



ACCESS TO INFORMATION COMMITMENTS IN OGP ACTION PLANS

A Report on the Progress of Reforms Worldwide

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Acronyms and Abbreviations

ATI	access to information
CGU	Controladoria-Geral da União
CSO	civil society organization
EAP	East Asia & Pacific
ECA	Europe & Central Asia
EU	European Union
FOI	freedom of information
ICT	information and communication technology
IFAI	Instituto Federal de Acceso a la Información y Protección de Datos
IRM	Independent Reporting Mechanism
LCR	Latin America and the Caribbean
NAP	national action plan
NGO	nongovernmental organization
OGP	Open Government Partnership
PoCs	points of contact
RTA	Red de Transparencia y Acceso a la Información Pública

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Introduction

Access to Information (ATI) is not only a fundamental human right but also a key instrument contributing towards transparency and accountability to build more open institutions, and generating useful public knowledge. Furthermore, it is a valuable tool to allow for greater engagement of citizens in the management of public affairs. Lately, the emergence of access to information as one of the central tenets of the Open Government Partnership (OGP) has become a major driving force in the promotion of ATI reforms worldwide.

As a cornerstone for open government policies, ATI legislation is one of the four main eligibility criteria for joining the OGP (the other three are Fiscal Transparency, Income and Asset Disclosures, and Citizen Engagement). Any country wishing to participate in OGP needs to meet minimum eligibility requirements. For most countries, this includes having in place an ATI law.¹

In this context, OGP has become an important platform in the promotion of ATI worldwide. Since 2011, countries in five continents have included more than 120 ATI commitments in their National Action Plans (NAPs), spanning from legal reforms and capacity building activities to technological developments and dissemination programs².

Although substantial progress has been made in a very short period of time, there is still a long way forward as well as many opportunities for collaboration, coordination and fine-tuning. In this context, this report analyzes the state of ATI commitments in the context of OGP NAPs. First, it looks at the results of the first round of NAPs, for which there already is some initial implementation-related data generated by OGP's Independent Report Mechanism (IRM), and the ATI commitments listed in the second round of NAPs. On the other hand, it seeks to identify countries' current and concrete needs for enhancing the implementation of ATI commitments. This will allow to detect opportunities for providing potential support and carry out cooperative activities such as peer exchanges, webinars, among other activities that will contribute to better implementation of ATI commitments.

Methodology

The main source of information for this report was OGP's databases. Two datasets were used. The first one includes both a comprehensive list of commitments made in the 2011-2013 NAPs, tagged by categories, and IRM data on the implementation of commitments generated by local IRM researchers. The second one comprised all commitments in the 2012-2014 and 2013-2015 NAPs. In addition, a survey was conducted

¹ Current measurement criteria for Access to Information in the OGP eligibility process: 4 points awarded to countries with access to information laws in place, 3 points if a country has a constitutional provision guaranteeing access to information, and 1 point if a country has an access to information bill under consideration. Countries with both a constitutional provision and a bill under consideration will only be awarded the 3 points for the constitutional provision.

² The first step towards full OGP participation is meeting the OGP eligibility criteria. In order to be eligible to participate in OGP, governments must demonstrate a minimum level of commitment to open government principles in four key areas (Access to Information, Fiscal Openness, Income and Asset Disclosures, and Citizen Engagement). A country is eligible to join the OGP if it meets those criteria measured by well-known governance indicators using public data sources. To participate in OGP, countries must score at least 75% of the total possible points available to them. The next step is to begin drafting an open government national action plan (NAP) with participation of civil society organizations. At the start of this process, governments are encouraged to set up a permanent mechanism to facilitate ongoing consultations with civil society and opportunities for public input. Action plans should cover a two-year period and consist of a set of commitments that advance transparency, accountability, participation and/or technological innovation. OGP participating countries operate on a two-year NAP calendar cycle, in which there are no gaps between the end of the last action plan and the beginning of the new one. This means every country will be implementing a NAP at all times, although individual commitments still vary in length. In order to achieve this, countries will draft their new NAPs during the last six months of implementation of the previous NAP. All NAPs should cover a period of implementation of a minimum of 18 months and include at least between 5 and 15 ambitious commitments.

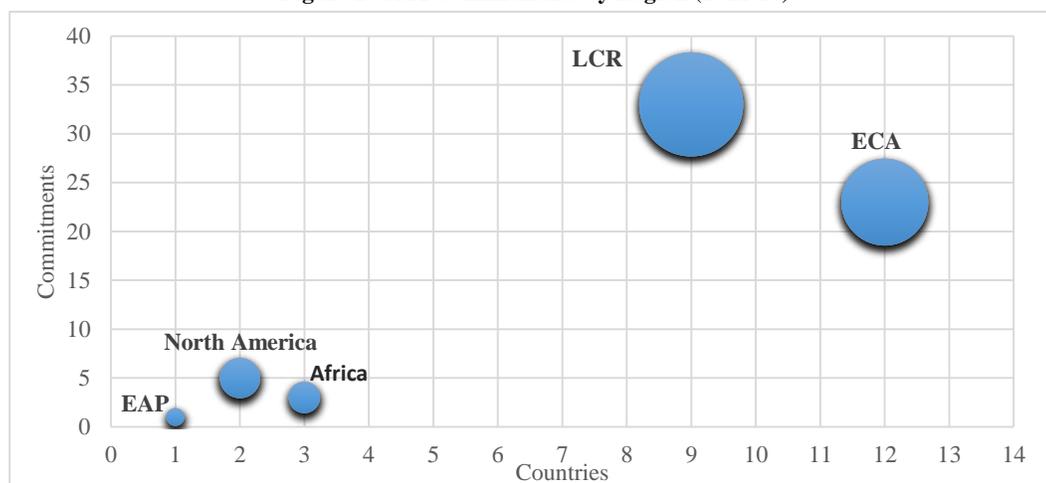
among national OGP points of contact (PoCs) in 31 countries³, which was responded by 17 of them⁴. This report has also relied on the valuable research and publications of other key institutions in the advancement of transparency⁵.

