that have been submitted so far and in part from better international practice in related areas, represent features associated with a strong action plan. As such, they provide a set of standards against which to assess the quality of an action plan.

This Report does not assess the strength of individual action plans, or apply the guidelines to any particular action plan. Such an assessment would require an in-depth understanding of the unique situation and challenges in each Participating State, knowledge that local civil society organisations and other stakeholders are best placed to provide. The purpose of this Report, and the guidelines it contains, therefore, is to provide a tool to assist local civil society groups both to participate in

⁴ Articles of Governance, p. 13.

⁵ Minutes from the 24-25 May 2012 meeting of the Criteria and Standards/Governance and Leadership Joint Sub-Committee in London, United Kingdom. Available at: http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/Minutes%20from%20London%20Meeting%20May%2024-25_Final.pdf.

⁶ See <http://www.freedominfo.org/2012/06/ogp-works-on-processes-faces-personnel-changes/>.

developing and to evaluate the strength of their country's action plan, and to contribute to their ability to advocate for strong OGP action plans.

1. Consultations

Guideline 1: The process for developing action plans should include a broad consultation process which allows for a wide range of stakeholders to be involved and which takes their inputs seriously

A strong OGP action plan must include a robust process of consultation. This will ensure that the plan takes into account a broad swath of public opinion, which is a prerequisite to marshalling broad public support and engagement. These virtues are perhaps particularly important for OGP processes, given that participation and accountability are at the very heart of the initiative.

The issue of public consultation has been considered in relation to analogous action plan processes. A good example is the UN High Commissioner for Human Rights' *Handbook on National Human Rights Plans of Action* (UN Handbook), which provides a very good sense of the key benefits of consultation in these sorts of circumstances:

At the same time, the manner in which a national action plan is developed will influence its chances of success. Key elements are the extent to which the plan enjoys high-level support and the breadth and depth of the consultation process.

...

It is often said that the process of developing the plan is as important as the document itself. This is because the process will determine:

- i. The extent of political support for the plan;
- ii. The extent to which relevant government agencies and NGOs are effectively involved;
- iii. Whether there is sufficient interaction between the various actors to ensure that the plan derives full benefit from their varying insights and perspectives;
- iv. How widely the plan is recognized and supported by the general public;
- v. How effectively the plan is monitored.⁷

A similar sentiment is expressed in the United Nations Development Programme's *Handbook on Planning, Monitoring and Evaluating for Development Results* (UNDP Handbook), which emphasises the need for stakeholders to suspend pre-conceived notions of the correct way forward, to be open to all points of view, and to be creative in the planning process. Broad participation is listed as being especially important to effective consultation:

It is important to bring stakeholders together not only for the resources they have but also because each has a unique perspective on the causes of the problems and what may be required to solve them. A government minister, a community member, a social

⁷ Office of the United Nations High Commissioner for Human Rights, *Handbook on National Human Rights Plans of Action* (New York and Geneva: United Nations, August 2002), pp. 13, 56. Available at: <http://www.ohchr.org/Documents/Publications/training10en.pdf>.

worker, an economist, a business person, a woman, a man and UNDP staff may all be involved in designing a plan—and may all have different views on what they are confronting and what changes they would like to see occur.⁸

The World Bank's guide on consultations, *Consultations with Civil Society Organizations: General Guidelines for World Bank Staff*, also notes the importance of engaging civil society organisations in the planning process, citing several positive impacts of effective consultation:

The primary objective of consultations is to improve the quality of decisions by: capturing the experience of specialized nongovernmental agencies, tapping the knowledge of CSOs that work at the community level, giving voice to the poor by consulting with CSOs whose membership comprises poor people, and giving sustainability for proposed reforms beyond any one government administration.

Secondary objectives of consultative approaches are: to appreciate the variation of needs of different population groups (e.g., gender, ethnic, or geographical variations); to set the ground for participatory approaches in the ensuing design and implementation of interventions; and to assist governments in increasing transparency, public understanding, and citizen involvement in development decisionmaking.⁹

The same document cites five key features of an effective civil society consultation:

- giving CSOs ownership by involving representatives in the design of the consultation process
- being clear from the outset what is and is not under consideration, to avoid unrealistic expectations
- demonstrating respect for those consulted through careful follow-up and feedback
- using appropriate selection procedures to ensure that all the relevant interests are represented
- tailoring types of interactions to the knowledge and capability of different groups¹⁰

Several States have also published guides to effective consultation which are useful in framing the general principles that should underlie an inclusive process. For example, the Australian government has published the following checklist:

Consultation Principles

- Continuity – consultation should be a continuous process that starts early in the policy development process.
- Targeting – consultation should be widely based to ensure it captures the diversity of stakeholders affected by the proposed changes. This includes State, Territory and

⁸ United Nations Development Programme, *Handbook on Monitoring and Evaluating for Development Results* (New York: United Nations Development Programme, 2009), p. 31. Available at: <http://web.undp.org/evaluation/handbook/documents/english/pme-handbook.pdf>.

⁹ The World Bank, *Consultations with Civil Society Organizations: General Guidelines for World Bank Staff* (Washington D.C.: The World Bank, 2000), p. 4. Available at <http://siteresources.worldbank.org/INTRANETSOCIALDEVELOPMENT/873204-1111663470099/20489515/ConsultationsWithCSOsGuidelines.pdf>.

¹⁰ *Ibid.*

local governments, as appropriate, and relevant Commonwealth departments and agencies

- Timeliness – consultation should start when policy objectives and options are being identified. Throughout the consultation process stakeholders should be given sufficient time to provide considered responses.
- Accessibility – stakeholder groups should be informed of proposed consultation, and be provided with information about proposals, via a range of means appropriate to those groups.
- Transparency – policy agencies need to explain clearly the objectives of the consultation process, the regulation policy framework within which consultations will take place and provide feedback on how they have taken consultation responses into consideration.
- Consistency and flexibility – consistent consultation procedures can make it easier for stakeholders to participate. However, this must be balanced with the need for consultation arrangements to be designed to suit the circumstances of the particular proposal under consideration.
- Evaluation and review – policy agencies should evaluate consultation processes and continue to examine ways of making them more effective.¹¹

The Scottish government's *Consultation Good Practice Guidance* emphasises similar points, including the need to plan thoroughly in advance based on the specific needs and objectives of the exercise, to tailor the questions based on the type of information sought and the identities of the participants, and to employ multiple avenues of communication and engagement in order to ensure that the process is as broad as possible.¹² The Scottish document also provides some guidance as to timelines, suggesting that respondents be given at least 12 weeks to respond to written surveys, and that all written responses should be made available to the public within 20 working days of the close of the exercise. At the same time, the *Consultation Good Practice Guidance* also emphasises the importance of flexibility, since every consultation will face unique needs and challenges.

