



## **Submission to Canada's Open Government Consultations**

**September 2014**

On 24 April 2014, the Government of Canada announced the commencement of consultations to develop its second Action Plan on Open Government. The Action Plan is part of Canada's participation in the Open Government Partnership (OGP), an intergovernmental movement whose member States meet minimum openness standards and which agree to make further commitments to openness.

We welcome Canada's participation in this worthy initiative and the fact that the government is making concrete proposals to become more open and participatory. At the same time, the Centre for Law and Democracy (CLD) has consistently called for the government to improve the substance and depth of its engagement with the OGP. In September 2013, CLD released a Report on Canada's performance in the first phase of the OGP, which assessed the consultations process for developing the first Action Plan, the scope and ambition of the commitments in that Action Plan and the government's success in meeting those commitments.<sup>1</sup> Among the findings of that Report were that the initial consultation process was far too limited and controlled, and that it had failed to conform to the OGP standard of being substantive and inclusive. The Report also criticised the commitments in the first Action Plan for being unambitious. It is worth noting that both of these criticisms were echoed in the official review of Canada's OGP progress carried out by the Independent Reporting Mechanism.<sup>2</sup>

In November 2013 CLD, in collaboration with Publish What You Pay, Canada, drafted a series of proposals to ensure that the next phase of consultations would

---

<sup>1</sup> Centre for Law and Democracy, "Open Government Partnership (OGP) Progress Review of First Year Implementation of the Action Plan", September 2013. Available at: [www.law-democracy.org/live/wp-content/uploads/2013/09/Canada.Y1-assessment.pdf](http://www.law-democracy.org/live/wp-content/uploads/2013/09/Canada.Y1-assessment.pdf).

<sup>2</sup> Mary Francoli, "Canada Progress Report 2012-13", Open Government Partnership, February 2014. Available at: [www.opengovpartnership.org/sites/default/files/Canada\\_final\\_2012\\_Eng.pdf](http://www.opengovpartnership.org/sites/default/files/Canada_final_2012_Eng.pdf).

conform to OGP standards, including that the process should be transparent, in the sense of presenting a clear picture of how the process will function from start to finish, inclusive, in the sense of involving as wide a range of stakeholders as possible, and genuine, in the sense that feedback received is meaningfully factored into the decision making process.<sup>3</sup>

This Submission, part of the consultation process for developing Canada's next Action Plan (Action Plan 2.0), provides feedback on two main issues. First, we consider the strength of the consultations, and whether they have met the OGP's standards. Second, we offer feedback on some of the proposed ideas that have been submitted.

### ***The Consultation Process***

Consultation and stakeholder participation are meant to be hallmarks of the OGP process. Indeed, given that one of the chief aims of the OGP is to “empower citizens”, it is fundamentally important that action plans be developed through robust consultative processes. Addendum C of the OGP's Articles of Governance sets out in some detail the minimum conditions for consultation:

Consultation during development of action plan

- Availability of timeline: Countries are to make the details of their public consultation process and timeline available (online at a minimum) prior to the consultation;
- Adequate notice: Countries are to consult the population with sufficient forewarning;
- Awareness-raising: Countries are to undertake OGP awareness-raising activities to enhance public participation in the consultation;
- Multiple channels: Countries are to consult through a variety of mechanisms—including online and through in-person meetings—to ensure the accessibility of opportunities for citizens to engage;
- Breadth of consultation: Countries are to consult widely with the national community, including civil society and the private sector, and to seek out a diverse range of views; and
- Documentation and feedback: Countries are to make available online a summary of the public consultation and all individual written comment submissions.<sup>4</sup>

---

<sup>3</sup> The Proposals are available at: [www.law-democracy.org/live/proposals-for-a-framework-for-consultation-on-the-second-canadian-ogp-action-plan/](http://www.law-democracy.org/live/proposals-for-a-framework-for-consultation-on-the-second-canadian-ogp-action-plan/).

<sup>4</sup> The Articles of Governance are available at: [http://www.opengovpartnership.org/sites/default/files/attachments/OGP%20ArticlesGov%20March%2019%202014\\_1.pdf](http://www.opengovpartnership.org/sites/default/files/attachments/OGP%20ArticlesGov%20March%2019%202014_1.pdf).