2011-13 Action Plans

The first round of NAPs –as grouped according to OGP’s dataset– was composed of a total of 46 countries but only 27 had ATI commitments⁶. The ATI actions envisaged in the 27 NAPs add up to 65 specific commitments to be implemented by those countries⁷.

As Graph 1 shows, Europe & Central Asia (ECA) was the largest regional cluster encompassing 12 countries and 23 ATI commitments. It was followed by Latin America and the Caribbean (LCR) which had slightly less countries (9) but more commitments (33). Africa followed with 3 countries and 3 commitments; next came North America with 2 countries and 5 commitments, and lastly East Asia & Pacific (EAP) with one country and a single commitment⁸.

Figure 1 - ATI Commitments by Region (2011-13)



Source: Author based on IRM data.

It is worth mentioning that the majority of countries that included ATI commitments already had some kind of ATI regulation in place, except for Colombia, the Philippines, Spain and Tanzania, which were the only ones without an established ATI legal framework. All other 23 countries had specific legislation, although in some cases it needed amendments in order to meet international standards or EU requirements⁹. Out of those four countries without legislation, Tanzania was the only one that did not include a commitment for passing an ATI

³ Countries contacted for the survey were: Argentina, Armenia, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Czech Republic, Dominican Republic, El Salvador, Georgia, Ghana, Guatemala, Honduras, Hungary, Ireland, Liberia, Macedonia, Mongolia, the Netherlands, Norway, Paraguay, Serbia, Sierra Leone, South Korea, Spain, Tanzania, the Philippines, Tunisia, and Uruguay.

⁴ Responses were obtained from Argentina, Armenia, Brazil, Chile, Costa Rica, Croatia, Czech Republic, El Salvador, Ghana, Georgia, Guatemala, Honduras, Macedonia, the Philippines, Sierra Leone, Tunisia, and Uruguay.

⁵ *Red de Transparencia y Acceso a la Información (RTA)*, Brazil’s *Controladoria-Geral da União (CGU)*, the *Instituto Federal de Acceso a la Información y Protección de Datos (IFAI)*, and the Center for Law and Democracy.

⁶ This note uses the concept of ATI (Access to Information) to refer to commitments tagged as “Freedom of Information” in the 2011-2013 dataset and “Access to Information” in the 2013-2016 dataset, which focus strictly in right to information reforms. In the IRM data, the term ATI is also used to encompass everything about transparency and information disclosure and consists of a much larger criterion for commitment tagging.

⁷ These numbers are the result of an analysis of action plans and datasets provided by IRM.

⁸ For purposes of this note, the grouping of countries followed the classification of countries used by the World Bank Group. Yet there are a few caveats, for instance, Africa and Middle East North Africa (MENA) were grouped under Africa.

⁹Some countries mentioned that ATI reforms were part of initiatives aimed at facilitating EU accession.

law in its NAP, but rather to conduct preliminary identification of international standards and good practices. However, President Kikwete publicly committed to pass the ATI Law during the OGP London Summit in late 2013. Contrarily, Colombia, the Philippines and Spain included the approval of ATI legislation as one of their commitments, but only Spain and Colombia have achieved that goal albeit beyond the original timeframe.

Table 1 ATI Regulations by Country (2011-13)

Countries with ATI Commitments	Did the country have ATI legislation in place?	Was passing/amending ATI legislation included in action plan?	ATI legislation passed/improved?
Albania	Yes	No	
Armenia	Yes	No	
Azerbaijan	Yes	No	
Brazil	Yes	No	
Bulgaria	Yes	Yes, improving legislation	No
Canada	Yes	No	
Chile	Yes	No	
Colombia	No	Yes, passing legislation.	Legislation passed in 2014
Croatia	Yes	Yes, improving legislation	Improvements passed in 2011
Czech Republic	Yes	Yes, improving legislation	In process
Dominican Republic	Yes	Yes, improving legislation	In process
El Salvador	Yes	No	
Georgia	Yes	Yes	In process
Honduras	Yes	No	
Israel	Yes	No	
Jordan	Yes	Yes, improving legislation.	No
Macedonia	Yes	No	
Mexico	Yes	No	
Montenegro	Yes	Yes, improving legislation	Improvements passed in July 2012
Peru	Yes	Yes, improving legislation	No
Philippines	No	Yes, passing legislation.	No
Spain	No	Yes	Legislation passed in December 2013.
Tanzania	No	No	No
UK	Yes	No	
Ukraine	Yes	Yes, improving and harmonizing legislation	Yes, but not until 2014
Uruguay	Yes	No	
USA	Yes	No	

Source: Author based on IRM data.

ATI commitments included in this first round of NAPs vary both in terms of quantity and quality, which in part relates to the degree of development of ATI in each country. The specificity of NAPs may also reflect the existing consensus and political will over ATI reforms. Countries have committed to a broad range of ATI reforms and related activities, and this makes grouping ATI commitments by type a difficult task. In some cases, countries included one commitment that covers more than one area. In others, there were many same-type commitments, like Brazil's NAP, which included different capacity building commitments concerning

ATI. Conversely, there are other commitments that are unique in the sense that do not share many characteristics with the rest of the analyzed commitments, such as Chile's commitment to continue supporting ATI efforts in Latin America, or Tanzania's commitment to conduct a study on international standards on ATI.

While commitments do not follow a specific disaggregation, there are some areas that many tend to follow. For example, a detailed analysis of the 65 ATI commitments shows a clear trend towards focusing on legal reforms aimed at creating or strengthening ATI frameworks, such as passing new ATI laws or overhauling existing legislation. Others concentrate on capacity building activities such as training public officials on ATI regulations and standards. Another trend is that of institutional development which focuses on the creation, or strengthening of ATI units and offices throughout the country; this also includes hiring ATI personnel, designing and implementing monitoring & evaluation mechanisms, improving ATI services, promoting alliances, and enhancing inter-agency coordination. There are also many technology-related commitments that focus on creating Internet portals, designing electronic platforms for submission of information requests or monitoring tools, among others.

