

# GHANA'S MONITORING ASSESSMENT REPORT OF OPEN CONTRACTING COMMITMENTS

A Look At The Status Of Implementation Of Ghana's Commitment In The Third National Action Plan Of The  
OGP

DECEMBER, 2018

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## BACKGROUND

According to the Corruption Perception Index (CPI) 2017, Africa was the worst performing continent<sup>1</sup> in relation to the perception of corruption. They seem not to grapple with the challenges presented by the incidence of corruption. In various African countries, there are very good laws stipulated to eradicate corruption but the implementation of such anti-corruption laws has been far below expectations. In Ghana, for example, there are good Anti-Corruption laws like the Public Procurement Authority Act, the Whistleblowers Act, the Criminal Code, Code of Ethics of Public Officers and the Office of the Special Prosecutor Act (just to mention few). Ghana also has the National Anti-Corruption Action Plan which is an anti-corruption strategy that seeks “to contextualize and mobilize efforts and resources of stakeholders, including government, individuals, civil society, private sector and the media, to prevent and fight corruption through the promotion of high ethics and integrity and the vigorous enforcement of applicable laws”<sup>2</sup> Despite the good efforts, Ghana still suffers from corruption. Most of these laws are not implemented to the word therefore allowing politicians to take advantage of the system. Corruption is still high in the country and politicians still less committed to fighting the canker. Various reasons could be ascribed to the increasing levels of corruption but one outstanding reason is the lack of transparency and accountability in its budgeting and contracting process.

Corruption in Ghana mainly involves misappropriation of public funds for private gains to the detriment of citizens’ welfare. Most of these are caused by a lack of transparency and accountability on the part of public officials. Within the past two decades, Ghana has suffered and lost lots of public to lack of openness in the budgeting and contracting process. A recent example is the Kelni-GVG corruption scandal involving a contentious award of \$89m contract by the Ministry of Communication to Kelni-GVG<sup>3</sup> (a private company). Roles and responsibilities as agreed in the contract are already activities being carried out by an indigenous company called the AFRIWAVES. When a group of CSOs requested for details of the contract from the Ministry of Communication, the response was negative. The lack of transparency and accountability in the budgeting and contracting process has not only been the behavior of the current government but also of other governments within the past two decades. The past government also witnessed corruption scandals like the Woyome scandal and the bus branding which were scandals relating

to inaccuracies in the contracting process. The system is opaque and disregards citizen participation.

Government Spending in Ghana averaged 13061.73 GHS Million from 2013 until 2017, according to Trading Economics<sup>4</sup> but how these funds are spent are most of the time not open to citizens. Details of contract are only made known by insiders who are mostly opposed to the government or are conscious of the principles of transparency and accountability and are mostly at the end of the process when contracts have already been awarded. Details of the planning, budgeting, contracting and implementation process are hidden from the public eye and in rare cases where this information is provided, accessibility to the data is very challenging and less comprehensive and are not in formats that can be used for further analysis.

The Public Procurement Authority is the sole institution mandated to handle issues of public procurement. They seek to simplify the process of procurement in the public service to ensure efficient use of public resources in a manner that helps develop the local industry<sup>5</sup>. Nevertheless, the public procurement system of Ghana is not as transparent as expected. Disclosure of information is very scanty as is obvious on data provided on the PPA website. Certain vital information required by international standards such as the Open Contracting Data Standard (OCDS) is missing. The Open Contracting Data Standard (OCDS) enables disclosure of data and documents at all stages of the contracting process by defining a common data model. It was created to support organizations and countries to increase contracting transparency, and allow deeper analysis of contracting data by a wide range of users<sup>6</sup>.

## INTRODUCTION

The Ghana Anti-Corruption Coalition (GACC) is implementing a project in partnership with the Africa Information Centre (AFIC) titled “Strengthening Disclosure and Citizen Participation to improve Value for Money in Public Contracting in Africa”. As part of project implementation, GACC carried out an assessment of Open Government Partnership (OGP) commitments made by different national stakeholders’ in Ghana.

Ghana, in September 2011, signed on to the Open Government Partnership (OGP) and has since implemented two action plans (2014-15 and 2016-2017). These action plans consist of commitments by stakeholders responsible for open contracting in Ghana. The commitments are made through different stakeholders from government, quasi-governmental institutions and civil society organizations (National Action Plan, 2017) on issues regarding transparency, accountability and participation. The results of the consultations are a draft action plan which builds on the successes and lessons learnt from the implementation of the two previous action plans. The commitments represent the objectives of both government and civil society in ensuring transparency and accountability.

