Expert meeting on
"Building an open and innovative government for better policies and service delivery"

Paris, 8-9 June 2010

Background document for session 1 (8 June, 16h – 17h)

<u>OECD Guiding Principles for Open and Inclusive Policy Making</u>

This document provides Expert Group members with a short history and background on the OECD Guiding Principles for Open and Inclusive Policy Making to help inform session 1 of the June 8, 2010 meeting on "Building an open and innovative government for better policies and service delivery."

Introduction

First developed in 2001, the OECD Guiding Principles for Open and Inclusive Policy Making (provided in Annex 1) have served as a tool to help policy makers foster a culture of openness and inclusion and execute consultation with citizens and stakeholders by helping them to design and implement effective policies and institutions. However, the continued challenges that countries are facing in opening up their administration and involving citizens in decision making call for a more thorough review and adaptation of these principles to the policy concerns emerging from the current economic and societal realities. Specifically, Expert Group members are asked to consider

> (1) how the principles can be reinforced to better link rules and institutions to policy implementation and service delivery, and

> (2) whether they can be adopted by the OECD country community as formal instruments to guide public policy and service implementation.

Background

The Guiding Principles are the output of an initial mapping exercise, reported in 2001, of the provisions and practices for providing information, consultation mechanisms and active participation of citizens in policy making in OECD member countries. They were accompanied by the OECD Handbook on Information, Consultation and Public Participation (2001) that served as a practioners' guide, offering a roadmap for building a framework for informing, consulting and engaging citizens during policy making. Since their publication in 2001, the Handbook has been translated into nine languages and the Guiding Principles have been widely cited and incorporated into national policy guidance and have become part of member and non-member countries' legal environment (see Annex 2).

Recognizing their enduring value, a ministerial call to action in 2005 led members of the OECD Steering Group on Open and Inclusive Policy Making to launch a project in 2007 to assess the extent to which the Guiding Principles were implemented in OECD member countries. As part of this process the Secretariat consulted with non-government stakeholders in addition to 25 national governments, surveying 54 civil society organisations from 14 countries on the legal and institutional frameworks, goals and progress made in ensuring open and inclusive policy making. Results showed mixed progress among countries in implementing the principles; while their value was widely accepted and integrated into the legal framework, translating this commitment into active practice remained a challenge. In addition, based on the consultations with governments and civil society stakeholders, the principles were revised to add inclusion as a principle.

At its 38th session in September 2008, the Public Governance Committee approved the revised set of Guiding Principles for Open and Inclusive Policy Making. The Committee recognised the importance of raising awareness of and promoting compliance with the Guiding Principles among member countries. The Committee called upon the Secretariat to undertake a consultation process on the Guiding Principles with stakeholders, including government and private sector, international and regional organisations, and civil society. This process will reinforce the principles and could lead to the decision of submitting them to the OECD Council for adoption as a Recommendation.

Revising the Guiding Principles in 2010

If the Guiding Principles are to be submitted to the OECD Council for adoption as a Recommendation, they may first be needed to be updated to better reflect the current reality facing government and to ensure that they provide a useful tool to guide countries as they look to further implement and embed open government practices.

The context in which governments operate has changed rapidly since the Public Governance Committee addressed this issue in 2008. The challenges facing governments are increasingly complex and the resources available to address them are increasingly limited. At the same time, citizens are more and more calling for increased transparency and accountability, partly in response to the financial and economic crisis which is often seen as a result of weaknesses in government regulatory and oversight structures. In response, several OECD member countries, such as the United States and the United Kingdom, have launched open government initiatives. OECD members are also increasingly looking to involve citizens in improving the design and delivery of services, although many find this challenging and are taking varied approaches.