These values also mesh closely with *Steps in a Formal Consultation Exercise*, put out by New Zealand's Office of Community and Voluntary Sector.¹³ Key points of this guide are that the agency should clarify the purpose of the consultation early on and determine the scope of the consultation and then plan the consultation based on these factors. This guide also advises agencies to analyse and evaluate the results not just with regard to the planned intervention, but also to use this information to evaluate the strength of the consultation for future reference.

These principles are highly relevant to ensuring that implementation is carried out consistent with the spirit of the OGP. The OGP clearly recognises the importance of

¹¹ Department of Finance and Deregulation, *Australia Government Consultation Requirements* (Commonwealth of Australia: 2008). Available at: <http://www.finance.gov.au/obpr/consultation/gov-consultation.html>.

¹² SE Civic Participation Research Team, *Consultation Good Practice Guidance* (Scottish Executive: 2004). Available at: <http://www.scotland.gov.uk/Resource/Doc/1066/0006061.pdf>.

¹³ Available at: <http://www.goodpracticeparticipate.govt.nz/levels-of-participation/one-off-consultation/steps-in-formal-consultation.html>.

involving civil society and a wider group of stakeholders in all of its process. Indeed, this is one of the key goals articulated in the OGP Declaration:

Support civic participation. We value public participation of all people, equally and without discrimination, in decision making and policy formulation. Public engagement, including the full participation of women, increases the effectiveness of governments, which benefit from people’s knowledge, ideas and ability to provide oversight. We commit to making policy formulation and decision making more transparent, creating and using channels to solicit public feedback, and deepening public participation in developing, monitoring and evaluating government activities. We commit to protecting the ability of not-for-profit and civil society organizations to operate in ways consistent with our commitment to freedom of expression, association, and opinion. We commit to creating mechanisms to enable greater collaboration between governments and civil society organizations and businesses.

As a matter of practice, the role of civil society is also recognised in the OGP structure, where CSOs are given an equal number of seats on the Steering Committee as are reserved for government representatives.¹⁴

Given these commitments, it is natural that the OGP should insist on an inclusive consultative process for the development of country action plans, so as to foster dialogue and cooperation between governments, civil society organisations (CSOs), the private sector and the public at large. Indeed, this is an issue in relation to which the OGP Articles of Governance provide very detailed and specific instructions:

OGP participants commit to developing their country action plans through a multi-stakeholder process, with the active engagement of citizens and civil society. Taking account of relevant national laws and policies, OGP participants agree to develop their country commitments according to the following principles:

- Countries are to make the details of their public consultation process and timeline available (online at minimum) prior to the consultation
- Countries are to consult widely with the national community, including civil society and the private sector; seek out a diverse range of views and; make a summary of the public consultation and all individual written comment submissions available online
- Countries are to undertake OGP awareness raising activities to enhance public participation in the consultation
- Countries are to consult the population with sufficient forewarning and through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage
- Countries are to identify a forum to enable regular multi-stakeholder consultation on OGP implementation—this can be an existing entity or a new one

Countries [are] to report on their consultation efforts as part of the self-assessment, and the independent reporting mechanism is to also examine the application of these principles in practice.¹⁵

¹⁴ Articles of Governance, p. 6.

¹⁵ Articles of Governance, Addendum B, p. 23.

Interpreting these principles in the context of the international better practices spelled out above, one of the biggest challenges is to **involve as many stakeholders as possible**, so as to ensure representation of as broad a cross section of society as possible. The need for **early and broad dissemination of consultation opportunities**, as well as wider **awareness raising about the OGP** and its various benefits and processes, are closely linked to this objective.

Different countries have used different methods to try and achieve this. South Africa's process relied heavily on the feedback of a single umbrella group representing over 3,500 CSOs, though the government contacted other independent groups as well.¹⁶ The United Kingdom does not have any comparable umbrella group, but the government reports that it reached out individually to over 15,000 stakeholders from different sectors.¹⁷ Indonesia also lacks major umbrella groups in relevant sectors and does not have as extensive a database as the United Kingdom. It asked large and influential CSOs to serve as "hubs" to solicit feedback from smaller organisations within their networks.¹⁸

A diverse consultative process should facilitate participation not just by CSOs but also by recognised experts, the public and the private sector. Oftentimes mechanisms that are well-suited to solicit feedback from some stakeholders will not be appropriate for others, necessitating a multi-tiered approach. A good example of this comes from Indonesia, which included feedback-oriented seminar sessions that engaged representatives from ministries, state-owned enterprises, the private sector, academics, CSOs and the media. These were supplemented by a series of collaborative focused group discussions organised by government representatives and academics, as well as the development of a website and the use of social media tools to solicit feedback from the broader public.¹⁹

Countries should be creative and proactive, making the best possible use of the resources at their disposal, to ensure that the consultation affords all relevant sectors and stakeholders with the opportunity to participate. Although the means of seeking feedback may differ based on national circumstances, there is no shortage of ways to ensure that that the process is inclusive.

The Articles of Governance do not include any specific timeframe for the consultation process beyond the need to provide "sufficient forewarning". It is, however, clear that a process which involves a wide range of stakeholders and otherwise meets the required conditions **will take time**. In the Philippines, as an

¹⁶ Open Government Partnership, *OGP Country Consultation: A Selection of Steering Committee Country Experiences* (December 2011), p. 12. Available at: http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/page_files/Summary%20of%20SC%20Action%20Plan%20Consultations_1.pdf.

¹⁷ *Ibid.* p. 13.

¹⁸ *Ibid.* p. 4.

¹⁹ Unless otherwise noted, all information about national approaches to the OGP process are derived from their respective Action Plans, available at: <http://www.opengovpartnership.org/countries>.

example, the process took place over seven months, and included several phases of consultations to brainstorm and then refine ideas for the action plan.

As noted above, action plans are living documents, and consultation processes should be designed which allow for the **continuous or ongoing provision of input**. As part of this, the OGP Articles of Governance call for a more permanent forum to be established so as to facilitate ongoing, regular consultations. This is certainly useful but it will usually not be enough, and other ongoing consultative opportunities should be created.

Ongoing consultations around the action plan should also envisage stakeholder **input in the government self-evaluation**. The OGP Articles of Governance envisage governments providing input into the independent reporting mechanism, and there are clearly benefits to enabling input the other way around, as well. These include final products which are likely to more closely resemble each other (as opposed to being very divergent) and a better mutual understanding of positions.

Proper consultation must also be genuine in nature, with participants' input being taken seriously and them being given an **opportunity to impact meaningfully on the development of the action plan**. The right to participate in a consultation is not the same as a right to have one's views taken into account, although the two are sometimes confused. But participants do have a right to a process which provides a real opportunity for them to impact on the actual outcomes, in particular through a fair consideration of their input. This should be reflected in the way the consultation is organised. In general, a two-or multi-stage process with an **initial brainstorming phase followed by an opportunity to respond to concrete proposals** is warranted.