## RATIONALE

Open contracting and contract monitoring is very vital to nation building and the fight against corruption. Information disclosure on contract award is limited but the government is regularly spending huge sums of money on social projects. In certain cases, the cost of these projects are bloated and more expensive to the price in the market and the public officer is the sole beneficial to these scandalous contracts. Citizens are unable to hold their officials to account because there is a lack of information provision and even when they get hold of these information it is rather difficult to comprehend.

For this reason, the Open Government Partnership in its quest to ensuring open governance especial with the contracting process, invited stakeholders of various countries to make commitments with the aim of improving the levels of transparency and accountability. Ghana also committed to opening its doors for citizen participation and monitoring in the contract process. The National Action Plan spanning from 2017-2019 contains commitments by Ghana which are to be implemented within the period of time. As part of ensuring that the government opens up, GACC sought to assess the commitments in the National Action Plan and the results used for advocacy in order to pressure the state to improve information disclosure.

## OBJECTIVE OF THE REPORT

The main objective of this report is to assess implementation of the commitments made by national stakeholders on open contracting within the OGP framework

## ASSESSMENT OF COMMITMENTS

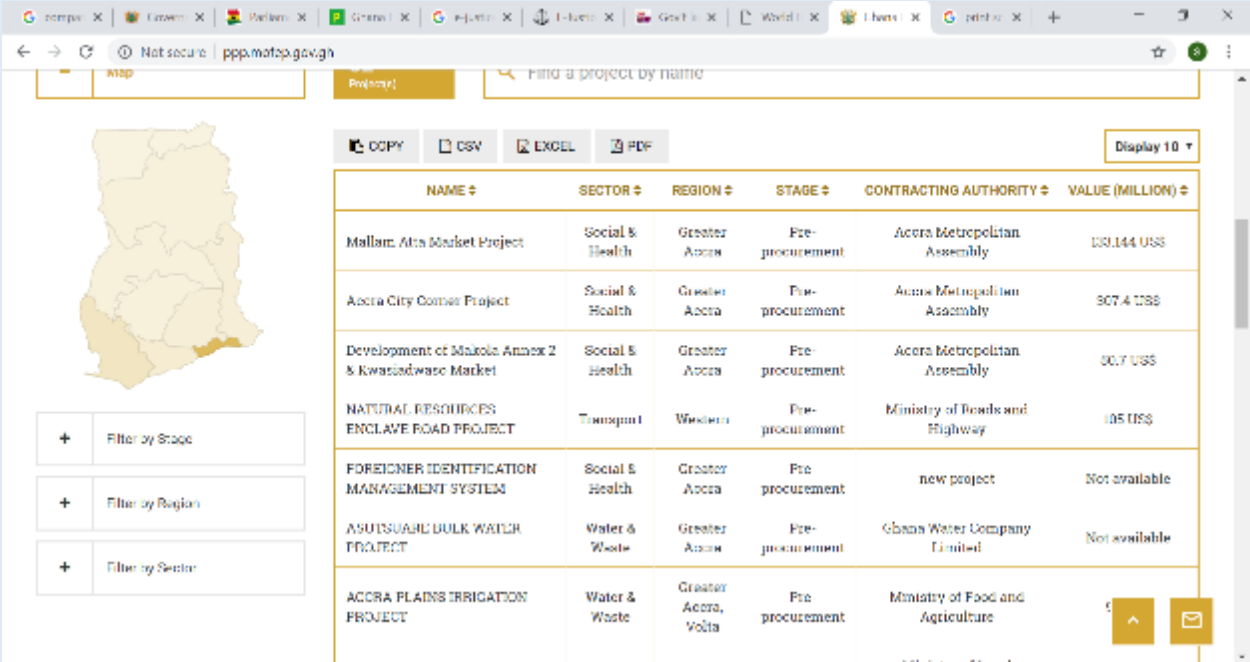
The Ghana-Anti-Corruption sought to assess implementation of all commitments as listed in the Open Governance Partnership (OGP) third National Action Plan for Ghana. Assessment is based on the level of completion of each of the commitments therefore, whether a commitment is fully, partially or not completed and whether it achieved its objective. The assessment used the qualitative research methods such as the use of interviews and review of other documents. Stakeholders were interviewed on their respective commitments to give the status of implementation. In situations where the stakeholders did not respond to the request for interviews other documents are reviewed to check for updates. Absence of evidence on any commitment implies that the commitment will not be assessed. The assessment of the commitment is found below;

## OPEN CONTRACTING AND CONTRACT MONITORING

Government still maintains significant investments in some sectors of the economy despite substantial offloading of Government interest in a large number of commercial activities. Information on the implementation of these investments to the public is very scanty. The first and second action plan recognized the need to ensure open and transparent tracking of public investments.