Box 1 - ATI Reforms in El Salvador

Since passing its ATI Law in 2011, El Salvador has made progress and is currently implementing its second OGP NAP. The government of El Salvador has opened 82 ATI offices in the Executive branch and 14 liaison offices in subnational governments, yet there is still a lot of work to be done at the municipal level.

As any other country, El Salvador faces some challenges. According to official data, the main users of the ATI law are men, so developing specific, gender-oriented ATI dissemination and awareness-raising activities is a goal of the current administration. Therefore, an increase of the use of the ATI law among women is expected. In addition, the government is also trying to use ATI to meet social demands, such as enhancing transparency in the hiring process of civil servants. Specific measures to tackle this problem through ATI have been included in El Salvador's second NAP.

Another key challenge for bolstering ATI reforms is the design and implementation of a public archives regulation and developing records management capacities in the public sector. Frequent changes in the administration usually lead to some degree of reversal of reforms. The high turn-over of civil servants has led to the development of constant training and awareness raising programs for public officials.

Source: Author based on interview with local expert

Regional Focus: Africa

Africa is still in an early stage of development in regards to access to information. As of 2015, only 10 countries had adopted ATI legislation. Some countries are focusing on developing the required institutional framework to enforce the new ATI legislation, such as training officers, increasing public awareness (Liberia, Sierra Leone), and establishing a Public Information Commission (Liberia, Sierra Leone). Liberia has also committed to standardize all government websites to have them regularly updated with relevant information. Finally, Tanzania and Ghana are focusing their efforts on the approval of an ATI law.

East Asia & Pacific (EAP)

Philippines has been working in the approval of ATI legislation. Mongolia, on the other hand, has committed to ensure implementation of the existing ATI legislation by establishing a National Information Transparency Committee and creating the position of Information Commissioner. Furthermore, South Korea, which passed an ATI law in 1996, has focused on the proactive disclosure of information concerning high and middle rank government officers.

As these are first-round NAPs, it should not come as a surprise that most countries emphasize legal reforms, the strengthening of ATI bodies and training of public officials. Out of the many countries that included activities related to legal reforms, some of them had no previous ATI legislation, and thus focused on the approval of new laws such as in Colombia, Philippines and Spain. In other cases, commitments concentrated on improving the existing ATI framework such as in Czech Republic and Ukraine, while others called for the fine-tuning of existing ATI-related regulations, such as enhancing the exercise of the right of ATI in courts, removing practical obstacles that hinder ATI, and improving the functioning of the national ATI body. Furthermore, countries like Croatia, for example, also included legal reforms to harmonize existing ATI legislation with Personal Data legislation. Others, like Jordan, committed to an overhaul of their legislation to meet ATI international standards.

Capacity building commitments mainly concentrated in conducting training sessions for government officials at the national and local level (e.g. Macedonia,

Peru and Uruguay). In some cases, they also included carrying out surveys and studies on the level of ATI awareness among public officials such as in Brazil, developing standardizing guides for public officials like in the Dominican Republic, or implementing distance education courses to better train public officials in El Salvador.

In other cases, commitments focused on institutional strengthening activities such as creating new ATI bodies to better implement ATI legislation such as in Israel and Peru; or defining new civil service personnel category, or job series, for officials who specialize in administering the Freedom of Information Act (FOIA) in the case of the USA.

Technology-oriented commitments were diverse, yet most of them relied on the Internet as a tool for improving ATI to citizens and for fulfilling ATI obligations. Georgia, for example, proposed the set-up of a unified public database where citizens can easily access public information which is sorted according to thematic sections. This aimed at improving citizens' access to public information but also to promote proactive disclosure by government authorities. Other countries focused on developing different kind of information and communications technology (ICT) tools, such as in Mexico where a webpage was developed to follow up on sanctions applied to government officials for non-disclosure of information; or as in Canada where a pilot program was envisioned to allow its citizens, to submit and pay for ATI requests.

Finally, it should be noted that the process of regional integration taking place in Europe has played a relevant role in pushing for ATI reforms. Countries aspiring to achieve EU accession mentioned that a requisite for such process was to implement ATI frameworks that meet international standards. In other words, EU accession became a driving force to encourage countries to enhance their ATI legislation.

Box 2: Promoting ATI reforms in Georgia

The government of Georgia has embarked in a comprehensive ATI reform. In its first NAP, a single ATI commitment included the proactive disclosure of high public interest information on the websites of several government agencies, and the creation of a unified public information database (www.data.gov.ge). Its second NAP also includes one ATI commitment focused on improving ATI regulations and on ensuring its compliance with international standards. The latter aims at solving two key problems. First, the current norms regulating ATI are scattered in several laws. Second, significant difficulties are encountered in the practical implementation of the legislation due to gaps and collision of norms.

A stand-alone draft ATI legislation is currently being subject to consultations with researchers, NGOs, academics and government agencies. It is expected to be considered and approved by Parliament by the end of the 2015 Fall session. In the meantime, experiences from different parts of the world have served as input for the bill. For example, in 2014, a Georgian delegation visited Mexico's Instituto Federal de Acceso a la Información Pública y Protección de Datos, one of the leading ATI enforcement agencies in the world. Good practices and experiences from the US, UK, and the European Union have also served as valuable sources of information.

Unlike other cases, Georgia has secured sufficient funds to push forward its ATI reforms. Technical and financial resources have been provided by USAID, Open Society Foundations and others have allowed the government to carry out many high-value activities such as hiring experts, learning from other countries' success stories, and more. However, the need for additional technical assistance persists as the legislative process is at a key stage and there are still opportunities for introducing changes to the bill.