South Africa presents an example of this, with the government holding preliminary consultations in all nine provinces in order to establish broad themes, followed by a two-day national conference to refine the content of the Action Plan. By contrast, while Canada went through an initial ideas gathering stage, in a process that made effective use of new technologies, no draft plan was released for public comment. The process in Canada was also criticised for "ideological bullying" on the part of the government, as well as for ignoring feedback on areas the government had not already been planning to address.²⁰ The online questionnaire which the Canadian government relied on for initial consultations²¹ reinforces this criticism, as the questions focused on how best to improve online information distribution, something the government had already determined should be a key focus of the OGP action plan.

²⁰ "The push for Open Government – up to a point", CBC News, 13 January 2012. Available at: <http://www.cbc.ca/news/politics/inside-politics-blog/2012/01/the-push-for-open-government-up-to-a-point.html>.

²¹ The questionnaire can be found at Open Government Canada, *Open Government Consultation Report: What We Heard* (Ottawa: March 2012). Available at: <http://open.gc.ca/consult/results-resultats08-eng.asp>.

An even worse example is found in the Holland's draft Action Plan, which was apparently prepared without any feedback or consultation whatsoever. To be fair, the Action Plan is still officially styled as a draft, and it states that consultations are scheduled which will coincide with impending discussions of amendments to the Government Information (Public Access) Act (WOB): "It would be illogical to make a statement about open government and only afterwards hold consultations about amending the WOB." However, given that the underlying goal of OGP is to foster expanded dialogue between government and the people, and that the potential scope of the plan is much wider than the access to information law, there is no justification for delaying OGP consultations until the WOB discussion. Indeed, the very fact that the WOB will be amended is part of the Netherlands' plan, an issue which should itself have been included in an OGP consultation.

The OGP Articles of Governance also call on governments to **make public a summary of the consultation** and to make written submissions available online. We believe that an effort should be made to go beyond this and to provide the **government's response to the main points presented** by civil society and other stakeholders. This is a key part of the system of accountability vis-à-vis the consultation itself, and also vis-à-vis the action plan, since this will provide the public with a strong government justification of the choices it has made in the plan.

The process of consultations around action plans should:

- Involve a wide range of stakeholders, including experts, CSOs, the private sector, academics and the public at large. To promote this, information about the consultations should be disseminated widely and broader awareness raising efforts should be conducted regarding the OGP.
- The consultation should be genuine, in the sense that the government is open to new ideas and considers all input fairly and seriously. This should normally mean an initial, more brainstorming phase, followed by an opportunity to respond to concrete proposals.
- Sufficient time should be allocated to the consultation process to allow for the above.
- After the adoption of the first action plan, an ongoing and continuous dialogue between government and stakeholders should be initiated, which should include a regular forum and other opportunities to provide input. This should also include consultation regarding government self-reporting on implementation of the action plan.
- A summary of the consultation process, along with all written submissions, should be made publicly available. The government should provide a reasonably detailed response to the input provided, and should explain why any prominent suggestions are not being followed.

2. Diverse, Targeted and Ambitious

Guideline 2: Action plans should include priority commitments which are targeted, diverse and appropriately ambitious

As noted earlier, the OGP Declaration identifies four core goals of enhancing transparency, citizen participation and accountability, and using technology and innovation to do so. However, the OGP Declaration identifies a range of policy commitments for each of these goals. Thus, under Transparency, Participating States commit to increasing access to information and proactive disclosure, and to facilitating interoperability of information systems within government. Under Citizen Participation, States commit to enhancing cooperation between government and other stakeholders, protecting the right of civil society organisations to operate, soliciting meaningful feedback, and expanding public participation in government. Under Accountability, States commit to combating corruption, including by offering protection to whistleblowers, enhancing transparency in public finances and procurement, and strengthening the rule of law. The effective harnessing of new technologies is linked to the promotion of all of these goals.

Action plan commitments are to reflect the four core OGP goals, and to be structured around the following five OGP grand challenges:

1. Improving Public Services—measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications and any other relevant service areas, by fostering public service improvement or private sector innovation
2. Increasing Public Integrity—measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom
3. More Effectively Managing Public Resources—measures that address budgets, procurement, natural resources and foreign assistance
4. Creating Safer Communities—measures that address public safety, the security sector, disaster and crisis response, and environmental threats
5. Increasing Corporate Accountability—measures that address corporate responsibility on issues such as the environment, anti-corruption, consumer protection, and community engagement²²

It is clear from the OGP documents that countries are free to choose what they put in their action plans, subject to the requirement to consult widely in their development: “[T]he nature of concrete commitments under any grand challenge area should be flexible and allow for each country’s unique circumstances”.²³

At the same time, the Declaration does not describe its goals as aspirational or optional. The detailed commitment areas referred to under each goal are all

²² Articles of Governance, Addendum B, p. 21.

²³ *Ibid.*

prefaced by the phrase ‘we commit to’.²⁴ As examples, Participating States “commit to”: “pro-actively provide high-value information”; “creating mechanisms to enable greater collaboration between governments and civil society organizations and businesses”; “having robust anti-corruption policies, mechanisms and practices”; and “supporting and developing the use of technological innovations by government employees and citizens”. None of these are optional. Participating States have promised to provide all of them.

These two apparently contradictory thrusts of key OGP documents – that States are free to choose what they will include in their action plans and yet must deliver all of the Declaration’s commitments – can be resolved through the idea that action plans are time limited concrete plans, which will evolve and develop over time. It is not realistic for countries to try to fulfil all of their Declaration commitments at one time. Instead, they must prioritise. As the Articles of Governance state: “Countries are charged with selecting the grand challenges and related concrete commitments that most relate to their unique country contexts.”²⁵

Given the diversity of problems that every country faces in truly delivering the promises contained in the Declaration, prioritisation becomes very important. As the UN Handbook expresses it:

Prioritization is a necessary management tool and is particularly important in the area of human rights because of the limited resources available in relation to the amount of work to be undertaken... Prioritization should be undertaken on a cooperative basis and it should be one of the prime tasks of the national coordinating committee. The following are some criteria for high-priority tasks:

- The severity of the problem identified in terms of its human rights impact;
- The cost implications of possible human rights “solutions”, taking into account the availability of resources;
- The impact of accomplishment of the task on other plan objectives; and
- The extent of public concern over the issue.²⁶

At a wider level, prioritisation applies to all areas of government activity, including other important needs that may be said to compete with the OGP commitments. Viewed in this light, an important underlying rationale for the OGP is precisely to give a priority boost to the activities it embraces. In this way, participation in the OGP not only signals a commitment to deliver the goals outlined in the Declaration, but to make this a priority within government.

From within the potential actions that might be taken to deliver on the OGP goals, prioritisation should be based on careful study of factors like the severity of the

²⁴ The paragraphs which follow the goal statements also include statements recognising the value of various programmes and approaches, but the concrete plans are all commitments.

²⁵ Articles of Governance, Addendum B, p. 21.

²⁶ UN Handbook, p. 65.

problems to be addressed, capacity to address them and the potential impact of different interventions.

A key consideration here will be the existing state of achievement of the goals. For example, countries like Sweden and the United Kingdom may not wish to include measures to address corruption or strengthen the rule of law in their action plans on the basis that they already have low levels of corruption and a strong rule of law, as well as effective measures to address any remaining weaknesses in these areas.