The commitment will provide an opportunity for citizens to have access to information on all contracts entered into by Government through follow ups on the implementation of public investments. This will also help to ensure value for money on all transactions. The responsible agencies for this commitment is the Ministry of Finance and Local Government Service.

**Comprehensive monitoring information on PPP:** There is however a challenge with this commitment. It is not specific enough and does not specify how much of information is comprehensive information nor did it state any standard at which it should be measured. Therefore, there is need for a proper definition of terms for easy monitoring. However, the Public Investment Division (PID) of the Ministry of Finance has a website with information on projects related to Public Private Partnership (PPP), but, the website contains scanty data on projects budgets, award and information on private sponsors. Most of the data on projects, as provided on the website, are in the pre-procurement stage and therefore not much information is provided in compliance to the OCDS. Information on the website was well organized for easy understanding and could be downloaded as excel sheets for further analysis. A picture of the website could be seen below



The PPP website with information of projects to be implemented

**Comprehensive monitoring information for all public infrastructure:** This commitment could not be fully assessed because the commitment was not specific to defining “comprehensive”. What information is comprehensive? Currently, there is information on 32 projects on the Public



Private Partnership website (ppp.mofep.gov.gh). All these projects are public infrastructure sponsored by Private entities. The projects are in the pre-procurement stage and only contains information on sector under which the project falls, the location and indicative value of the project as well as the contracting authority.

**Blacklisting contractors:** It was difficult assessing this commitment. The Public Investment Division (PID) of MoF does not deal directly with contractors and as such cannot blacklist and debar contractors. The PID only deals with private sponsors who implement projects using their own hired resources including contractors. Therefore, PID has no influence on the choice of contractors. The institution capable of blacklisting contractors is the Public Procurement Authority (PPA) who is in charge of all procurement for state institutions.

**Tracking government investments:** This milestone could be termed as partially completed. On 25th September, 2018, the Public Investment Management System (PIMS) was launched by the Minister of Finance, Ken Ofori-Atta. The PIMS will run as a database for all public infrastructure projects, irrespective of their funding sources. The PIMS would enhance the quality of public investment by strengthening the links between the National Medium-term Development Strategy, National Infrastructure and Sector Plans and the National Budget. The system ensures projects are properly assessed, analyzed and prioritized. It will transmit prioritized coded projects through the Public Investment Plan (PIP), the budget module and implemented in the Ghana Integrated Financial Management Information System (GIFMIS). The PIMS forms part of the Public Investment Management (PIM) Policy.

However, there was no information provided on who and how to access information on the system. Request for interview at the Ministry of Finance for verification had no response.

Overall, currently, there has been no substantial improvement in access to information on contracts. Data provided on the Public Private Partnership (PPP) website is not different from that of the PPA website. Even though the PPP website has data that could be downloaded and used further, information available is very scanty. The PPA website even provides more

information on contracts relative to the PPP website. Citizens are unable to fully have access to information on contract tendering and awards and are therefore, not able to monitor flow of public investments.

### **Recommendations to achieve this milestone**

Currently, government is piloting the Ghana Electronic Procurement System (GHANEPS). This platform will provide more information on contracting and make data re-usable for further analysis. The platform contains training videos for entities and info-graphs which offers pictorial views of organized data. The platform is an effort from government to make available more data that is organized and easily usable. However, in order to ensure disclosure of all information to conform to international standards, there is need for an increased effort on the part of CSOs through advocacy. CSOs working in the area of procurement, contract monitoring and anti-corruption will have to come together, make their voices loud and ensure information provided on the Electronic Procurement Platform is complete and contains data on the procurement process.

The Open Government Partnership (OGP) should be more specific with commitments. More specific details should be given to define how comprehensive information. Specifically, the OGP could add to commitments sections relevant for transparency such as listed as part of the OCDS.

Some of the institutions responsible for the implementations of commitments were unaware of the commitment or their responsibility to implement. The Public Investment Division of the Ministry of Finance, for example, were unaware of their commitments when the researcher contacted them for information. Person responsible, as stated in the third OGP action plan was had no knowledge of OGP commitments and responsibilities. In order to avoid more of these issues, the OGP should ensure heads of these institutions attend or relevant persons attend meetings that discuss commitments or also ensure that heads of institutions receive hard or softcopies of OGP action plan. The government should sensitize these institutions on OGP commitments and establish a reward system that rewards institutions for the full implementation of the OGP commitments.