Source: Author based on interview with local expert

The First Round of Action Plans: An Analysis Using IRM Data

IRM data is a valuable source of information to track OGP commitments. Its databases contain information concerning quality, complexity, transformative effect, and level of completion of each commitment in the

Regional Focus: Latin America (LCR)

LCR has been the most active region in the promotion of ATI within OGP as it accounts for almost 50% of all ATI commitments throughout the 2011-2013 period. Several factors explain this trend: First, since 2000, many countries in the region passed new ATI legislation; second, countries like Chile and Mexico became models of good practices, sharing knowledge and expertise with their neighbors. The proliferation of new laws explains why national actions plans in the region tend to concentrate not so much on legislation but on capacity building, dissemination, and technology-related activities. However, there are still some legal reforms/ commitments mostly focused on harmonizing ATI legislation with data protection and on record keeping (Guatemala), and on records management (Peru). Several countries have resorted to Internet-based solutions to increase ATI, such as setting new Internet portals for submitting and processing information requests (Dominican Republic and Uruguay), generating synergies among portals in different levels of government (Mexico), standardizing the operation and content of existing portals (Guatemala), or developing citizen-friendly ones (Uruguay). Others have focused in reaching the citizenry and disseminating the right to information, sometimes through ATI libraries (Brazil), or by designing contents and tools for visually impaired people (El Salvador). Finally, there is a strong interest in capacity building activities, such as setting up a transparency school for public employees (Guatemala), distance education programs (Brazil) and designing seminars, workshops and training tools efforts to increase public transparency in States and Municipalities (Brazil).

NAPs. Here, it should be noted that to a large degree, OGP NAPs relied on countries' preexisting efforts. A total of 54% of ATI commitments were actions that had already been conceived by governments, whereas 46% of them were new¹⁰. This evidences that even if OGP helps countries commit to new reforms, they also build on existing efforts while acknowledging each country's capacities as well as local ongoing reform processes¹¹.

At a glance, the data indicates that timing for implementation of ATI commitments has been a challenge during this first round of NAPs. Out of 65 ATI commitments, 52% of them showed delays, 42% were on schedule, and only 6% of them were ahead of schedule (in 8% of cases there was no data available). This means that only close to 48% of ATI commitments were implemented on time or ahead of time¹².

Furthermore, when analyzing commitments individually, those that focused on legal reforms composed the highest number of delayed commitments. This trend may not come as a surprise as legal reforms rely on political will, legislative procedures, and frequently complex enactment processes. In that regard, it is predictable to find higher incidence of delays in this type of commitments that are politically sensitive in nature. In most countries, approving ground-breaking ATI legislation is more often than not an extremely complex task that depends on the dynamics of political processes. On the other hand, the on-timing of those commitments that included capacity building activities could probably be related to the low complexity of such tasks which include distance education programs, training for civil servants or for municipalities, or drafting ATI guidelines and manuals for public officials.

IRM data also allows to conduct an analysis of the potential transformative impact of the proposed reforms¹³. It must be underscored that OGP countries are expected to make ambitious commitments (either through new or pre-existing activities) that stretch government practice beyond an existing baseline. To that end, IRM researchers judged how potentially transformative a commitment might be in the respective policy area. The criteria used by IRM classifies the effect of actions into four categories:

1) **None:** Maintains the status quo;

¹⁰ Percentages calculated out of commitments with data available in this area: 23 new; 27 existing; 15 N/A.

¹¹ According to the IRM Data Guide, a commitment is classified as new if the researcher was unable to find evidence of that commitment in prior policy documents.

¹² Percentages calculated out of commitments with data available in this area: 4 Ahead of Schedule; 25 On Schedule; 31 Behind Schedule; 5 N/A.

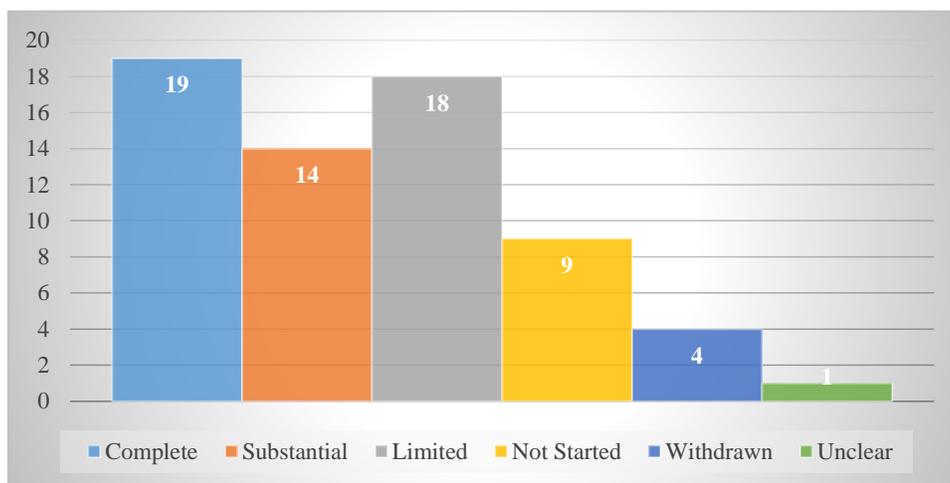
¹³ The IRM does not make claims to impacts analysis. It does, however, gather evidence on how a commitment might impact policy, if implemented. Therefore it refers to commitments' transformative potential impact.

- 2) **Minor:** An incremental but positive step in the relevant policy area;
- 3) **Moderate:** A major step forward in the relevant policy area, but remains limited in scale or scope;
- 4) **Transformative:** A reform that could potentially transform ‘business as usual’ in the relevant policy area.

The existing data suggests that OGP countries have largely committed to important changes (65%). According to IRM data, of the 65 commitments analyzed in this period, 41% of have been categorized as moderate, 24% as transformative, 29% as minor, and 6% had no potential impact.¹⁴.