On the other hand, where a State has very serious problems in relation to one or another of the recognised areas of commitment, it would need good reasons to avoid focusing on them. Thus, Mexico and Indonesia may wish to prioritise actions in these areas, given the relatively serious problems they face regarding corruption and the rule of law. The process of consultation with local stakeholders is obviously an important priority setting process. Where stakeholders consistently identified an OGP commitment area as a priority, States would again need a good reason not to include it in their action plans.

There is some initial evidence that States may be avoiding some perhaps more difficult commitments in their action plans. For example, a recent study by the Centre for Law and Democracy on the treatment of the right to information (RTI) in OGP action plans found that many States with a critical need to reform their legal framework for RTI were failing to commit to doing so.²⁷ Most striking among these is Paraguay, which, despite not having in place any legal framework for RTI, failed to include any such commitment in its Action Plan. Greece, which placed third-last in the RTI Rating, a global study of legal frameworks for RTI, also omitted this issue from its Action Plan.

Capacity is another important consideration. For example, enhancing the interoperability of information systems within government may be less of a priority in countries which are still in the early stages of computerising government services.

Closely linked to this is the question of what is an appropriate level of ambition and thus diversity for action plans. While some countries may have little or no need for reform in some of the OGP's target commitment areas, no country in the world is so advanced that it does not have room for significant improvement in at least several of them. As a result, a strong OGP action plan should consist of a multi-track approach that will deliver progress in several areas at once.

Properly assessing the appropriate scope and ambition of an action plan requires an understanding of capabilities and capacity, the attitudes and needs of the public, civil society and the business sector in relation to the various issues. In addition, understanding the international context can be helpful, since it is likely that other

²⁷ Available at: <http://www.law-democracy.org/?p=2267>.

jurisdictions have dealt with these issues and their experiences can be instructive in helping countries to avoid the same pitfalls.

The OGP has specifically recognised the importance of international exchanges to increasing the level of ambition of weaker action plans:

To encourage the sharing of best practice and innovation and maintain high standards, all OGP countries are to participate in working level sessions with other participating governments and the OGP Steering Committee during the action plan development phase.

Through these presentations and discussions, governments with initially less ambitious proposals are to be able to identify gaps and address them early on. These peer consultation sessions are to also enable participants to identify the need for additional feedback from relevant technical experts on specific commitment areas, which the OGP networking mechanism can help facilitate.²⁸

An example of more diversity can be found in Colombia's Action Plan, which includes proposals for expanded e-government projects to facilitate citizen participation in the decision-making process, a unified open-access data initiative, the development of interoperable electronic systems within government, reform of the legal framework for access to information along with improving implementation, the development of a national strategy for reducing corruption, training and capacity building initiatives to enhance the effectiveness of civil society, the creation of an agency to oversee public procurement, the unification of information systems for fiscal control and expanded financial disclosure procedures for funds transferred from the federal to the regional governments.

Another marker of a well-crafted action plan is synergies between different branches of the plan. For example, the Philippines' Action Plan includes proposals for the passage of an access to information law, for enhanced transparency in public spending and for enhanced public participation in the budget process. This provides citizens with the ability to educate themselves about the government's spending practices while at the same time offering an opportunity to apply this knowledge to impact change.

Sweden's Action Plan, by contrast, is almost exclusively focused on expanding aid transparency, with little or no commitment to progress in other areas. Although Sweden is certainly starting from a higher baseline than Colombia or the Philippines, there is nonetheless room for improvement across a range of the OGP's target areas. Its Action Plan would be stronger if it adopted a more diverse approach.

²⁸ Articles of Governance, Addendum B, p. 22.

A strong action plan should:

- Contain carefully identified priorities based on areas of strength and weakness, capacity, and likely impact, as well as input provided by stakeholders through the consultation process.
- Be suitably diverse and ambitious, including by addressing multiple commitment areas, ideally in a way that promotes synergies between the different actions.

3. Relevance to Core OGP Goals

Guideline 3: All commitments in action plans should be relevant to the OGP's core goals

Open government is a broad and diverse concept, but there are nonetheless limits as to the range of ideas, practices and concepts that this term encompasses. One problematic tendency evident in some of the action plans submitted thus far has been for countries to bundle in projects that have little relevance to core OGP goals.

According to the OGP's Articles of Governance, commitments should be structured around one or more of the enumerated grand challenges, namely improving public services, increasing public integrity, more effectively managing public resources, creating safer communities and increasing corporate accountability. These are a mix of issues which cross-cut the OGP's core goals of transparency, citizen participation, accountability, and technology and innovation, such as improving services, and issues which are based more directly on them, such as increasing public integrity.

The purpose of the grand challenges is to keep action plans focused on key areas where open government is of particular importance. They should not, however, be seen as an invitation to include in action plans any activity which falls within their scope. Rather, to ensure that action plans are relevant to the work of the OGP, the Articles of Governance state that all commitments should reflect the OGP's core goals. As a result, commitments relating to cross cutting grand challenges – such as public safety, water, environmental threats and electricity – can legitimately be included in an OGP action plan only insofar as they advance the OGP's core goals.

The action plans of several OGP States fail to respect this principle properly. For example, Norway's Action Plan places a heavy emphasis on gender issues, including commitments aimed at ensuring equal pay for women, educating the public about gender stereotypes and combating domestic violence. While these are all worthy initiatives, their relevance to the OGP's core goals is tangential at best.

However, the most egregious examples of irrelevant proposals are found in Malta's Action Plan, which includes commitments to introduce a waste-separation process for Malta's beaches and to improve water clearance systems on roads. While clean beaches and safe roads are certainly causes that everyone can support, these proposals have absolutely no connection to the OGP's goals or even to the broader concept of open government, and consequently have no place within Malta's OGP Action Plan.

The inclusion of commitments which are not linked to the OGP goals dilutes the focus of OGP and allows countries to pad their action plans with irrelevant commitments while avoiding significant reform.

A strong action plan should:

- Maintain its focus on improving open government, with strategies that provide tangible progress towards that result.
- Avoid commitments that are only tangentially relevant to open government.

4. Concrete and Specific

Guideline 4: Action plan commitments should be concrete and specific

The idea of setting out specific goals is a cardinal principle of effective planning process. "Specific" is usually cited as the first letter of the common "SMART" acronym for measuring the quality of objectives or performance indicators.²⁹ A study initiated by the Development Assistance Committee of the Organisation for Economic Co-operation and Development (the OECD paper) placed specificity prominently within their list of key characteristics of results-based management employed by donor agencies to ensure project success:

1. Formulating objectives: Identifying in clear, measurable terms the results being sought and developing a conceptual framework for how the results will be achieved.
2. Identifying indicators: For each objective, specifying exactly what is to be measured along a scale or dimension.
3. Setting targets: For each indicator, specifying the expected or planned levels of result to be achieved by specific dates, which will be used to judge performance.³⁰

Similarly, the UN Handbook states:

²⁹ ITAD. *Monitoring and the Use of Indicators* (Consultancy report to DG VIII, European Commission, Brussels). 1996.