## BENEFICIAL OWNERSHIP

The identity of the real owners – the ‘beneficial owners’ – of the companies that have obtained rights to extract oil, gas and minerals is often unknown, hidden by a chain of unaccountable corporate entities. This problem also affects other sectors and often helps feed corruption and tax evasion. Publishing information on the beneficial owners of entities winning public contracts as part of EITI requirements. This commitment builds on the OGP second action plan’s commitment on Open Contracting. The commitment will make public all information on the beneficial owners of public contracts to enable citizens support government to fight corruption as well as minimize tax evasion. It will also help Ghana meet other international requirements. Institutions responsible include; Ministry of Finance, Ministry of Lands and Natural Resources, Minerals Commission, Ministry of Local Government and Rural Development, Auditor-General and Attorney-General’s Department.

**Improve infrastructure to ensure compliance:** This milestone wasn’t completed in the specified time period. The only mention on Beneficial Ownership disclosure has been the usual government promise committing to provide needed resources towards fighting corruption and the full implementation of the beneficial ownership regime. Government announced that “it will soon lay the General Petroleum Regulations, which will provide further impetus for the provision of more information about the petroleum industry to Ghanaians. The regulation when passed would make it possible for disclosure of beneficial ownership details of contractors and licensees as well as a one-stop-shop platform for accessing all economic and infrastructure data relating to the petroleum industry”<sup>7</sup>.

**Regulations for the implementation of the new Companies Act (Act 920, 2016):** This commitment under the responsibility of the Registrar-General Department and the Attorney-General’s Department was supposed to have been implemented by September 2018. Evidence could not be found on whether a regulation has been developed or about to be developed for the implementation of the new Companies Act. There was no response when interviews were requested.

**Substantive bill to replace the Amended Companies Act, (Act 1963) as amended (Act 920, 2016):** This milestone is partially completed. There is a draft bill to amend the provisions in the Companies Act, 1963 (Act 179). The Committee on Constitutional, Legal and Parliamentary Affairs of Parliament engaged stakeholders to solicit the inputs of experts, business players and other concerned persons in the consideration of the bill<sup>8</sup>. Stakeholders have expressed worry with the Companies Act, that investors who wanted to incorporate their businesses would have to state the object of the business and still go to the Registrar General for review of registration instead of directly venturing into any other business of interest<sup>9</sup>.

Overall, objectives of this commitment were not achieved. Beneficial ownership disclosure still seems to be a very complicated issue in Ghana. Real owners behind some shell companies are still unknown and without the Right to Information being fully implemented and effective, it would be difficult to access.

#### **Recommendations to achieve this milestone**

Ghana is a compliant country of the Extractive Industries Transparency Initiative (EITI) and fully observes its standard. Ghana is therefore required to ensure the disclosure of payments to the government by private entities operating in the extractives industries, a major source of corruption in many countries. Ghana loses and still risks losing huge funds from anonymous persons behind entities. Such entities can be used to hide ownership of ill-gotten assets or disguise the source of corrupt funds denying the country of its expected revenue. A solution is therefore needed. A strong political commitment complemented with rising demand for accountability by Civil Society Organizations (CSOs) is required to ensure beneficial ownership is disclosed. Currently, Ghana has a registry of information on entities, and the process for registration should include a requirement for beneficial ownership information.

## **RIGHT TO INFORMATION BILL**

The 1992 Constitution of Ghana guarantees to all the right to information, among many other rights. Efforts to pass the Right to Information Bill commenced almost two decades now. The Government undertook to enact a Right to Information (RTI) Law both in the first and second action plan. However, the RTI bill has not been passed. Passing the bill will help address the

unfulfilled commitments the two previous action plans. The commitment is also helping to develop strategies for the implementation of the RTI Bill so that when the bill is passed public institutions will be able to provide the necessary information to the public.

**Parliament to pass RTI bill:** This milestone remains undone. The Right to Information Bill was laid before Parliament in 2013 and has still not been passed. Currently, it is in the consideration stage with all of its 91 clauses to be discussed, clause by clause<sup>9</sup>. Excuses from Parliament on the delay of passage has been based on the absence of a required number of Members of Parliament to pass the law. According to them, it is required for over 200 Parliamentarians to be available for the passage of the law<sup>10</sup>.

However, there has been a lot of pressure from civil society organizations on Parliament to pass the law. The Right to Information (RTI) Coalition in Ghana released a statement expressing disappointment with the Majority leader in Parliament over his statement that “there are many clauses in the bill to look at” and will therefore not be able to pass the RTI bill. The Coalition on the Right to Information, expressed “their disappointment at the slow pace at which parliament has handled the consideration stage of the bill so far, and hopes history is not repeating itself. In spite of that, we are expecting that the lengthy discussions of each clause which has resulted in only six of them being discussed means our lawmakers will, in the end, give Ghana a credible, efficient and effective Right to Information Law.”<sup>11</sup>

The low apathy of the government to passing the bill was illustrated in the statement of the Member of Parliament (MP) for Adansi Asokwa. To him, the passage of the Right to Information Bill into law will cause government to lose exclusivity to certain vital information<sup>12</sup>. This statement was met with protest from various CSOs in the country for which some were arrested.