Canada's first consultation signally failed to live up to these standards. This was noted by the IRM report, among others, which levelled two main criticisms against the consultations process. First, the IRM noted that participation was quite low, which it attributed to the fact that the process took place exclusively online and benefitted from very limited outreach or awareness raising. Second, the IRM criticised the quality and breadth of the consultation, which was based on pre-defined questions, thereby limiting the ability of participants to propose ideas outside of those which the government had already decided to prioritise. Similarly, the government never presented a draft Action Plan for commentary, depriving citizens of the chance to respond to concrete government proposals.

Steps have been taken to respond to these criticisms, and Canada's current round of consultations has been significantly improved over the first round. In order to provide broader scope for public input, the Action Plan 2.0 consultations are taking place over a longer time period and are divided into three parts. According to the government, the first phase, which solicited input as to how the consultation itself should be run, was scheduled to take place from 24 April to 15 May.<sup>5</sup> The second "ideas" phase, which was to solicit ideas for inclusion in the Action Plan, was scheduled to take place from 15 May to 30 June.<sup>6</sup> The third "activities" phase, which sought to further refine the ideas which have been selected for the Action Plan, was scheduled to run until mid-September.

As with the first round of consultations, this round involves opportunities to participate online. The majority of this discussion is routed through Canada's Open Government Portal, which hosts a forum for visitors to post ideas or comments, as well as to express support (similar to a Facebook "like") for previously posted remarks. Participation was also facilitated through the Treasury Board's twitter account. The current round of consultations also includes a series of face-to-face public discussions, which are taking place in different cities across the country from 27 June until an as yet undetermined date in October. These have been supplemented by participation of the OGP consultation team in the programmes of three conferences in April, May and October.<sup>7</sup>

Although the process is much improved from the first round, significant problems remain. An initial problem has been the lack of clear communications about the process, in particular regarding dates. Although there are good graphics illustrating the flow of the process, there is no clear indication of the dates of the different

---

<sup>5</sup> See the government's press release at: [news.gc.ca/web/article-en.do?nid=842049](https://news.gc.ca/web/article-en.do?nid=842049).

<sup>6</sup> See [news.gc.ca/web/article-en.do?nid=848169](https://news.gc.ca/web/article-en.do?nid=848169).

<sup>7</sup> The schedule is available at: [data.gc.ca/eng/content/open-government-action-plan-20-consultation](https://data.gc.ca/eng/content/open-government-action-plan-20-consultation).

phases (although a press release with the initial schedule was sent out at the beginning of the process). Furthermore, these seem to have changed rather fluidly. For example, a 15 May statement indicated clearly that the ideas phase would only be open until June, but Treasury Board officials, who are overseeing the consultations, indicated to us at a face-to-face meeting on 11 September 2014, that this had been extended to the end of August. And a blog post summarising the Idea Dialogue suggests that it took place from April until July.<sup>8</sup> As of the date of this Submission (19 September 2014), we have still not been able to find a definitive official notice for the correct dates.

The changing schedule, and the lack of an accurate and publicly posted timeline, violate the OGP's principles of "adequate notice" and "availability of timeline". While allocating more time for dialogue may always seem to be a good thing, this kind of fuzziness, the absence of clear information about the nature and reason for the changes tends to degrade and confuse the process. This is somewhat intangible, but it is difficult for external stakeholders to engage properly in the absence of a clear and stable framework. At a very minimum, once any changes had been made, notice of this should have been posted prominently on the website which, as far as we can tell, does not contain any accurate schedule for the consultations.

Another concern is that the problem of government seeking to control the process seems to have persisted. We are not aware of the extent to which discussion at the in-person events was in general directed towards pre-determined themes, and to what extent participants were able to suggest their own ideas and activities. However, the 11 September session, which CLD representatives attended, was highly controlled.<sup>9</sup> The agenda of the Edmonton consultation, which took place on 27 August, suggests that that session followed roughly the same format. One of the main criticisms of the first OGP consultation was that the dialogue lacked meaning since it channelled participants into expressing opinions on pre-selected activities. The online ideas dialogue did allow participants a higher degree of freedom, but the in-person events should have allowed for an equally open exchange. We understand the need to refine the conversation as the process moves forward, but the degree of control manifested went well beyond this.