³⁰ OECD Development Assistance Committee, *Results Based Management in the Development Co-operation Agencies: A Review of Experience*, p. 10. Available at: <http://www.oecd.org/dataoecd/17/1/1886527.pdf>.

A national action plan must be tailored to the circumstances of the country concerned and each country will thus have a different starting point. But wherever that starting point may be, each country should formulate concrete measures to enable it to move forward in human rights terms.³¹

Within the context of the OGP, specificity is highly correlated with the concept of accountability. The clearer a commitment is, the easier it will be to assess whether or not a State has fulfilled it properly. In the OGP action plans submitted thus far, some commitments are so vague it makes it impossible to measure success objectively. For example, the Ukrainian Action Plan includes a commitment to:

18. Take steps aiming to regulate, by means of legislation, the delivery of administrative services.

So long as the government enacts some form of regulation around administrative services, they can justifiably claim to have fulfilled their commitment. Similarly, the Mexican Action Plan includes the following commitment:

25. The objective is to broaden the publication of socially useful information, the Mexican Government will update and strengthen the procedures through which Federal branches must identify and publish said data.

With such a broad target, it is difficult to formulate a clear idea of what constitutes success, and what constitutes failure. These can be contrasted with the following commitment from the United States:

• **Release and Implement Government wide Reporting Requirements for Foreign Aid.** These requirements will direct all Federal agencies that administer foreign assistance to provide timely and detailed information on budgets, disbursements, and project implementation. Agencies will be responsible for providing a set of common data fields that are internationally comparable. The information collected through the above initiative will be released in an open format and made available on a central portal – the Foreign Assistance Dashboard (ForeignAssistance.gov) – that will be updated quarterly

This is not to say that action plans should necessarily spell out every detail of their proposed projects. There is a difference between specificity and finality. Flexibility can, for example, be necessary where further consultation is required, or where aspects of a particular project depend on the success of preceding projects. The inclusion of some more flexible commitments is not necessarily a bad thing, as long as an action plan also includes more precise commitments.

The Canadian Action Plan, for example, commits to develop a Directive on Open Government in consultation with the Open Government Advisory Panel that the government established. While this could, like the Ukrainian or Mexican commitments cited above, be criticised for being unduly general, it is at least specific as an action, inasmuch as it is easy to measure whether or not it has been done.

³¹ UN Handbook, p. 72.

There is little precision regarding the content of the proposed Directive, but this is because this is a new idea and it is necessary to consult before finalising this.

As a focus for discussion and feedback it is important that action plans clearly present the intended path forward, even if they do not provide absolute finality, in order to allow for proper accountability for successes and failures as well as to ensure that stakeholders base their ongoing feedback on an accurate understanding of the proposed actions. Where aspects of a Plan are left to be determined this should refer to the process by which the commitment will be finalised, including any triggers for this (such as completion of a previous project).

A strong action plan should:

- Include commitments which are clear and specific.
- Where more flexible commitments are included, there should be a clear justification for this, which will often be the need for further consultations, and the process to finalise the commitment should be mentioned.

5. New Commitments

Guideline 5: The commitments in action plans should be new in nature

OGP action plan commitments should represent positive progress rather than simply a reiteration of what has already been done or is in the pipeline. This is reflected in the five common expectations found in the OGP Articles of Governance, which state that action plans should stretch the country “beyond its current practice”.³² However, the Articles of Governance also state that a country’s commitments “may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.”³³

Together these statements should be understood as meaning that, although a country’s commitments do not necessarily need to be entirely new, they should represent real and tangible progress above the current state of openness. In other words, commitments should go beyond any reforms that have already been announced. A country that merely repackages its existing plans under the rubric of OGP is reaping the benefits of OGP participation without deserving this.

While the idea that an action plan should propose real progress might seem obvious, many commitments in existing action plans do not meet this criterion. For example, El Salvador’s Action Plan states:

³² Articles of Governance, p. 3.

³³ Articles of Governance, Addendum B, p. 21.

This Action Plan for Open Government falls under the Anti-Corruption and Transparency Policy (PAT) of the Salvadoran government, which is currently in consultation and which in turn is part of the guidelines and commitments made by management President Mauricio Funes in the Five Year Development Plan 2010-2014 (PQD).

It is unclear from this description whether the government generated new proposals specifically for the OGP, or whether they are simply proposing commitments that have been recycled from the PAT or the PQD. At least one aspect of El Salvador's OGP Action Plan is not new. Their Action Plan includes a commitment to create an online newspaper called "Transparencia Activa"; the newspaper's website makes it clear that it was already up and running well before the April 2012 deadline for action plan submissions.³⁴

Georgia's Action Plan includes a commitment "to expand jury trials both geographically and according to the scope of their application." However, from the outset of Georgia's introduction of the jury trial system in October 2010, the government had announced its intention to expand the scheme's regional reach and applicability over the coming years.³⁵ In doing so, the government is simply making good on a pledge from 2010, bundling a previous promise into their OGP action plan. This is a recurring theme in Georgia's Action Plan, which also includes a commitment to implement a law on political financing that was passed in 2011. A pledge to implement an existing law cannot be considered a new commitment, since it adds nothing new to a government's existing obligations (governments are already obliged to respect the law).

This does not mean that prior commitments are irrelevant, or have no place in a country's action plan. It is useful to spell out what efforts have already been taken to advance openness in order to provide the background needed to contextualise new commitments properly. Furthermore, in many cases, States have already taken some action towards delivering on OGP goals. Taking these plans forward in new or more ambitious ways is also a legitimate OGP action plan commitment.

A strong action plan should:

- Include only commitments which are either entirely new initiatives, or represent tangible expansions of existing initiatives.
- Avoid presenting existing initiatives or obligations, such as implementation of a law, as new commitments.

³⁴ See <http://www.transparenciaactiva.gob.sv/nacional/social/2012/03/infectados-con-ah1n1-estan-fuera-de-peligro>.

³⁵ "Georgia: Jury trials aim to Bolster Public Confidence in Courts", EurAsianet, 1 October 2010. Available at: <http://www.eurasianet.org/node/62059>.

6. Timeframes

Guideline 6: Action plan commitments should be subject to specific and enumerated timeframes

Without timeframes, goals and commitments are essentially meaningless. Because the possibility of failure really only exists if there is a binding timeline for success, timelines are an essential part of accountability. As the UN Handbook noted, timelines are important “so that government and civil society have a global frame of reference for assessing the plan’s achievements and shortcomings.”³⁶

The OGP framework requires that action plans cover a minimum two-year period, with an expectation that governments publish an annual progress report within three months of the end of the first year.³⁷ Action plans should also provide more specific timeframes for the realisation of individual commitments:

Recognizing that achieving open government commitments often involves a multi-year process, governments should attach timeframes and benchmarks to their commitments that indicate what is to be accomplished each year, wherever possible.³⁸

More clarity and specificity are always preferable in this area. A strong action plan should include timeframes for each individual commitment, along with time-tested benchmarks for longer-term or more ambitious commitments, which can be used to assess progress along the way.