Right to information is central to the active participation by all in the governance of Ghana. This is because it only takes well-informed people, who have access to relevant data or information, to contribute meaningfully to the good governance of their country.

**Strategies for the implementation of the RTI law:** This milestone also remains uncompleted. The Right to Information is still a bill and has not yet been passed, therefore, strategies could not be developed for its implementation as state by the commitment.

Overall, even though citizens have rights to information as enshrined in the constitution, it is still very difficult to obtain information from public officials. The passage of the RTI bill gives the stakeholders of more openness by the state but the delay in the passage also spells out the unwillingness of legislators to making available information on the affairs of the state. There has been no improvement in terms of providing information when requested.

#### **Recommendations to achieve this milestone**

In as much as the Right to Information (RTI) Bill is very relevant for information disclosure and improved transparency, a smooth passage of the bill will require prior activities to ensure proper record keeping in public institutions. The subject of record keeping in the Public sector is a major problem in Ghana. Most of the Ministries Departments and Agencies (MDAs) do not have a proper system for record keeping, critical records are inaccessible due to an unstructured system and most of their documents are hard copies. The Public sector needs an overhaul and the provision of equipment and capacity for easy record keeping. Even though the government is taking strides by rolling all public institutions to an electronic platform to enable easy upload of data and data accessibility, he needs to be swift.

#### **CIVIC PARTICIPATION AND ACCOUNTABILITY**

The efforts of government towards social accountability was cemented with the establishment of the new Local Governance Act (Act 936) which was passed by Parliament in 2016. A section of the new Act stresses gives details on areas which citizens could participate (such as in bye-laws and fee-fixing), modalities and platforms for participation, rights of stakeholders to petition and the role of the assembly heads in the accountability process. The Inter-Ministerial Coordinating Committee on Local Government have consequently developed a manual and an action plan to guide its implementation.

In 2013, the Government of Ghana through the Ministry of Local Government and Rural Development (MLGRD) commenced implementation of the Local Government Capacity Support Project (LGCSP) in some 46 selected Metropolitan and Municipal Assemblies (MMAs). An integral component of this project is the establishment of Social Accountability (SA) units, development and use of public financial management templates by the participating assemblies to improve citizens' education, communication and engagement.

In the second action plan the government proposed to establish Client Service Units (CSU) in all the District Assemblies. This action has been substantially implemented. The government is committed to move this process further to promote effective citizens' participation in decision-making processes. The government is committed to strengthening mechanisms for ensuring that citizens can receive feedback from elected officials (both Members of Parliament and Assembly Members). This can be accomplished through innovative ways that ensure citizens' engagement and open civic space. The decentralized institutions at the sub-national level are to be accountable to citizens by annually reporting on budget implementation to include non-financial information.

**Expand the establishment of SA units in all MMDAs:** Social Accountability Units are still existent in 46 Metropolitan and Municipal Assemblies (MMAs). This milestone is therefore not completed. The focal person at the Local Government Service (LGS) confirmed that trainings and other capacity building series were organized for other district assemblies to further garner interest in other district assemblies to understand and accept the concept of social accountability and establish units in their respective districts. The LGS received support (funds) from the Bank of Ghana (BoG) to aid training other district assemblies.

**Integrate and strengthen the CSUs and SA desks:** This milestone has been partially implemented. Capacity building workshop was organized in 2017 for all Client Service Units (CSUs) in all districts to improve their effectiveness in managing relationships with citizens, receive complaints and act on complaints. As mentioned earlier, there was also capacity building for the 46 SAUs and other districts that are yet to establish SAUs. However, there are gaps in the integration of the SA desks

in the various MMDAs. A clear policy integrating the Social Accountability issues into the activities of the MDAs and the MMDAs need to be put in place and adequate logistics should be provided to facilitate the work of the SA unit at MMDAs

**Monitor the implementation of the popular participation (civic participation) framework:**

Information on this milestone could not be obtained from the Ministry of Local Government and Rural Development (MLGRD). There was no response to our request for interview.

**Ensure all MMDAs adequately support Accountability Units and Client Service Units to obtain feedbacks from citizens:**

Client Service Units receive support through capacity building and the provision of resources to improve service delivery. The MLGRD is still in the process of establishing Social Accountability Units (SAUs) in all MMDAs and still provides support to the Municipal and Metropolitan Assemblies (MMAs). The SAUs are supported with logistics and capacity even though logistics are not adequate for effective operation.