When considering how to update and reinforce the principles, countries are asked to keep the following questions in mind:

A. What does open government mean in today's context?

In the past, the OECD has defined open government as "the transparency of government actions, the accessibility of government services and information, and the responsiveness of government to new ideas, demands and needs"[1]. Today open government has received increased attention thanks to the growing role of social networks (within and outside government) and the pervasive use of ICTs in society. These factors have shifted attention to the practice and impact of open government rather than on the institutions and rules. The idea is that the source of public value is rooted in individual and society choices, expectations, and interests, and that public value cannot be generated by government alone (*e.g.* the preservation of the environment requires individual behavioural change). Open government is about how government can work with society and individuals to co-create public value.

Over the past ten years, countries have focused on building the institutions and mechanisms for open government to create a solid basis for implementation of policies. To aid in these efforts, the OECD has worked with countries to define policy and legislative frameworks for open government and then map whether or not these framework were created. Today, the legal framework for open government is largely in place in OECD member countries, and consists of: (1) laws on access to information, (2) laws on privacy and data protection, (3) laws on administrative procedures, (4) laws on ombudsman institutions, and (5) laws on supreme audit institutions (see Annex 3). However, there has been limited attention yet to analyse how effectively these frameworks have been implemented and what results have been achieved in terms of enhanced transparency and accessibility, and greater possibility for citizen to contribute to policy design and service delivery. For example, opening up government databases offer a great potential for participation and innovation. However, this requires not only adjustments of rules and frameworks but also measures and policies to strenghten individual capacities and incentivise collaboration.

Questions for discussion:

- *Is the definition of open government still valid? If not, what defining elements do you consider would need to be taken into account?*

- *Is the OECD legal framework applied to the analysis of open government policies and reflected in the Guiding Principles responding to your current country concerns regarding implementation ? If not, what elements of this framework are to be reviewed to take your concerns into account?*

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[1] (OECD, 2005), "Open Government" in *Modernising Government: The Way Forward*

B. What are the benefits of open government, particularly in a time of constrained resources?

As indicated above, there is a growing awareness that government cannot deal with complex problems alone and that citizens will have to play a larger part in achieving shared public policy goals (*e.g.* public health, climate change). In addition, many recognise that the benefits brought by open government can lead to improved overall government performance (see Box 1). However, evaluations of whether these benefits are realised are scarce. At the same time, governments are currently facing extreme pressure to cut expenditures and open government initiatives are not without costs (both monetary and non-monetary).

There is a growing need to build a solid business case for open government that goes beyond simple assumptions and provides evidence of impacts on individuals and society. This requires continous monitoring and analysis of country practices to identify (and possibly measure) factors of success and elements or risks. This also requires a better understanding of both external (*e.g.* the demand for open government) as well as internal factors (*e.g.* organisational culture, tools for engagement) impacting on results.

Box 1: Potential Benefits of Open Government

Establishing greater trust in government. Trust is an outcome of open government that can reinforce government performance in other aspects. In addition, if citizens trust government or specific government policies, then they may be more willing to pay (fees, contributions, taxes) to support these policies.

Ensuring better outcomes at less cost. Co-design and delivery of policies, programs and services with citizens, businesses and civil society offers the potential to tap a broader reservoir of ideas and resources.

Raising compliance levels. Making people part of the process helps them to understand the stakes of reform and can help ensure that the decisions reached are perceived as legitimate.

Ensuring equity of access to public policy making by lowering the threshold for access to policy making processes for people facing barriers to participation.

Fostering innovation and new economic activity. Public engagement and open government is increasingly recognised as a driver of innovation and value creation in both the private and public sectors.

Enhancing effectiveness by leveraging knowledge and resources of citizens who otherwise face barriers to participation. Public engagement can ensure that policies are better targeted and address the needs of citizens, eliminating potential waste.

Questions for discussion:

- *What has been the impact of the financial and economic crisis on the policies for enhancing open and inclusive government in your country? Have your priorities changed?*

- *Do you measure the costs and benefits resulting from open and inclusive policies? What are the major challenges in measuring results?*

- *What challenges are you currently encountering during implementation? Are they different from those you experienced before the crisis?*

C. What would be the benefit of turning the Guiding Principles into a Council Recommendation?

A Council Recommendation expresses the common position or the will of the whole OECD membership and entails the political commitment of the member countries. It is not legally binding.