IRM data also allows to assess the level of completion of commitments which depicts a positive scenario for 2011-2013 round of NAPs. After 12 months, out of 65 ATI commitments, 51% of commitments had been either implemented or were close to completion (29% and 22%, respectively); 28% had made limited progress; and in 14% of the cases, implementation had not yet started. Finally, there is 7% of cases in which commitments had either been withdrawn (6%) or progress was unclear (1%).

Figure 2- Levels of Completion of ATI Commitments after One Year



Source: Author based on IRM data

It should be highlighted that an assessment of aggregated IRM data of all 1,037 commitments from the 1st round of NAPs (2011-2013) shows that ATI reforms were as often completed as general commitments. This finding suggests that when it comes to implementation, ATI commitments are not particularly problematic and also that they seem to be as important as other type of reforms. In other words, although the OGP agenda covers a wide range of topics such as open data and e-government, evidence shows that ATI reforms are as prioritized as other reform areas. According to table below, there is no significant difference in the levels of implementation of ATI reforms if compared to all others OGP commitments.

Table 2 - Actual Completion of ATI Reforms Versus all IRM-Assessed Commitments

	Complete	Substantial	Limited	Not Started	Withdrawn	Unclear	N/A
Access to Information	29%	22%	28%	14%	6%	1%	-
All IRM-Assessed	27%	20%	31%	13%	2%	3%	4%

Source: Author based on IRM data

¹⁴ Percentages calculated out of commitments with data available in this area: 12 Transformative; 21 Moderate; 15 Minor; 3 none; 14 N/A.

Box 3: Breaking new grounds on Access to Information: The case of Paraguay

For many years, Paraguay was one of the few countries in Latin America without an ATI law, but that changed in 2014 when Congress approved a national ATI law sponsored by more than 20 civil society organizations. With a proper legal framework in place, the government will now move towards making the ATI law operational. According to the NAP submitted to OGP, priority will be given to the regulation and implementation of the new law.

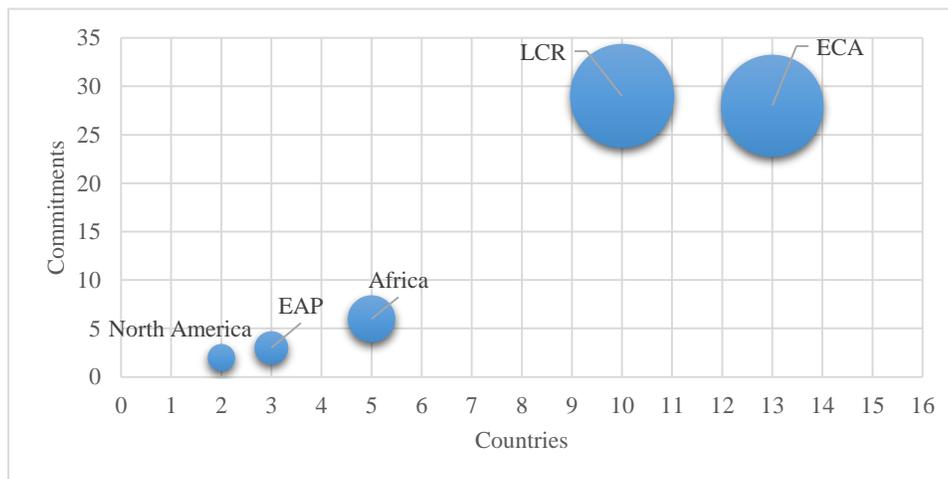
As a country in an early stage of development in terms of ATI, Paraguay faces some challenges. First, as in many other cases, there are financial constraints that may hinder the implementation process and no centralized budget has been allocated for supporting this process. Each agency has to resort to its own funds. Second, maybe the most significant obstacle is the need for technical expertise. However, government agencies in charge of the ATI reforms have already identified some of its neighbors as potential sources of knowledge and support.

Source: Author based on interview with local expert.

2013-15 and 2014-16 Action Plans

The second set of OGP-generated data spans over a period of four years, including NAPs for 2013-2014 and 2014-2016. Out of 51 countries tagged in the OGP database for this period, 33 included a total of 68 ATI commitments (11 countries implementing their first NAPs, while 22 already are in their second ones). Once again, ECA emerges as the leading region with 13 countries and 28 commitments, including the participation for the first time of Hungary, Ireland, the Netherlands and Serbia. Although LCR added Argentina, Costa Rica, Guatemala and Paraguay, the region still had fewer participating countries than ECA with a total of 10 countries and 29 commitments. The most notorious increase was witnessed by Africa, which for this second round of NAPs includes 5 countries: Ghana, Liberia, Sierra Leone, Tanzania, and Tunisia, representing 6 commitments. Another region with moderate increase is EAP with 3 countries and 3 commitments, trailed by North America with only two countries and 2 commitments.

Figure 3: Action Plans 2013-16: Number of Countries & Commitments by Region



Source: Author based on IRM data

It is worth noting that in the second round of NAPs once again we observe several legal reforms mentioned within the commitments. The explanation relies, on one hand, in the fact that there is a cluster of countries without ATI laws that had not participated in OGP before, such as Costa Rica, and Ghana. In these cases, efforts aimed at passing new legislation. On the other hand, there are legal reforms aimed at fine-tuning ATI laws and other related legislation. For example, Bulgaria has committed to implement legislation that improves

the openness of and facilitation of ATI and also to facilitate the re-use of public sector information¹⁵. In addition to updating its ATI law, Croatia committed to amend the Act on Data Confidentiality, and also for the regulation of records of exclusive rights to reuse. The Philippines has made a commitment to passing legislation on ATI and whistleblower protection, whereas Argentina aimed at increasing access to judicial information. Furthermore, Guatemala’s commitments include the approval of two key pieces of ATI-related legislation: one on data protection and another on public archives. Tunisia focused on conducting a review of the legal framework of personal data protection to ensure compatibility with ATI standards. These cases show that reforms not only focus on specific right to information legislation but also encompass a wide array of regulations that must be in place to fully guarantee effective and comprehensive ATI. One of the most obvious cases is the regulation over public records. There is also a need for harmonizing ATI laws with other key rights-related legislation such as personal data protection.