Another problem is that, overall, the level of participation in Canada's OGP consultations remains troublingly low. This is particularly true for civil society. According to government figures, as of 24 July, 163 people had participated in the

---

<sup>8</sup> See [data.gc.ca/eng/blog/canadas-action-plan-open-government-20-consultation](http://data.gc.ca/eng/blog/canadas-action-plan-open-government-20-consultation).

<sup>9</sup> Furthermore, this consultation, the only in-person event to take place east of Montreal, occurred after the close of the ideas phase. As a result, apart from the online discussions, Atlantic Canadians were not afforded any opportunity to contribute to the ideas dialogue.

process in-person.<sup>10</sup> However, only 17% of participants hailed from the “community/non-profit” sector. By far the highest participation came from government employees, who constituted 42% of attendees. This is obviously problematic, given that the OGP consultation is meant to be heavily targeted towards participation by civil society and the public at large. This is reflected in the core philosophy of the OGP of facilitating dialogue between government and civil society.<sup>11</sup>

Participation in the online consultation has also been disappointing and seems likely to end up being lower even than for the first Action Plan. According to the Treasury Board, the online consultation for the first Action Plan attracted responses from 260 individuals.<sup>12</sup> Although it is difficult to independently assess the number of participants accurately, since users can post ideas anonymously or under generic pseudonyms, well under one hundred people had participated in the online consultations as of 25 August.<sup>13</sup>

There may be many reasons for low participation in the online consultations, including generally limited engagement among civil society on this issue, attendance at the in-person events in lieu of contributing online and scepticism among at least some parts of civil society as to the genuineness of the consultations.

However, there are clear signs that the outreach efforts by government were not as robust as they could have been. For example, some of the contributions to the online discussion urged the government to do more to reach out as part of the process.<sup>14</sup> When CLD invited those on its mailing lists to participate in the 11 September event, individuals across the county, including many who are relatively engaged on these issues, responded by noting that they had no idea that a consultation was ongoing and expressing interest in participating in the event remotely (we suggested they submit a comment via the website). Many of the Halifax-based stakeholders who CLD invited were also unaware that a consultation was being held. Little effort seems to have been made by the government to use its contacts to reach out to a wider range of groups and individuals. All of this suggests that the Canadian government's efforts, while better than in the first round, still have a long way to go.

---

<sup>10</sup> See [data.gc.ca/eng/blog/canadas-action-plan-open-government-20-consultation](http://data.gc.ca/eng/blog/canadas-action-plan-open-government-20-consultation).

<sup>11</sup> See [www.opengovpartnership.org/how-it-works/civil-society-dialogue](http://www.opengovpartnership.org/how-it-works/civil-society-dialogue).

<sup>12</sup> The government's reporting is available at: [data.gc.ca/eng/open-government-consultation-report](http://data.gc.ca/eng/open-government-consultation-report).

<sup>13</sup> Based on the number of unique usernames posting on the discussions pages at [data.gc.ca/eng/consultations/activities-discussion-action-plan-20-discussions](http://data.gc.ca/eng/consultations/activities-discussion-action-plan-20-discussions).

<sup>14</sup> See [data.gc.ca/eng/Publicize\\_this\\_consultation\\_more\\_widely](http://data.gc.ca/eng/Publicize_this_consultation_more_widely) and [data.gc.ca/eng/Crowdsourcing](http://data.gc.ca/eng/Crowdsourcing).

We also note a serious problem of trust between the government and some civil society sectors, which may inhibit participation. A number of NGOs which have been critical of the government, in particular those benefitting from charity status, have been subjected to tax audits, which has created a wider chilling effect among such NGOs. There is likely also carry-over scepticism of the OGP process due to the way the first round of consultations were handled. In such a context, it is even more incumbent on government to make an effort to engage civil society.