A Council Recommendation would ascribe credibility and validity to the Guiding Principles as voluntary principles and standards for transparency and openness in government conduct in OECD member countries. A Council Recommendation would endorse member countries to take appropriate steps to develop and implement an adequate policy framework for enhancing citizen engagement and take into account the Guiding Principles in developing policies for citizen and stakeholder participation in decision making. It would furthermore lead to the dissemination of the Guiding Principles to non-member countries and encourage them to take the Guiding Principles into account in the promotion of openness and inclusion in policy making.

The Public Governance Committee is the OECD body responsible for overseeing the functioning of the Guiding Principles and would report to the Council on progress made in implementing the Recommendation. Indicators to measure open government would be developed in connection to the reporting.

The following steps are proposed:

- Review of the existing Guiding Principles led by the OECD Secretariat with the support of OECD member countries.

- Presentation and discussion of the revised guiding principles within the community of OECD member countries. Agreement on a final version of the document.

- Launch of a consultation process of the Guiding Principles with major stakeholders inside and outside government.

- Possible presentation of the Guiding Principles to the OECD Council as OECD Reccomendations.

- **ANNEX 1: GUIDING PRINCIPLES FOR OPEN AND INCLUSIVE POLICY MAKING**

1. **Commitment:** Leadership and strong commitment to open and inclusive policy making is needed at all levels – politicians, senior managers and public officials.
2. **Rights:** Citizens' rights to information, consultation and public participation in policy making and service delivery must be firmly grounded in law or policy. Government obligations to respond to citizens must be clearly stated. Independent oversight arrangements are essential to enforcing these rights.
3. **Clarity:** Objectives for, and limits to, information, consultation and public participation should be well defined from the outset. The roles and responsibilities of all parties must be clear. Government information should be complete, objective, reliable, relevant, and easy to find and understand.
4. **Time:** Public engagement should be undertaken as early in the policy process as possible to allow a greater range of solutions and to raise the chances of successful implementation. Adequate time must be available for consultation and participation to be effective.
5. **Inclusion:** All citizens should have equal opportunities and multiple channels to access information, be consulted and participate. Every reasonable effort should be made to engage with as wide a variety of people as possible.
6. **Resources:** Adequate financial, human and technical resources are needed for effective public information, consultation and participation. Government officials must have access to appropriate skills, guidance and training as well as an organisational culture that supports both traditional and online tools.
7. **Co–ordination:** Initiatives to inform, consult and engage civil society should be coordinated within and across levels of government to ensure policy coherence, avoid duplication and reduce the risk of "consultation fatigue." Co-ordination efforts should not stifle initiative and innovation but should leverage the power of knowledge networks and communities of practice within and beyond government.
8. **Accountability:** Governments have an obligation to inform participants how they use inputs received through public consultation and participation. Measures to ensure that the policy making process is open, transparent and amenable to external scrutiny can help increase accountability of, and trust in, government.
9. **Evaluation:** Governments need to evaluate their own performance. To do so effectively will require efforts to build the demand, capacity, culture and tools for evaluating public participation.
10. **Active citizenship:** Societies benefit from dynamic civil society, and governments can facilitate access to information, encourage participation, raise awareness, strengthen citizens' civic education and skills, as well as to support capacity-building among civil society organisations. Governments need to explore new roles to effectively support autonomous problem-solving by citizens, CSOs and businesses.

ANNEX 2

GUIDING PRINCIPLES IN PRACTICE: 3 CASE STUDIES

Case Study #1. New Zealand: A reference group to foster government-community relationship

The Office for the Community and Voluntary Sector (OCVS) in the Ministry of Social Development was established in 2003 to help government move towards a more respectful community-government relationship. It provides information and advice to public servants on effective community engagement practices, advises on issues impacting community organisations, and builds information on, and resources for, the community sector.