Box 4 - ATI Reforms: The Case of Croatia

OGP has served as a vehicle for promoting ATI reforms in Croatia. The two most important achievements in the first NAP were the approval of the new ATI Law and the establishment of the Information Commissioner as an independent enforcement body. The second NAP served as a tool for consolidating and deepening ATI reforms. Although some of them have not yet been fully implemented, the focus on capacity building for public officials and public education campaigns has reinforced Croatia’s commitment to improving ATI.

Yet implementation has faced challenges. One of the key challenges is the limited funding. Although the proper legal framework is in place, capacity building, dissemination, and institutional strengthening are all costly activities that require adequate funding. In addition, the Information Commissioner Office, an agency composed of five staff members with a budget of 200,000 euros, is not only responsible for enforcement of the ATI law over more than 6,000 public bodies, but also for conducting inspections, dealing with appeals, and training civil servants. In this context, the issue of funding becomes a sensitive one as it hinders the ability of carrying out basic activities such as public education campaigns and monitoring ATI compliance in thousands of public agencies.

Nonetheless, there are opportunities for tackling these shortcomings. Technology can help to cope with economies of scale and reduce the economic cost of “traditional” oversight and enforcement mechanisms. Croatia, however, lacks such ICT tools but many counterparts in the region and elsewhere that have already developed such tools may be a useful source of support. Technical cooperation and financial aid will be key to speeding up and consolidating reforms.

Source: Author based on interview with local expert.

Supporting ATI Reforms: Opportunities and Challenges

Since 2011, 42 countries from all regions of the world have committed to more than 120 ATI reforms. Furthermore, OGP data shows that the amount of ATI commitments has remained constant across the 2011-2013 and the 2013-2016 action plans (65 and 68 commitments respectively). It also reveals that LCR has been at the forefront of reforms with 62 commitments, which represents almost half of all ATI commitments worldwide throughout the whole period analyzed (2011-2016). ECA comes in the second place with a total of 51 commitments, Africa comes in third place with 9 commitments, North America fourth with 7, and lastly EAP with 4.

Table 3 – Total Commitments by Region (2011-2016)

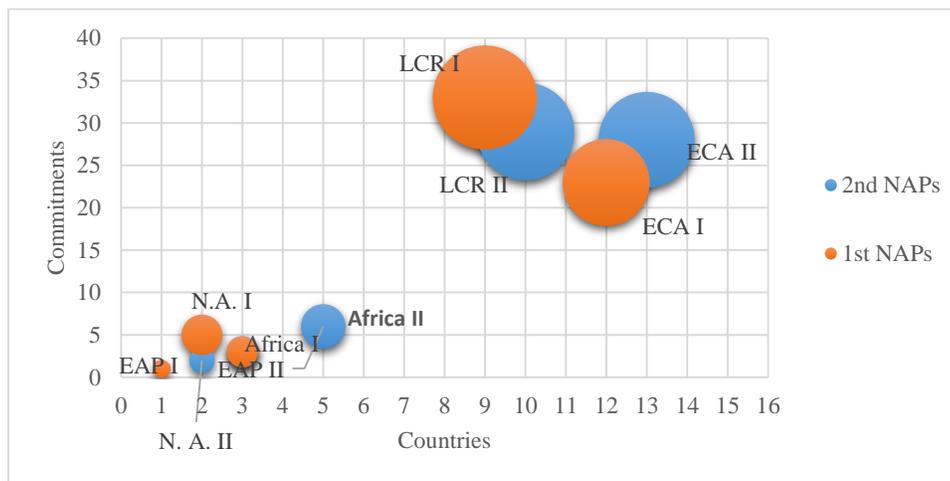
2011-2016	LCR	North America	ECA	EAP	Africa	Total
Total Countries	13	2	17	3	7	42
Total Commitments	62	7	51	4	9	133

Source: Author based on IRM data.

¹⁵ Transposing the Directive 2013/37/EU amending Directive 2003/98/EC on re-use of public sector information.

If instead of looking at the consolidated data we assess the information by periods, a very interesting picture emerges. By comparing the 2011-2013 and 2013-2016 NAPs, the leadership of ECA is reconfirmed in number of countries, but still came in behind LCR in number of commitments, even with the slight increase from 23 to 28. LCR increases its number of countries by only 1 compared to the 1st round of NAPs, but the total number of commitments decrease from 33 to 29. Africa doubled its number of commitments from 3 to 6, and increased almost by same percentage its number of countries participating (from 3 to 5). Furthermore, the low number of ATI commitments by the US and Canada in the 2nd round of NAPs place North America second to last among the five regions. Lastly, after the first NAPs, EAP has increased its engagement in ATI reforms showing a clear increase in both the amount of countries and commitments, 3 versus 1 in both aspects, but such is not enough to dig it out of the bottom of the rankings for the whole period analyzed.

Figure 4 - Evolution of ATI Commitments from 2011-13 to 2013-16 Action Plans



Source: Author based on IRM data.

Regarding the obstacles hindering or delaying the implementation of ATI commitments, the most common factor mentioned in the survey and in the interviews was lack of funding. In some cases, like Georgia, budget was highlighted as a problem but in that particular case was resolved through multi-donor cooperation. Furthermore, many respondents mentioned the political environment as another key factor, either lack of political will or support, elections, and changes in political leadership.

As for the sources of funding to implement the ATI commitments, in most cases, each agency used its own resources. This not only indicates the lack of centralized budget or planning exercises to support reforms but also a need for more interaction between those responsible for the implementation of ATI commitments and Finance Ministries. This is a key issue affecting many countries and should be addressed. Should more relations be developed with key officials in Finance Ministries, the ability to secure funding by agencies responsible for implementing the ATI commitments may improve.