In this regard, it is worth noting an incident which took place at an Open Government event organised by CLD in Halifax immediately following the government's OGP 11 September consultation, which was attended by three Treasury Board representatives. The event was meant to be an opportunity for meaningful dialogue between the government and a smaller group of expert stakeholders. Among the participants were two journalists, who were invited by CLD because they are known to be prolific users of the access to information system. As soon as the government representatives learned that there were journalists present, they announced that they would be unable to speak in the session, or respond to any of the points raised or questions asked since, according to Canadian government policy, a media representative would need to be present for them to make any comments "on the record".<sup>15</sup> The fact that Canada's open government representatives were unable to discuss the country's open government strategy without being overseen by a press relations officer speaks volumes about the problems in the government's approach to openness and why there is scepticism about the government's commitment to openness. Open government is not about public relations, or presenting a groomed and crafted image to the public of what the government is doing. On the contrary, it is about honest, open relations and information exchanges between government and the people.

### ***Comments on the Proposals for Canada's Next Action Plan***

#### **1. The Action Plan should include a commitment to reform the access to information law, rather than merely to improve its administration.**

Access to information is a critical component of open government, as reflected in the fact that it is one of the four eligibility criteria for joining the OGP. For all the undeniable benefits of open data, it is not a substitute for an effective mechanism for

---

<sup>15</sup> A report on this by one of the journalists is available at:  
<http://www.halifaxexaminer.ca/featured/minding-the-media-morning-file-friday-september-12-2014/>.

making requests for information. Journalists, civil society activists and everyday citizens rely on such requests as a vital tool to ensure government accountability, to safeguard their rights and to expose government malfeasance. Governments will work hard to avoid proactively publishing information which exposes fraud or mismanagement, or which is sensitive or embarrassing. As any journalist will tell you, this kind of information can normally only be uncovered through a request for information.

Canada's Access to Information Act (ATIA) is badly out of date and has not been substantially improved since it was passed over thirty years ago, despite the fact that standards of openness have evolved dramatically since then.<sup>16</sup> For years, CLD has been calling for root and branch reform of Canada's access to information law. We are not alone in this. Indeed, virtually every major civil society group in the country whose mandate touches on this issue is in agreement on the need for major law reform in this area.<sup>17</sup> As part of the consultation for Canada's first OGP Action Plan, all of Canada's information oversight bodies, including the federal Information Commissioner, submitted a joint letter asking the government to reform the ATIA as part of its OGP commitments.<sup>18</sup> Reform of the ATIA was also suggested during the "idea dialogue" of the Action Plan 2.0 consultation, notably by the Canadian Association of Journalists.<sup>19</sup>

Rather than pledging to substantially reform the ATIA, Canada's first Action Plan pledged only to modernise its administration, namely through instituting an online payment and requesting service, standardising the system across public bodies and publishing completed access requests in a searchable format. As the IRM noted in its review, all three of these commitments are unambitious, incremental steps forward.<sup>20</sup> For example, Mexico and the United States have had in place systems to file and pay for requests for information online for years. This approach is not nearly sufficient to provide the kind of substantive improvements Canada's system

---

<sup>16</sup> For a full discussion of the need for reform of the ATIA, see Centre for Law and Democracy, "Response to the OIC Call for Dialogue: Recommendations for Improving the Right to Information in Canada", January 2013. Available at: [www.law-democracy.org/live/wp-content/uploads/2012/08/Canada.RTI\\_Jan13.pdf](http://www.law-democracy.org/live/wp-content/uploads/2012/08/Canada.RTI_Jan13.pdf).

<sup>17</sup> See, for example, the 2012 Joint Submission to the Universal Periodic Review on the State of Freedom of Expression in Canada, which was coauthored by CLD, Canadian Journalists for Free Expression, Lawyers' Rights Watch Canada, BC Freedom of Information and Privacy Association and PEN Canada, available at: [http://www.law-democracy.org/live/wp-content/uploads/2012/08/Canada.UPR\\_Oct12.final.pdf](http://www.law-democracy.org/live/wp-content/uploads/2012/08/Canada.UPR_Oct12.final.pdf).