In March 2008, the OCVS established the *Building Better Government Engagement* reference group. The role of the group is to report to the OCVS on priorities for government action to strengthen engagement with citizens and community organisations, taking into account issues identified through previous community-government dialogue processes and current government initiatives related to this area. The members were drawn from government and non-government backgrounds, and selected on the basis of their personal skills and knowledge in terms of relationship building, communications, dialogue and deliberation, government and political systems, civil society, and human resources and training. This group has tried to follow the OECD Guiding Principles in its own conduct and has also set them as the standard it uses to evaluate ways the New Zealand government can improve engagement. For example, referencing the OECD Guiding Principles, this group has identified training and other upskilling opportunities for public servants and citizens as an area for improvement: 'few countries give consideration to the cost of training of public servants and citizens, although "training is paramount to good citizen engagement processes".'

Case Study #2. United States: A public engagement principles project

The National Coalition for Dialogue and Deliberation (NCDD) emerged in 2002 from the National Conference on Dialogue and Deliberation which sought to address the disconnect between numerous streams of practice (deliberative democracy, conflict transformation, intergroup dialogue, etc.) that developed without much awareness of the other.

The NCDD provides an infrastructure to a loose-knit community of practitioners, researchers, activists, artists, students and individuals who seek to nurture justice, innovation and democracy throughout society through dialogue and deliberation. NCDD's members include organisations as varied as the Open Space Institute, the Jewish-Palestinian Living Room Dialogue Project, AmericaSpeaks, Search for Common Ground, The Public Conversations Project, the Center for Nonviolent Communication, Web Lab, Campus Compact and the Study Circles Resource Center. NCDD's individual members include public officials, students, artists, practitioners, scholars and others.

In 2009, the NCDD website launched a new initiative that provides a participatory forum for members to explore and develop standards of public engagement. The objective of this effort is to encourage members in the field to formulate and endorse a set of principles or standards for public engagement to the US central government administration. The OECD Guiding Principles are one of the sets of principles for public engagement that are used to frame and guide the discussion.

For more information, refer to: thataway.org/2009/pep_project/discussion/32/oecd-principles-for-successful-information-consultation-and-active-participation-in-policy making/

Case Study #3. Australia: Citizenscape

In the state of Western Australia, the Office of Multicultural Interests within the Department of Local Government manages Citizenscape, a website with a wealth of information on citizen-related organisations, activities, resources and projects. The website also provides access to a number of publications developed by the Office of Citizens and Civics for government agencies on appropriate and effective approaches to public consultation.

The 'Consulting Citizens Series' provides guidance to assist senior managers when overseeing the scoping and planning stages of projects and programs with input from community and stakeholders. The principal tool the Office of Citizens and Civics puts forward for public participation in decision-making is the 2001 OECD Guiding Principles.

The Office of Citizens and Civics operates under the auspices of the Department of the Premier and Cabinet.

For more information, refer to: citizenscape.wa.gov.au/documents/BlackWhite.pdf

ANNEX 3

OPEN GOVERNMENT DATA FROM *GOVERNMENT AT A GLANCE* 2009

Table 1. Overview of current legislation and institutions for open government (2008)

	Freedom of information	Privacy/data protection	Administrative procedures	Ombudsman/ Commissioner	Supreme audit institution
Australia	●	●	●	●	●
Austria	●	●	●	●	●
Belgium	●	●	○	●	●
Canada	●	●	○	●	●
Czech Republic	●	●	●	●	●
Denmark	●	●	●	●	●
Finland	●	●	●	●	●
France	●	●	●	●	●
Germany	●	●	●	●	●
Greece	●	●	●	●	●
Hungary	●	●	●	●	●
Iceland	●	●	●	●	●
Ireland	●	●	○	●	●
Italy	●	●	●	●	●
Japan	●	●	●	●	●
Korea	●	●	●	●	●
Luxembourg	○	●	●	●	●
Mexico	●	○	●	●	●
Netherlands	●	●	●	●	●
New Zealand	●	●	●	●	●
Norway	●	●	●	●	●
Poland	●	●	●	●	●
Portugal	●	●	●	●	●
Slovak Republic	●	●	○	●	●
Spain	●	●	●	●	●
Sweden	●	●	●	●	●
Switzerland	●	●	●	○	●
Turkey	●	○	○	○	●
United Kingdom	●	●	●	●	●
United States	●	●	●	○	●
European Union	●	●	○	●	●
Legislation in place: ●; Legislation not in place: ○					