Another key issue relates to the means for sharing knowledge or providing support during reform processes aimed at implementing ATI commitments. In this regard, the OGP is widely perceived as a valuable forum for connecting key players worldwide and generating opportunities for sharing experiences, lessons and expertise. As for the specific peer learning instruments, a large majority mentioned knowledge exchanges and webinars as two of the most frequent mechanisms used.

A few highlighted the usefulness of exchanges and visits to Mexico's IFAI and Chile's Transparency Council. Others, instead, have never participated in that type of activities, such as Ghana, Costa Rica, Czech Republic,

Regional Focus: Europe & Central Asia (ECA)

ECA, is the region with the largest group of countries focusing on access to information. Although extensive progress has been made, many countries are working in the amendment of their ATI legislation (Czech Republic, Croatia, Bulgaria and Ireland). Others have focused on training public officials (Macedonia, Hungary and Ireland). Armenia, for example, has committed to train 200 public servants on the right to information and to the standardization of government websites. Technology has been seen as a useful instrument to enhance ATI for citizens (Spain, Serbia). In this line, Norway has developed an Electronic Public Records portal and Registering and a system for preserving digital documentation produced by public bodies. Serbia, for example, has developed guidelines for website design for public administration agencies. Macedonia, Bulgaria and Montenegro have committed to improve the enforcement of their existing ATI legislation. Increasing citizen awareness has also been a priority. Some countries, for example, have implemented a citizens' campaign on the right of access to information (Macedonia and Croatia), and an awards competition for transparency and openness of public administration bodies at the local and regional level (Croatia). Georgia has concentrated in promoting the proactive disclosure of public, high interest information, and in creating a unified public information database. Lastly, the Netherlands has focused in simplifying the approach to freedom of information requests by making procedures more informal and more user friendly.

and Tunisia. Others have highlighted their participation in the Information Commissioners Network¹⁶ led by the Centre for Freedom of Information based in Dundee, UK, and in the TAIEX European Commission regional event on implementation of ATI policies. The Brazilian Office of the Comptroller General, on the other hand, has been active in providing support to countries such as El Salvador with financial support from USAID. Others reported their participation in the *Red de Transparencia y Acceso a la Información*¹⁷ (RTA), a Latin American network of national ATI oversight bodies. Together with the RTA members, the World Bank has supported a series of Knowledge exchange videoconferences with the team from Paraguay responsible for coordinating the implementation of the ATI law led by the Ministry of Justice, and including the Planning Technical Secretariat (STP), the Secretary for ICT (SENATIC), the Presidency Office, and CSOs (IDEA, and CEAMSO) in 2015.

Despite the differences concerning ATI regime implementation status across countries, knowledge exchanges could be a powerful means for learning among countries with similar commitments. Brazil and Croatia, for example, share a common interest in technology-oriented commitments, such as Internet portals and electronic platforms for handling

information requests. Other countries are interested in monitoring and evaluation mechanisms, a key challenge for those in intermediate stages of ATI reform. Finally, capacity building and institutional strengthening efforts such as training courses on ATI and open data, inter-agency coordination, and regulatory issues are common measures among countries interested in enhancing the performance of ATI regimes.

An analysis of NAPs shows some areas for improvement such as the quality of ATI commitments. Sometimes they are formulated in a broad, vague or unclear language, mixing goals and results. In other cases, instead of indicating specific activities, they only indicate the desired goal. This deficit could become an opportunity for OGP's ATI Working Group for providing support and guidance to countries at the moment of formulating ATI commitments in their NAPs.

This issue is corroborated by IRM data that shows high variations in the specificity and measurability of commitments. Although in 36% of the cases commitment language provides clear, measurable, and verifiable milestones for achievement of the goal, up to one third of them were ranked as having language that describes activities that cannot be construed as measurable without some interpretation on behalf of the reader¹⁸. In this

¹⁶ For more information, see <http://www.centrefoi.org.uk/>

¹⁷ The Transparency and Access to Information Network (RTA) is a permanent space for dialogue, cooperation and exchange of knowledge and experiences among the Latin-American transparency and access to information authorities, aiming to be a benchmark in sharing and learning on both transparency and access to information matters and thus contributing furthermore to strengthen the accountability within the public administration. For more information, see <http://redrta.org/>

¹⁸ According to the IRM Data Guide, specificity can be ranked as:

-High (Commitment language provides clear, measurable, verifiable milestones for achievement of the goal)

-Medium (Commitment language describes an activity that is objectively verifiable, but does not contain specific milestones or deliverables)

context the OGP ATI Working Group may provide support to local IRM researchers at the time of conducting their assessments of ATI commitments' implementation.

Box 5: Promoting ATI Reforms in Contexts of Crisis: Sierra Leone and the Ebola Outbreak

Sierra Leone has recently been affected by a severe health crisis due to the outbreak of Ebola. However, hardship has not undermined the reformist spirit of many ATI activists and government agencies responsible for implementing its OGP NAP. The government has committed to move forward with the full implementation of the 2013 ATI Law, and to draft and pass a Records Management Act.

The Ebola crisis has had an enormous impact on government activity, especially during the last semester of 2014. Nonetheless, progress has been made and work is gradually going back to normal. As of today, the key challenge is the operationalization of the Access to Information Commission (AIC). Conceived as a multi-member body with representatives from different geographic areas from Sierra Leone, the lack of funds has prevented to put the AIC into work as expected. However, recently, the allocation of some funds has at least allowed for the Commission to have one central office in Freetown (originally, the implementation plan also included opening regional offices).

In this context, scarcity of financial resources has become the major obstacle to the implementation of the OGP NAP commitments. Sierra Leone has pushed for the reforms but it is having a hard time in making them operational. For AIC Commissioners, countries such as Chile and Mexico are potentially helpful sources of expertise. In fact, a recent knowledge exchange with members of Chile's *Consejo para la Transparencia* proved to be extremely helpful. In spite of the lack of funds, webinars, video-conferences and other peer exchange activities seem to be promising ways to support Sierra Leone's current work.