**Ensure MMDAs comprehensively report on budget implementation annually to citizens:**

The government has made it mandatory for all MMDAs to organize social accountability workshops where districts heads engage citizens with presentations on their annual budget implementation of their respective districts and projects implemented. The government has made the implementation of this activity a performance indicator used in assessing the performance of district assemblies. This action towards social accountability will increase citizens' participation and improve local government transparency and ensure accountability and performance. It will also empower citizens to monitor MMDAs development projects.

**Parliament to provide quarterly reports on petitions and feedbacks received from the public:**

Evidence on this milestone could not be obtained. A thorough look at the website of Parliament only shows reports of their proceedings, Bills and Acts without any evidence of report containing petitions and feedbacks received from the public. Parliament intends to roll out the Electronic



Parliament called the E-Parliament which aims at automating the parliamentary processes. This platform however, does not consider inputs or comments from the public.

The government made some progress with the establishment of CSUs in all districts with few capacity and resource gaps. There are still a lot of gaps with respect to improving social accountability at the local level. The law provides for more participation, transparency and accountability but its enforcement has been problematic. Government has been less active with establishing Social Accountability Units (SAUs) in the other DAs.

### **Recommendations for this milestone**

Government will have to actively push the social accountability agenda establishing the SAUs in all MMDAs. In as much as social accountability is being enforced, the government can also mandate the MMDAs to post all relevant information of their activities, even details of their budget implementation, on their websites. Parliament should also consider engaging other relevant stakeholders such as CSOs on their E-Parliament platform. The platform needs a window for citizen inputs, comments and feedback.

## **TECHNOLOGY AND INNOVATION**

Many public institutions do not have adequate infrastructure (including internet and intranet connectivity), personnel, and logistics to manage information efficiently and effectively. There is the need to improve public records management by providing a framework for all public institutions to manage information so that they can efficiently provide information when the RTI law is passed.

The commitment is to improve the infrastructure for ensuring proper management of information (recording, storage and retrieval) in all public institutions so that the public can easily access information. Responsible agencies for the implementation of this commitment include; Ministry of Communication, Ministry of Information, National Information and Technology Agency (NITA), Public Records and Archive Division (PRAAD), Ministry of Finance (MoF) and all Ministries Departments and Agencies (MDAs) and Metropolitan Municipal and District Assemblies. (MMDAs)

Finalize Ghana Open Data Policy: This milestone was completed at the time of reporting. The final policy document for the legal/adoption journey was ready on the 30th of November. This policy leads to the creation of the Ghana Open Data Policy which will increasingly make available government data in an open format so businesses, organizations and the citizenry could re-use them for their various needs.

Improve connectivity for MDAs internet facilities: This milestone saw limited completion. NITA is in the process of procuring a ten (10) gigabyte Fibre Optic cable for ten (10) years with an Indefeasible Right to Use (IRU) worth \$2,000,000. This will be installed for all MDAs and will provide internet for use. This project has surpassed its deadline and might even run into the middle of 2019.

**Expand digitization of data in the all MDAs to improve records management:** This commitment is partially completed. Expansion of the digitization of data in all MDAs is being piloted in about five (5) MDAs and MMDAs. The MDAs include; Registrar General's Department, Birth and Death, Immigration Service, Judicial Service and the Ministry of Justice. The E-Justice is an example for the Judicial Service. It seeks to automate the existing manual filing systems within Court Registries. However, there has been challenges as a result of the behavior of citizens to the introduction of technology. Many public sector workers who formerly take advantage of the system will take time to accept the change of system.

**Expand automation of services:** This commitment is partially completed. This commitment is still in the process and being piloted in selected MDAs and MMDAs. The E-Justice System, for example, uses technology in delivery of justice and is being sponsored by the World Bank. It is also termed as the Paperless Courts and part of the e-transform Programme of the government. The E-Justice system seeks to automate the existing manual filing system. A “proof-of-concept”<sup>13</sup> pilot project is currently being implemented at the Law Court Complex, which houses 44 High Courts. This project aims at improving citizen’s access to justice while enabling efficiency, effectiveness and time delivery of justice. E-justice, therefore, enables justice information, knowledge exchange, and the automation of civil and criminal proceedings in court.

Below is a picture of the website of the E-Judgment web portal which is part of the E-Justice system. This website provides access documents on laws from all jurisdictions in Ghana



#### The E-Judgment Web Portal (An initiative of the E-Justice System)

**Functional websites for all MDAs:** This commitment was partially completed. About 135 MDAs and MMDAs out of the 254 have been migrated on to and being hosted on the .gov.gh (a domain hosted by NITA). These MDAs and MMDAs have websites with related information about their services and other information. The websites contain information on services provided, agencies that make up the institution and other relevant information that could easily be assessed. There exist gaps, however. Some of the websites are not updated regularly and some sections on the website are empty - for example, on the Ministry of Communications website, under the section “Reports” there is no document available.