A strong example of this is Colombia’s Action Plan, which contains benchmarks within each commitment for where the project should be at the six month, one year, two year and three year marks. Another interesting approach is Indonesia, whose plan organises its commitments according to a “Triple Track Strategy” depending on their nature and scale. Initiatives designed to strengthen and accelerate existing programs are listed on Track 1. Track 2 is focused on establishing a common portal for public services, public participation and public institution openness programmes. Track 3 is for new innovations meant to establish best practice models in a particular pilot location. Each of these “tracks” has its own specific timeframe.

Some countries, such as the Philippines, Italy and Bulgaria, timeline certain commitments in their action plans, but not others. In contrast, several countries, including Greece, Lithuania, Mexico, Norway and South Africa, include no timeframes at all in their action plans.

³⁶ UN Handbook, p. 69.

³⁷ Articles of Governance, p. 13.

³⁸ Articles of Governance, Addendum B, p. 22.

A strong action plan should:

- Include specific timeframes for each commitment.
- Contain detailed benchmarks within these timeframes for longer or more complex commitments, so as to allow for ongoing assessment of whether the project is proceeding according to schedule.

7. Scope of Coverage

Guideline 7: Action plans should include all relevant actors both as targets and beneficiaries

Although only national-level governments can sign on to OGP, the concept of openness is obviously not limited to the highest levels of government. This is addressed in the Articles of Governance:

Countries may focus their commitments at the national, local and/or sub-national level— wherever they believe their open government efforts are to have the greatest impact.³⁹

It is worth noting that, in many parts of the world, local governments have a far more profound and direct impact on the day-to-day lives of people than national governments. Although it is often easier to apply open government schemes at the national level, particularly when dealing with decentralised systems of government, there is now an increasing recognition of a concomitant need for measures at the local level.⁴⁰ As a result, a strong action plan should involve participation from all levels of government.

Although the core OGP documents make only limited reference to local actors, the Declaration does specifically recognise the need to make information available about all levels of government. Coverage of local bodies also flows from the nature of the commitments in the Declaration. Commitments such as to foster participation in decision making, to enable civil society actors to operate and to combat corruption cannot be delivered successfully if only national measures are contemplated.

By necessity, different countries will need to approach this in different ways depending on their governmental structure and level of development. Indonesia, for

³⁹ *Ibid.*

⁴⁰ See, for example, Sade Laja, “Open data must not be neglected by local government: Nigel Shadbolt”, *The Guardian*, 15 March 2012. Available at: <http://www.guardian.co.uk/government-computing-network/2012/mar/15/local-open-data-nigel-shadbolt>; “All panchayats in Punjab to go online soon”, *Zee News*, 15 May 2012. Available at: http://zeenews.india.com/news/punjab/all-panchayats-in-punjab-to-go-online-soon_775519.html.

example, with its large and diversely distributed population and decentralised system of government, would have difficulty applying a uniform openness program across every local district. However, their action plan contains proposals for a series of “pilot projects” designed to improve openness in targeted regional and municipal governments. If these programs are successful, the action plan calls for them to be rolled out more broadly over the years to come.

Although the majority of OGP initiatives will naturally target the public sector, there are other actors that have a significant role in advancing open government. This is particularly true when dealing with corruption, an issue that also involves the private sector. This is described on Transparency International’s website, which devotes a page to corruption in the private sector:

Corruption distorts markets and creates unfair competition. Companies often pay bribes or rig bids to win public procurement contracts. Many companies hide corrupt acts behind secret subsidiaries and partnerships. Or they seek to influence political decision-making illicitly. Others exploit tax laws, construct cartels or abuse legal loopholes. Private companies have huge influence in many public spheres. These are often crucial – from energy to healthcare.⁴¹

Given the role that the private sector plays in corruption, an effective anti-corruption strategy should by necessity target those who might pay bribes, as well as those who might accept them. For example, Brazil’s Action Plan includes a corporate responsibility component in order to prevent corruption, as well as an initiative to promote business ethics and integrity. The Mexican Action Plan also includes business integrity components, as well as a program to encourage companies to disclose details about corporate governance and their environmental policies.

Another issue that warrants consideration in crafting an action plan that impacts the entire country is that, in many States, there is a significant gap between rural and urban levels of development. This is particularly relevant when considering the tech-centric proposals that permeate the OGP. A drive to enhance public participation in government through online consultations may see outstanding success within cities, while being totally ineffective at reaching rural villagers. Web-based schemes will be of limited utility in Liberia, for example, given that Internet penetration in that country is currently just 7%.⁴²

A strong action plan should consider these challenges and should be developmentally inclusive, with initiatives whose impact will be felt beyond just the wealthy or urbanised areas. For example, Kenya’s Action Plan includes a proposal to expand and accelerate the establishment of “Pasha centres”, rural Internet hubs, with the aim of ensuring that their Action Plan’s initiatives for online participation in governance are as broadly accessible as possible.

⁴¹ See http://www.transparency.org/topic/detail/private_sector.

⁴² Source: Google/World Bank Statistics.

A strong action plan should:

- Include initiatives to improve openness at all levels of government.
- Involve the participation of other actors, such as corporations, where appropriate.
- Be designed so as to apply universally, without neglecting any region or group, taking into account technological and developmental variances.

8. Progressive Improvement

Guideline 8: Action plans should provide for progressive and continuing improvement

Even for the most advanced of the OGP membership, establishing truly open government will be a significant and ongoing process. This is reflected in the OGP Declaration, which states:

We acknowledge that open government is a process that requires ongoing and sustained commitment. We commit to reporting publicly on actions undertaken to realize these principles, to consulting with the public on their implementation, and to updating our commitments in light of new challenges and opportunities.

We pledge to lead by example and contribute to advancing open government in other countries by sharing best practices and expertise and by undertaking the commitments expressed in this declaration on a non-binding, voluntary basis.

...

We commit to espouse these principles in our international engagement, and work to foster a global culture of open government that empowers and delivers for citizens, and advances the ideals of open and participatory 21st century government.

Based on this, initial OGP action plans should properly be considered as the beginning of a process of continual improvement and advancement. They represent a step towards the broader target of open government, which would theoretically be represented by the full achievement of all of the goals set out in the OGP Declaration. At the same time, the very standards and better practices relating to open government can be expected to advance as the global community moves forward. This will be reflected in upward movement in terms of the standards relating to the commitments spelled out in the Declaration and perhaps ultimately the addition of new commitments.