Source: Author based on interview with local expert.

Conclusion

Since 2011, OGP has been a major driving force in the promotion of ATI reforms worldwide. As detailed in previous sections, countries across regions have embarked in important reform plans. OGP generated reform processes through which countries signed up to commitments that were sometimes beyond their capabilities. Moreover, limited funding posed an important challenge. Below are outlined some recommendations to explore opportunities for support; consider improvements to the design of national OGP committees; how to promote further knowledge exchanges; and ways to maximize the coordination with the IRM team.

Opportunities for Support

In this context, OGP's ATI Working Group, ATI regional networks, and multilateral partners of OGP may be able to assist countries embarking on ATI reforms. Some potential areas of support may include:

- Providing assistance in the drafting of commitments during early stages of NAPs development.
- Offering follow-up support for the implementation of ATI commitments.
- Building bridges across countries to foster knowledge sharing.
- Helping countries identify funding sources and connect ATI focal points with multilateral partners of OGP and national finance ministries.
- Supporting IRM local researchers during the evaluation stage of ATI commitments.

Composition of National OGP Committees

-Low (Commitment language describes activity that can be construed as measurable with some interpretation on the part of the reader)

Furthermore, there are opportunities for improving the institutional design of national OGP committees. In spite of being ATI one of the pillars of open government, those responsible for ATI reforms not always have a relevant role in OGP venues at the national level. This has hindered, in some cases, both the political support and the allocation of resources for ATI reforms. It is key to encourage closer relations with finance ministries to secure funding and include ATI reforms among budget priorities.

It is worth mentioning that during the preparation of this note, contacting and getting feedback from counterparts in charge of ATI commitments at the national level was a complex task. In some cases, it was not easy to identify the person in charge of ATI commitments; in others, it took time to get feedback. For the sake of future activities and studies, it could be helpful to develop or strengthen communication mechanisms between national ATI focal points and OGP structures (Support Unit, IRM team and OGP ATI Working Group).

Promoting Peer Learning and Knowledge Sharing

Another area in which OGP ATI working group, multi-lateral partners, and regional networks could play an important role is in fostering exchanges among countries and facilitating knowledge sharing. There is a clear gap between countries still at the very early stages of reform (who lack experience and technical know-how) and those that have already made significant progress (modernizing their regulatory frameworks, strengthening ATI bodies, and incorporating technology, among others).

Coordination with IRM Team

There are also opportunities for valuable interactions between the aforementioned groups and the IRM. The latter has access to updated information from every country and engages in dialogues with authorities, NGOs, and experts at the national level. It is therefore in a good position to generate implementation-related information throughout the various stages of ATI reforms. The OGP ATI working group also could provide expertise and assistance in all stages by supporting quality control, collaborating in the commitment-tagging process, and helping in the search for sources of know-how and expertise among OGP member countries.

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Annex 1. List of Interviewees

- Anamarija Musa, Information Commissioner (Croatia)
- Yeama S Thompson, Commissioner, Right to Access Information-South (Sierra Leone)
- Rubén Cubilla and Jorge Galeano Paredes, Director General de Información para el Desarrollo, Secretaria Técnica de Planificación (Paraguay)
- Kimberling Verónica Hernández, Directora, Dirección de Transparencia (El Salvador)
- Ketevan Tsanava, Legal Advisor at the Analytical Department, and Zurab Sanikidze, National Coordinator of Open Government Partnership (Georgia)
- Joseph Foti, Independent Reporting Mechanism, Open Government Partnership (USA)

Annex 2. Survey Questionnaire

1. What has been the progress regarding the implementation of the OGP ATI commitments? What milestones have been achieved?
2. What have been the main obstacles hindering or delaying the implementation of ATI commitments in your country? (e.g. limited budget, limited capacity, limited political will, little strategic vision) Kindly elaborate.
3. What are the sources of funding to implement the ATI commitments? Was there a budget planning exercise in order to understand how much would it cost to implement the commitments?
4. Please list ALL agencies responsible for the implementation of your ATI commitments and indicate whether or not there has been collaboration with civil society organizations.
5. If ATI commitments in your country's first action plan were not met but they have been re-included in the second action plan, what factors you consider will help to achieve them this time?
6. Do you see value added in OGP vehicles for peer exchanges in the context of ATI commitments? How can you best benefit from such exchanges? How could you best participate, through which channels? For example: webinars, regional events, Global Summit, specific working groups, other non-OGP events and networks. Who would be the main audience in your country for these exchanges?
7. What are the good practices most suitable to inform the implementation of ATI commitments in your country?
8. Most countries have included four kinds of commitments:
(a) regulatory reforms, such as passing an ATI law or overhauling existing legislation;
(b) capacity building such as training on ATI for various stakeholders, or capacity building for public officials;
(c) institutional design or institutional strengthening goals, such as hiring officers/defining TORs, creating ATI units and/or expanding ATI offices throughout the country, designing monitoring & evaluation/oversight mechanisms, enhancing inter-agency coordination, enhancing enforcement of sanctions mechanisms for non-compliance, etc.; and
(d) technology-related reforms, such as creating Internet portals, designing electronic submission tools, or harnessing the power of technology.

Do you have specific support needs to successfully implement any of the four types of reforms?

9. Have you participated in any peer exchange sessions and sharing with other countries? If so, please describe briefly:
-Did your country seek assistance or provide assistance?
-Was it government-to-government peer exchange? Or government-to-civil society?
-Was it related to plan development and/or implementation of ATI commitments?
-What were the main outcomes and contents exchanged or shared?
-Was this supported by a Working Group, a multilateral, or self-supported?
10. Contact Information
Name; Organization/Agency; Country; Phone; Email.