**Framework for Parliament to provide feedback to citizens:** This milestone is yet to be completed. NITA is supporting Parliament to roll out the "e-Parliament", which is an app expected to transform how the House performs its business. It will empower MPs to file queries online and set up a speedy and paperless flow of information between Parliament and the executive arm of government. The system will also digitize Parliament’s Library and increase the ability of MPs

with proper authorization to access the Parliament's intranet (private network) from remote locations. The e-Parliament is set to be launched in December 2018.

Overall, there was a limited change in infrastructure to ensuring proper management of information in all public institutions so that the public can easily access information. The E-Justice system and the automation of other MDAs and MMDAs are not popular to the citizens. More education is needed to make the expected impact. More needs to be done to achieve this commitment.

Government seems committed to the effective implementation of this commitment. Information provision and all related E-system are very vital for transparency and accountability. Nevertheless, the only gap in the implementation of this commitment is the inputs of stakeholders. The state needs to engage relevant civil society groups and other stakeholders who are in the areas of technology and transparency and accountability like Penplusbyte, Ghana Anti-Corruption Coalition (GACC), CDD-Ghana, Ghana Integrity Initiative and SEND-Ghana.

#### **Recommendations to achieve this milestone**

Rolling public institutions to the electronic system and automation of their services allows for easy access to services and relevant information. However, government needs to speed up the process to include all public institutions in order to ensure good record keeping.

## **EXTRACTIVE SECTOR TRANSPARENCY**

The government proposed to pass the Minerals Development Fund (MDF) Bill in the second action plan and this has been carried out. However, there is the need to pursue this by developing regulations for the Minerals Development Fund Act (MDFA). In the second action plan also the government proposed to develop regulations (Legislative Instruments) for the Petroleum Revenue Management Act (PRMA) of 2011 (Act 815) to effectively operationalize the amended law so as to detail out how the various clauses are to be interpreted and applied. The process commenced during the period of the second plan but was not completed. The government commits to develop the Legislative Instruments for Minerals Development Fund Act (MDFA) and complete the LI for PRMA. Public Interest Accountability Committee (PIAC) will also be supported to enforce its recommendations.

**Develop regulations to the PRMA Act 2011 (Act 815):** There was no sign of completion of this commitment. Ministry of Finance and Attorney-General were unable to finalize regulations for the PRMA Act. Request for interview on the status of this commitment proved unsuccessful. There was also no evidence of completion from review of other available documents online.

**Develop regulations to the MDFA:** This milestone has not been achieved. The MDFA is still without its regulations. Dr. Steve Manteaw, Chairman of PIAC, did indicate that the MDFA law "requires that one year after coming into effect, the minister shall develop regulations to back the primary Act."<sup>14</sup> A year has passed on but without any regulations for the Act. According to him, the "worry is that if we are not careful, we shall live for a decade without the regulations.

**Provision of financial and non-financial information and status of implementation of petroleum revenue funded projects:** This milestone was completed. The Annual Report on Petroleum Funds (ARPF), a report containing information on how Petroleum revenues are being collected, used and managed. The ARPF is a requirement of Section 48 of the PRMA, 2011 (Act 815), as amended 2015 (Act 893).<sup>15</sup> Nonetheless, the impact of expenditure of petroleum revenues have been somewhat ineffective because the revenue is thinly spread over many projects.

**Establish the necessary structures for the management of MDF:** This commitment is partially completed. The Ministry of Lands and Natural Resources set up the Minerals Development Fund secretariat and furnished it. According to the Minister, they "will soon place the board to fully operationalize the fund"<sup>16</sup>.

**Review PIAC's mandate to ensure PIAC's enforce its recommendations:** This milestone is not completed. Parliament has still not been able to review PIAC's mandate to ensure it enforces its recommendations. The PIAC still continues to make recommendations on the misuse of oil revenue over

the last seven years but they (recommendations) are not acted on by the appropriate bodies. This challenge is a worry shared by various individuals. According to Dr. Steve Manteaw, Chairman of the Public Interest and Accountability Committee (PIAC) "the mandate of PIAC will not be fully served if we just restrict ourselves to making disclosures without ensuring that the recommendations are actually implemented"<sup>17</sup>. As a result, the PIAC are collaborating with institutions that have prosecutorial powers such as the Commission on Human Rights and Administrative Justice (CHRAJ), Economic and Organized Crime Office (EOCO) and the Office of the Special Prosecutor to prosecute people who misuse oil revenue. Overall, this commitment could not achieve its objective of developing regulations for the PRMA and ensuring the enforcement of the recommendations of the PIAC. Even though some were partially completed, the impact of improving transparency and accountability was naught.