Note: While Italy does not have a national ombudsman, extensive coverage is provided by sub-national ombudsman institutions and a government-appointed commission oversees implementation of the law on access to public information. Turkey passed a law on a national ombudsman in 2006 which was subsequently suspended by a Constitutional Court ruling. While Switzerland does not have an ombudsman, the law on data protection appoints a person to advise and monitor the law's interpretation and the law on transparency assumes that this person also serves as a mediator. In countries without specific laws on administrative procedures, such as Canada and Ireland, other legislation (*e.g.* freedom of information or privacy/data protection) can provide mechanisms for citizens to hold governments accountable.

Table 2. Number of OECD member countries with laws on access to information (1960-2008)

Cumulative number of OECD member countries

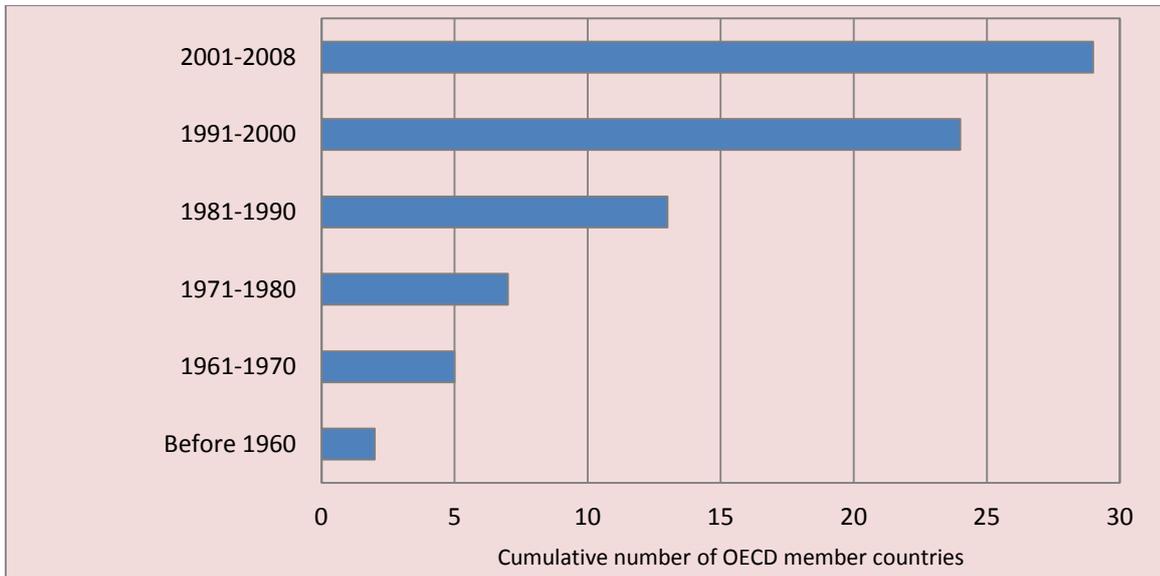| Period	Value
2001-2008	29
1991-2000	24
1981-1990	13
1971-1980	7
1961-1970	5
Before 1960	2

Table 3. Number of OECD member countries with laws on ombudsman institutions (1960-2008)

Cumulative number of OECD member countries

Period	Value
2001-2008	27
1991-2000	24
1981-1990	19
1971-1980	13
1961-1970	7
Before 1960	3