<sup>18</sup> Office of the Information Commissioner of Canada, Letter on Open Government to the President of the Treasury Board (Ottawa: January 2012). Available at: [http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi\\_2012\\_1.aspx](http://www.oic-ci.gc.ca/eng/rr-sl-odi-adi_2012_1.aspx).

<sup>19</sup> Available at: [data.gc.ca/eng/Access\\_to\\_Information%25252BAct](http://data.gc.ca/eng/Access_to_Information%25252BAct).

<sup>20</sup> Note 2, p. 29.

needs.

In the proposals for the second Action Plan, the ATIA does not even warrant treatment as an idea, and instead falls under the rather generic idea heading Open Information – Openness, Transparency, Accountability. One of the potential activities listed there is: Continuing to modernize the administration of Access to Information. It is, therefore, clear that the government has once again decided not to engage in reform of the ATIA and, instead, to limit its engagement with Canada's broken access system to administrative measures, presumably of a limited nature (or they would have been given greater profile among the ideas and activities).

This is a grave mistake. The outdated and insufficient nature of Canada's legal regime for access to information is, without question, the most serious deficiency in our current open government framework. While administrative improvements are always welcome, they cannot remedy the profound problems with the law. Key existing problems – such as overly expansive exceptions, the lack of binding timelines, limits on the powers and mandate of the Information Commissioner, and the limited scope of the law in terms of its coverage of public institutions – need legislative solutions.

CLD recommends that, rather than merely committing to modernise the administration of the ATIA, the government engage in substantial reform of the law. The proper formula for reform is relatively easy to pinpoint, since for years critics of the law, including successive Canadian Information Commissioners, have pointed to the same problems time and again.<sup>21</sup>

If attempts to improve ATIA are to be limited to matters of administration and implementation, the government should at least make a clear commitment to address the most glaring problems in the system. For example, over-classification and the misuse of exceptions remains a major problem. According to the latest report of Canada's Information Commissioner, the 2013-2014 cycle saw a 30% increase in complaints, over three-quarters of which were upheld (i.e. found to be meritorious). About 60% of all complaints related to refusals, i.e. substantive rejections of requests as opposed to problems in the processing of requests, many of which were upheld.<sup>22</sup> This is clear evidence that Canada's public officials need

---

<sup>21</sup> Notes 16-19. See also Parliamentary Information and Research Service, *The Access to Information Act and Proposals for Reform* (6 June 2012), p. 2. Available at: <http://www.parl.gc.ca/Content/LOP/ResearchPublications/2005-55-e.pdf> and David McKie, "Access to Information Act turns 30 amid calls for reform", *CBC News*, 7 July 2012. Available at: [www.cbc.ca/news/politics/access-to-information-act-turns-30-amid-calls-for-reform-1.1148320](http://www.cbc.ca/news/politics/access-to-information-act-turns-30-amid-calls-for-reform-1.1148320).

<sup>22</sup> See [www.oic-ci.gc.ca/telechargements-downloads/userfiles/files/eng/reports-publications/annual-reports/OIC\\_AR2014\\_web\\_E.pdf](http://www.oic-ci.gc.ca/telechargements-downloads/userfiles/files/eng/reports-publications/annual-reports/OIC_AR2014_web_E.pdf).



further training in how to properly apply the exceptions within the law and, more broadly, that there is a need for a culture shift away from the current overly-cautious approach to disclosure.

Delays in responding to requests for information are also a major problem. Although comprehensive data on the overall timeliness of responses among Canadian institutions is not available, a recent audit by Newspapers Canada suggests that extensions beyond the law's 30-day limit have become the norm rather than, as the ATIA mandates, an extraordinary measure.<sup>23</sup> The average response time according to that study was 52 days, and one public body requested an extension of 340 days in response to a relatively straightforward request for briefing notes on the derailment and explosion at Lac Megantic, Quebec. Several other responses in the same study were subjected to extensions of over one hundred days. Clearly these are not earmarks of a system which is functioning well. A number of measures might improve performance here including better record management, an increase in resources to information officers and general steps to enhance the priority of processing requests in a timely fashion.