### **Recommendations to achieve this milestone**

Government seems rather unperturbed at the lack of regulations for the PRMA and the MDFA Acts. It needs to show some political support or commitment for the development of regulations for the Acts. Civil society groups should partner PIAC to advocate and put more pressure on the government in ensuring the regulations are developed. PIAC could also engage civil society groups on how best to ensure that PIAC's mandate of enforcing its recommendations are implemented. At best, civil society groups could take up the responsibility of monitoring recommendations of the PIAC, ensuring that institutions mentioned have implemented them fully.

In the next Action Plan, the OGP could include, as part of Ghana's commitment, the effective and efficient use of petroleum funds. Most of these funds are used on many projects and the potential impact lightly felt. The government will have to select few projects

The Public Interest and Accountability Committee (PIAC) should partner with civil society organizations whose work is in the area of Ghana's natural resources to develop an advocacy strategy to get government to develop regulations for the PRMA and the MDFA and ensure Parliament review PIAC's mandate making sure their recommendations are enforced. Government could also task or engage PIAC and CSOs in the development of regulations for both ACTs.

## GENERAL RECOMMENDATIONS

### **Open Governance Partnership (OGP)**

In order to ensure that commitments are fully and effectively implemented, the Open Governance Partnership (OGP) needs to be very specific with some of the commitments. Unclear commitments will lead to an inability to measure or assess the implementation of commitments. A proper review of commitments with responsible institutions after the workshop is deeply recommended.

Also, OGP ensure that roles ascribed to the various institutions is in line with their functions. Few institutions interviewed did indicate that some of the commitments falls outside their jurisdiction and therefore they do not have the authority to implement. For example, the Public Investment Division of the Ministry of Finance said that they were not responsible for blacklisting contractors, rather, that commitment was the responsibility of the Public Procurement Authority (PPA). As such, the OGP should engage institutions for further review and more clarification of commitments.

There is a lack of awareness creation on the OGP and the country commitments. Most citizens are unaware of the OGP and as such unable to follow up or monitor governments implementation of commitments. Surprisingly, in some of the institutions responsible for the implementation of the commitments, many of the staff were unaware of the OGP' commitments and their role in its implementations. In one of the institutions, the main person stated in the third OGP Action Plan to have been responsible for implementing a particular commitment was ignorant of the commitments. When quizzed further, she did indicate that she did not attend any meeting organized by the OGP. In order to resolve this, OGP needs to ensure that persons invited for the consultation workshop are top officials or heads of the institutions. Junior officers are mostly likely not to disseminate information. OGP should also go the extra mile of ensuring that commitments are integrated in the annual work plan of public institutions.

### **Government of Ghana**

Government needs to show some level of political commitment to the implementation commitments to OGP. Delay in the passage of the RTI bill and the development of regulations for PRMA, MDFA and the Companies Act shows signs of unwillingness on the side of government. Government needs to establish the appropriate structures in ensuring that commitments are fully implemented. Also, public institutions should regularly educate their staff on the OGP and Ghana's commitments as well as integrate these commitments into their annual work plans. This will increase awareness and improve implementation.

Effort is required on the side of government to improve social accountability at the local level. Making it mandatory and a performance indicator for MMDAs is a good sign. The government should partner civil society groups and other stakeholders in enforcing the Participatory Governance section of the new Local Governance Act (Act 936)

### **Civil Society**

The role of civil society is in two folds – educating citizens and advocacy. Knowledge of citizens on the OGP and Ghana’s commitments to the OGP is less. Civil society groups will have to gather efforts to create awareness on the OGP. Civil society groups are in contact with the grassroots or local people and should therefore educate citizens using their platforms and resources. An increase in knowledge on the OGP is important for effective implementation. A well informed citizen could also help in putting pressure on the government to implement.

Civil society could form partnership with other relevant stakeholders to advocate for effective implementation of commitments. There is a lack of political commitment to implement commitments, therefore, civil society needs to heap pressure on the government through advocacy and engagements.

Social accountability is a basic thematic area of civil society and also vital for nation building. Civil society have direct access to grassroots citizens, therefore they should use their advocacy tools in ensuring that social accountability as spelt out in the new Act (936) is effectively enforced.

## **CONCLUSION**

Less than 50% of the commitments were fully implemented indicating a lack of political commitment. Government needs to strengthen its efforts and call for helping hand if needed. More awareness creation is required for staff of public institutions and citizens as a whole for easy implementations and monitoring. Civil Society Organizations (CSOs) and other relevant stakeholders should partner to engage the government on how to improve implementation. CSOs could use their advocacy tools in putting pressure on the government. The commitments stated in the third OGP Action Plan is very vital for transparency and accountability, most especially the passage of the RTI bill.



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