Action plans should be envisaged and designed so as to accommodate a trajectory for ongoing improvement over time. To put it another way, commitments in an action plan should not be considered as the goal, but merely as steps or benchmarks along the path to that goal. There will be a need to adapt the plans as circumstances change or to take into account lessons learnt. As the OGP Articles of Governance

state: “As living documents, [action plans] can and should be continually updated based on ongoing consultations with civil society.”⁴³

Action plans should provide for a clear trajectory of continuous improvement by allowing for constant re-evaluation and improvement. The concept of ‘incrementalism’ has been espoused by Charles Lindblom, the Sterling Professor Emeritus of Political Science and Economics at Yale University, and one of the world’s most influential planning theorists. The central idea behind incrementalism is that the most effective way to tackle major problems is through a continuous series of incremental improvements, breaking major policy shifts into more easily attainable baby-steps and allowing for adaptable planning, and for the path forward to be made and remade as often as is necessary to stay on course to the ultimate goal. According to Lindblom, “incremental change patterns are, under ordinary circumstances, the fastest method of change available.”⁴⁴

Applying this concept to the OGP framework, an effective action plan should envisage a steady and gradual improvement in open government, which will allow for continued progress on the same track over time. At a functional level, this implies that the process of consultation around the plans, both as to implementation and as to improvement and adaptation, should essentially be continuous. This is implicit in the quotation above and has already been noted under Consultations.

A good example of this is found in Colombia’s Action Plan, which calls for “Prosperity Agreements” – dialogue mechanisms between the government and citizens – to be re-evaluated and strengthened throughout the OGP implementation period, allowing for a set of enhanced goals to be established once the original improvements have begun to take shape. The “right to data” branch of the United Kingdom’s Action Plan also reflects this philosophy well, with an emphasis on continuous improvement among public service providers as measured against a determined “Five Star Rating for Open Data”.

Georgia’s Action Plan calls for the creation of an NGO Forum which will meet once a month to support and monitor the implementation of Georgia’s OGP commitments. Similarly, Sweden’s Action Plan states:

Through consultations and dialogue with CSOs, Sweden continuously receives input to the process and reviews how to publish more data in response to feedback from CSOs and to move closer to complete fulfilment of the IATI [International Aid Transparency Initiative] standard.

Indonesia’s Action Plan also states that it intends to retain the consultative tools that were developed to prepare the action plan, including the open government website,

⁴³ Articles of Governance, p. 13.

⁴⁴ Charles E. Lindblom, “Still Muddling, Not Yet Through” (1979) 39:6 Public Administration Review 517 p. 520. Available at: <http://mail.archonfung.net/docs/temp/LindblomStillMuddling1979.pdf>.

social media, mobile reporting for citizens and the various offline forums and expert consultations.

In addition, and where appropriate, consideration should be given to explicitly providing for the extension of OGP commitments beyond the lifetime of the action plan or for longer-term commitments. Any extended timelines should not, however, be used to provide for flexibility in terms of the degree of ambition of plans. That is to say, commitments should be ambitiously, if realistically, timelined, so that longer timelines of three or four years are not used for commitments which should be able to be delivered within two years.

An example of good use of longer timelines is found in the Philippine action plan, which contains several longer-term OGP commitments. In order to increase accountability in local governance, the Philippines' plan commits to expanding compliance with the "Seal of Good Housekeeping" from 50% to 70% of cities and municipalities within 360 days, but further pledges to push compliance to 100% by 2016. Similarly, the Philippines' plan promises to enhance internal auditing procedures in nine key departments within 360 days, and in all agencies by 2016.

A strong action plan should:

- Envisage a process of ongoing incremental improvement, based on ongoing consultation and adaptation and development of plans.
- Consider including a vision of longer-term commitments whose implementation extends beyond the life of the plan itself.

9. Monitoring and Evaluation

Guideline 9: Action plans should allow for effective monitoring and evaluating of progress

Monitoring and evaluation overlaps with several of the other guidelines, including the need for plans to be specific, time-tested and progressive, and to feature inclusive mechanisms for consultation. But an effective system of monitoring and evaluation is important not only in relation to these other aspects of a strong plan, but also in its own right.

It is vital that monitoring and evaluation processes be done well. As the United Kingdom's Royal Statistical Society put it, "Good performance monitoring is productive for all concerned but done badly, it can be very costly, ineffective, harmful and destructive."⁴⁵

⁴⁵"The trouble with targets", OECD Observer, December 2004 – January 2005. Available at: http://www.oecdobserver.org/news/archivestory.php/aid/1519/The_trouble_with_targets.html.

The UNDP Handbook describes the basic features of a good monitoring and evaluation framework as follows:

A clear framework, agreed among the key stakeholders at the end of the planning stage, is essential in order to carry out monitoring and evaluation systematically. This framework serves as a plan for monitoring and evaluation, and should clarify:

- What is to be monitored and evaluated
- The activities needed to monitor and evaluate
- Who is responsible for monitoring and evaluation activities
- When monitoring and evaluation activities are planned (timing)
- How monitoring and evaluation are carried out (methods)
- What resources are required and where they are committed⁴⁶

The UNDP Handbook also includes a list of key questions that should be considered as part of the monitoring and evaluation process, including identifying from the outset the amount of **time, talent, technology and financial resources to be allocated** to the activities, the **roles and contributions of major actors** in the process, how the plan or strategy evolved over the course of delivering the activities, the **intended beneficiaries**, the tangible gains and **improvements that are anticipated**, the chain of development that is expected to **link specific activities to these gains** and improvements, and the **concomitant risks** associated with these processes, the **level of improvement that would constitute success**, how these specific improvements **relate to broader development priorities** and the **efficacy of the process** of evaluation itself.⁴⁷

Although the UNDP Handbook's list of considerations is the most thorough, several other aid institutions provide frameworks for monitoring and evaluation that touch on similar themes. The Organisation for Economic Co-operation and Development lists its main evaluation principles as the relevance of the activity to the overall goals of the programme, its effectiveness in achieving its objectives, its efficiency, its impact and its sustainability.⁴⁸ The European Union employs an initial planning phase that includes a requirement to connect every activity to the overall objective of the intervention as a whole.

These principles dovetail with the broader strategy of results-based management (RBM) which has been embraced by national development agencies.⁴⁹ The basic principle underlying RBM is that every activity, product and service in a particular programme should be causally connected to the programme's overall goal. These

⁴⁶ UNDP Handbook, p. 83.

⁴⁷ *Ibid.*, pp. 90-91, 164.

⁴⁸ Organisation for Economic Co-operation and Development, *DAC Criteria for Evaluating Development Assistance*. Available at: <http://www.oecd.org/dac/evaluationofdevelopmentprogrammes/daccriteriaforevaluatingdevelopmentassistance.htm>.

⁴⁹ See: <http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/ANN-102094249-J4B> and <http://www.sidaresearch.se/apply-and-report/result-based-management.aspx>.

goals are generally considered in the short, medium and long term, with monitoring at every stage in order to ensure that programmes are on track. Programmes should also be continuously monitored with these results in mind, and approached with flexibility to allow for adaptation where plans are failing to meet their objectives.