The government should include concrete goals in the Action Plan to address these problems. In terms of over-classification, one option might be to provide more training to officials on how to apply the exceptions in the law. The development of interpretive tools, such as guides and overviews of decisions in relation to certain types of exceptions, to support officials tasked with interpreting exceptions might be another area of commitment. Another possibility would be to track and publicly report on the use of exceptions by different public bodies, with a view to creating public pressure to avoid relying on a shopping list of possible exceptions when refusing a request.

In terms of timelines, government should set targets for responsiveness (i.e. the Action Plan should set concrete commitments to have public bodies process requests more quickly). For example, it might make a commitment to have at least 80% of all public bodies process at least 80% of all requests within the original 30-day time limit. This could then be passed onto public bodies, who could be required to provide an explanation to Treasury Board if they failed to meet these commitments.

## **2. The Action Plan should focus exclusively on improving open government within Canada.**

Under the idea The Potential of Open Data in the current proposals, one of the

---

<sup>23</sup> The study is available at: [www.newspaperscanada.ca/public-affairs/FOI2013-14](http://www.newspaperscanada.ca/public-affairs/FOI2013-14).

potential activities listed is: Providing support to developing countries to advance their Open Data activities. As an international organisation that works to globally to promote transparency, CLD is a major supporter of efforts to assist developing countries in this area. However, this type of commitment does not belong in Canada's OGP Action Plan.

Action Plan commitments are supposed to focus on improving openness and transparency within the country. The OGP does expect members to contribute to enhancing open government in other countries, but this is considered separately from the Action Plan process.<sup>24</sup> The OGP documents do not explicitly prohibit countries from including foreign aid projects in their Action Plans, but it is clearly assumed that the commitments should be domestic in nature. For example, the OGP National Action Plan Template and Guidelines state that the Action Plan should discuss "why open government efforts are important for the country" and "outline the governance reform priorities for the country".<sup>25</sup> The same document states: "Successful OGP action plans focus on ambitious national open government priorities". To our knowledge, no other government has tried to include improving open government abroad as part of its open government commitments.

### **3. Allow government employees to speak honestly and openly with the public.**

Under the idea The Potential of Open Data in the current proposals, a second potential activity is: Hosting online chats with government subject-matter experts on released data. This is complemented by another idea, Open Science, which includes an activity to publish more federally funded research.

We welcome these ideas, but note that it is important for government experts engaging with the public to be able to speak freely and offer honest opinions. As noted earlier, open government should not be conflated with public relations. Transparency will naturally improve a government's standing with the public through enhancing trust, fostering dialogue between officials and citizens and promoting informed participation in public affairs. However, it is core to the notion of open government that citizens should be presented with information which is accurate, complete and unfiltered, especial from subject experts. Efforts to control or otherwise manage the message that the public receives seriously undermines this.

---

<sup>24</sup> See: [www.opengovpartnership.org/about/faqs](http://www.opengovpartnership.org/about/faqs).

<sup>25</sup> Available at:

<http://www.opengovpartnership.org/sites/default/files/attachments/Action%20Plan%20Template%20and%20Guidance%202014.pdf>.

Over the past years, there have been a series of stories alleging that government employees are being “muzzled” in their interactions with the public.<sup>26</sup> If efforts to facilitate greater dialogue between the public and government experts are to be successful, they need to be complemented by parallel moves to ease restrictions on government employees, and particularly government scientists, on speaking publicly. These efforts should also be implemented in a proper spirit of openness, so that government experts are not confined by restrictions on what they can and cannot say, and that the experts will not be chosen to participate in these online chats based on the likelihood that they will present a rosy picture of the current government's achievements.