In terms of consultation and citizen engagement, key to a good monitoring and evaluation process, a critical feature is that systems for this should be generally accessible. The United Nations Human Settlements Programme suggests the establishment of hotlines and ombudsmen as effective feedback mechanisms.⁵⁰ The technological focus of OGP suggests that online solutions may provide a better fit for more developed societies, though these should be complimented by offline feedback mechanisms in order to allow access for those without an Internet connection.

It is important to distinguish here between general commitments to enhance consultation and a specific commitment to consult in relation to monitoring and evaluation. For example, Canada's Action Plan commits to expanding public consultations associated with the legislative process, but it also calls for the solicitation of feedback on the utility of the open data portal the government has promised to create as part of its OGP commitments.

From these documents, we can extract the following key monitoring and evaluation features that are relevant to OGP action plans:

1. *What: Identification of success.* Plans should set clear benchmarks for what constitutes success. This should point to a baseline (i.e. existing situation), the achievements sought through implementation of the plan and, very importantly, how these will contribute to the wider OGP goals. In some cases, particularly for technical commitments, this may appear obvious but even something as apparently technical as establishing a central data portal needs clear success criteria (is it enough just to have the portal in place, do there need to be systems to ensure that data will be linked through it, is a certain minimum level of data availability sought?)
2. *Who: Primary actors and consultations.* Plans should identify who will be involved in conducting monitoring and evaluation activities. This should involve a proper process of consultation specifically around evaluation. It is important to ensure that all views are taken into consideration, with a particular need to engage the stakeholders that participated in the initial consultations.
3. *When: Time-lining evaluation.* Plans should provide a clear progression for when monitoring (presumably reasonably constantly) and evaluation activities will take place.

⁵⁰UN Habitat, *A guide for Municipalities: Inclusive and Sustainable Urban Development Planning , Volume 1: An Introduction to Urban Strategic Planning*, (Nairobi: United Nations Human Settlements Program, 2007), p. 14. Available at: <http://www.unhabitat.org/pmss/listItemDetails.aspx?publicationID=2662>.

4. *How: Monitoring and evaluating achievements.* Plans should set out clearly how monitoring and evaluation will take place. This should include indicators for monitoring and measuring success, a description of how those indicators will be monitored, and an overview of evaluative methodologies and approaches.
5. *Resources: Proper resource allocation.* Plans should indicate the level of resources needed for the monitoring and evaluation process. This needs to take into account the fact that a significant amount of the evaluative process will likely take place at or near the end of the activities, and should include not only financial resources but also the allocation of dedicated staff time.

Monitoring and evaluation of countries' action plans is a central aspect of the OGP framework. According to the Articles of Governance:

All participating OGP governments are to publish an annual progress report approximately three months after the end of the first 12 months of action plan implementation. This report should assess government performance in living up to its OGP commitments, according to the substance and timelines elaborated in its country action plan. This report should be made publicly available in the local language(s) and in English and deposited on the OGP portal.⁵¹

As a complement to the official reporting system, the OGP also includes an Independent Reporting Mechanism composed of “well-respected governance researchers, preferably from each OGP participating country” whose report will be published by the OGP after being vetted by a panel of international experts. The exact structure, nature and role of the IRM were still being finalised as this report was being finalised.

However, while the Articles of Governance include substantial detail on some key issues for action plans – notably in the areas of commitments and consultation – they are largely silent on how plans should be designed so as to facilitate the process of reporting on progress described above. In practice, very few plans contain any detail on the issue of monitoring and evaluation.

This weakness of the OGP framework for monitoring and evaluation is illustrated by Brazil's first-stage assessment, the first of its kind, which was completed in October 2012.⁵² The assessment is formally very thorough in documenting the material progress made on each pledge, citing which have been completed and which are ahead of or behind schedule. However, since the original Action Plan did not include clear indicators for success, it is not possible to conduct a proper evaluation of this.

⁵¹ Articles of Governance, p. 13.

⁵² The document is available at:

http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/Brazil_s%20Action%20Plan-OGP-Assessment%20-%20ENG.doc

For the vast majority of commitments, the assessment simply notes that a deliverable (for example a particular website or portal) has been established with no discussion of the scale with which it is being used, or the reported satisfaction of users with the service. The assessment includes a few figures that point to success, such as the fact that 153,000 people across the country participated in conferences on transparency and social control, and that a transparency portal related to fishermen's insurance recorded an average of 28,546 visits per month, but by and large this type of information is the exception rather than the rule.

To give a concrete example, the Action Plan calls for the "Development of a Guide and/or Primer for public officials on access to information". The assessment notes that a Guide has indeed been published, and provides a very brief description on what it contains, along with an indication that it has been posted on various websites and that it is used in various training programmes. There is nothing in the assessment on the process by which the guide was developed, whether anyone was consulted, feedback from officials on whether they find it useful, comments from officials or the media or civil society on the quality or utility of the guide, or any evidence that officials actually use it. Despite this, Brazil gets a full checkmark for achieving this commitment.

Unless proper monitoring and evaluation systems are built into action plans from the outset, the review process will almost inevitably be doomed to the problems reflected in the Brazilian assessment.

A strong action plan should:

- Contain detailed monitoring and evaluation components which reflect the five key features noted above.

Conclusion

From a political standpoint, openness is a tricky subject for democratic governments to address. No government wants to appear to be overly secretive, lest its people grow suspicious about what kind of malfeasance it may be hiding. At the same time, every government has things that it would rather keep from its population. In some cases this is to protect against potential losses at the ballot box, in others it is to conceal outright corruption or criminality. As a result, there is an inclination for many governments to take actions that maximise the appearance of transparency, while resisting any reforms that might actually allow citizens to learn embarrassing truths about those in power. The OGP should be about fostering real progress, and resisting the tendency of governments to limit themselves to superficial reforms.

There is an old saying that a tool is only as good as its user. While the OGP has the potential to be a tremendous force for positive change around the world, the actual impact that the initiative will have largely depends on the level of engagement of its participants. For States, this means the submission and fulfilment of strong action plans designed for maximum impact in improving government openness. For CSOs, this means advocacy and engagement to push States to adopt stronger and more ambitious action plans, and to prioritise the fulfilment of the goals contained therein. This activism is particularly important given that, as this Report demonstrates, the action plans submitted thus far show a mixed record of strong and weak proposals, of countries that have demonstrated a honest desire to move forward and countries that seek to exploit the high profile of the OGP while avoiding substantive commitments as far as possible.

Whether or not a particular action plan is strong, or provides a good way forward in terms of government openness, is a contextual question that must be left to local stakeholders to answer. However, the guidelines outlined in this Report are designed to provide a useful tool for those stakeholders to use to assess action plans' strengths and weaknesses. It is hoped that this will, in turn, help to better direct local advocacy efforts.

These guidelines are a tool for anyone to use. Indeed, the Centre for Law and Democracy strongly encourages local stakeholders to take ownership of the guidelines, and to use them to assess the action plans which have been adopted in their countries. We are ready and willing to help with this process if groups want us to. Otherwise, we hope groups will use the guidelines on their own, and we look forward to reading about the results.