#### 4. Other ideas

CLD endorses the proposal, made by Priya Sood in the online “idea dialogue”, that Canada create a centralised registry of the beneficial owners for all companies operated, registered and traded in Canada.<sup>27</sup> Several G8 countries are considering this legislation as a positive step towards curbing corruption, money laundering and tax evasion.<sup>28</sup> At the October 2013 OGP Summit, the United Kingdom made a very high-profile commitment to publish a “registry of the ‘beneficial owners’ of British companies”<sup>29</sup> and the United States has included a commitment along these lines in its current (December 2013) OGP Action Plan.<sup>30</sup>

Under the idea Open Contracting, CLD recommends a much more concrete commitment. One idea would be to adopt a clear rule on open contracting, for example that all contracts above a particular dollar figure, such as \$5,000, will be disclosed proactively. Parties doing business with government should be made to understand that this is one of the conditions governing such a relationship. There could be some scope for redactions, such as where the contract includes trade or business secrets, but this should be understood as exceptional (i.e. would apply only in those relatively rare cases where this sort of material was included in the actual

---

<sup>26</sup> See, for example, Emily Chung, “Muzzling of federal scientists widespread, survey suggests”, *CBC News*, 21 October 2013. Available at: [www.cbc.ca/news/technology/muzzling-of-federal-scientists-widespread-survey-suggests-1.2128859](http://www.cbc.ca/news/technology/muzzling-of-federal-scientists-widespread-survey-suggests-1.2128859).

<sup>27</sup> The proposal is available at: [data.gc.ca/eng/Beneficial\\_Ownership\\_Transparency](http://data.gc.ca/eng/Beneficial_Ownership_Transparency).

<sup>28</sup> Global Witness and Christian Aid, “Company ownership: which places are the most and least transparent?”, November 2013. Available at:

[www.globalwitness.org/sites/default/files/library/GW\\_CA\\_Company%20Ownership%20Paper\\_download.pdf](http://www.globalwitness.org/sites/default/files/library/GW_CA_Company%20Ownership%20Paper_download.pdf).

<sup>29</sup> See <http://www.opengovpartnership.org/get-involved/london-summit-2013/agenda/session/company-ownership-transparency>.

<sup>30</sup> Available at:

<http://www.opengovpartnership.org/sites/default/files/US%20National%20Action%20Plan.pdf>.

contract).

Under Open Science, CLD recommends that the government should commit to publishing not only peer-reviewed scientific publications, but all federally funded research, including everything done by academics as part of their regular duties. This could be subject to an exception for a right of first publication (such as where an academic is in the process of compiling their work for publication in a scientific journal).

Under Open Dialogue, CLD suggests that the government make a commitment not only to provide “guidance” to federal departments on how to conduct effective consultations but to move forward to develop a set of principles and standards for all consultation processes. This would need to be somewhat general in nature, to accommodate the very different types of consultations that are undertaken, but could set out minimum benchmarks for consultations. It might even establish different levels of consultation, with different standards for each one. Obviously any such effort would itself need to be based on a broad process of consultation.

Under Open Information, we support the declassification of more material, although it is perhaps surprising that Library and Archives Canada holds at least half a million classified documents. When this point was raised during the 11 September consultation, the Treasury Board representatives were unable to shed light on what this information was and why or how it had been classified in the first place. To accompany the process of declassification, CLD suggests that the government commit to a comprehensive review of the standards and practices regarding classification. In many countries, procedural approaches towards classification help reduce the extent of over classification and substantive rules on what can be classified are also important.

One idea is titled Canada's Directive on Open Government – Creating a Culture of ‘Open by Default’, but we note that the ATIA, at least in theory, established a system of “open by default” some three decades ago. To avoid this being just an empty slogan or buzzword, concrete proposals are needed. The most important change in this area over the last thirty years has been the development of sophisticated information technologies, which provide enormous practical opportunities for realising ‘open by default’, and we recommend that a commitment be made to put in place specific measures to harness this power for access to information.

There are a number of options here, but some concrete ideas include:

- Automatic, real time central tracking of requests and how they are being/have been processed, along with the regular release of key metadata about them.

*Centre for Law and Democracy*  
*info@law-democracy.org*  
+1 902 431 3688  
[www.law-democracy.org](http://www.law-democracy.org)

- Significantly expanded tagging and keyword insertion during creation of formal documents, in order to assist users in finding the information they need (i.e. to enhance searchability).
- Putting in place systems for the real time updating of information and substantially enhancing the (automatic) proactive disclosure of information through tagging at the time of creation of a document.
- Pre-tagging of exempt information in documents as they are being created, in particular private information, so that this can be redacted quickly and easily for purposes of releasing the document, either proactively or pursuant to a request.