



Implementation Assessment Tool Meeting Summary

**August 23-24, 2009
Washington, D.C.**

I. OVERVIEW OF IMPLEMENTATION ASSESSMENT TOOL

In the area of access to information, there has been much discussion on the principles and necessary provisions for good legislation. In fact, there have been a number of initiatives to draft model laws and promote key statutory principles, as well as important studies undertaken to assess government compliance with its law and the extent to which persons who request information can receive it. Moreover, there is significant consensus on the desired outcome of an access to information regime – individuals having a right to seek and receive accurate, complete and timely information through a specific request or via automatic publication.

In the studies that exist, the focus has tended toward assessing the outcomes, i.e. are persons able to receive the information requested, while there remains a dearth of information regarding the extent of government inputs to fully and effectively implement the law. The Carter Center hopes to advance a study focused on this central piece of the equation – the implementation of the law – with a particular emphasis on the government inputs to ensure the desired outcomes.

The Carter Center is working to develop a replicable tool with a clear set of indicators that can be used by all stakeholders in government and civil society to assess government implementation of the right of access to information. At the same time, the assessment tool will create a roadmap/guide for government implementation of access to information legislation.

The objectives of the **access to information legislation implementation assessment tool** are to:

1. Diagnose the extent of implementation of the access to information legislation;
2. Provide a potential implementation roadmap for governments and public entities of the most critical implementation activities; and
3. Supply important information for understanding implementation and for additional scholarship.

The implementation assessment tool (IAT) is not designed to compare countries or create a country ranking/ index. In fact, recognizing the variances within governments, the focus of the diagnostic will be on Ministries and agencies, rather than national government as a whole. In this

way, we hope to capture government bodies that are succeeding as well as those that merit additional attention. The IAT is intended to be a resource to help governments and provide a tool for more sophisticated and refined advocacy. In developing the IAT, we want to create a tool that can be applied by governments as well as civil society advocates that provides a snapshot of the extent of the law's implementation based on best practices. As such, the tool should be easy, quick, and cheap. The Carter Center hopes to collaborate with Global Integrity in the application and pilot testing of the IAT.

II. OBJECTIVES OF MEETING:

The initial meeting was held to bring together a small group of experts in the field of access to information and democracy indicators to consider the key issues in implementation, potential indicators, and begin identifying the best practices by which to measure them.

Some key questions that we hoped to consider during this meeting included:

1. The value of this IAT
2. The legitimacy of the tool, particularly as there are no standards for implementation
3. Design

III. DISCUSSION

The two-days of robust discussion established the importance of an implementation-focused study as well as the key elements of implementation to assess, but also highlighted a number of potential problems and risks that merited additional consideration. Underlying both days of discussion was how to make the study replicable and portable across varying countries and how to insure that the tool assesses quality of the implementation, rather than just a "check the box".

A. DAY ONE

During the opening session of the meeting, Laura Neuman, Manager, Access to Information Project, Carter Center presented the objectives and antecedents for the implementation assessment tool. She focused much of her opening on her vision for a narrow scope of assessment, looking only at the government's implementation activities and efforts, what she deemed the "inputs." Although some access to information laws include provisions for personal data protection, it was agreed that this study would not encompass those themes.

After a fuller discussion of what other studies include, in particular many measuring the outputs with anonymous requests made to test the system, the group concluded that keeping the focus of this assessment on the inputs, or "plumbing" (the infrastructure that people generally do not see but is essential to a functioning house) as one expert termed it, would be useful for governments trying to gauge their own effectiveness against best practices. Nevertheless, there were some lingering concerns related to the narrowness of this study, and whether one can truly assess the government inputs without looking at the quality of its outputs.

- **Agreement that IAT is a valuable tool**

- **Continue to consider whether limiting assessment to inputs, without engaging the quality of the outputs, may lead to skewed results**
- **Can we disassociate implementation from the law?**
- **Are we assessing implementation activities or the effectiveness of the implementation?**

In order for the tool to be portable across countries, it cannot be based on statutory compliance – as specific legislation may include unique provisions that inform implementation. Therefore, it was agreed that the IAT will assess implementation efforts against best practices. Unfortunately, there is a dearth of standards and best practices for implementation. Thus, we posed the question of whether the IAT will lack legitimacy as it will, necessarily, be based on our (TCC and experts) determination of what implementation must include, rather than on previously recognized international norms. One expert noted that we could provide a list of assumptions—certain tenants that if not applied, the law will not prove effective in practice—that are necessary, but not sufficient to guarantee a well-functioning access to information system. These tenants can serve as a set of best practices for both newly established access to information systems as well as established systems that seek to review their own implementation. However, this begged the question of whether we are assessing a specific action or the quality of the action; and whether implementation is context-specific (ie how much training is “sufficient”).

- **Continue to consider how to create and agree upon best practices, which will then serve as indicators and measurements for the IAT**

We discussed whether this tool will be used only in countries with existing legislation. While it may be reframed for other circumstance, it was agreed that its primary purpose would be to assess countries with statutory access to information mandates.

- **Agreed that IAT will primarily be used to assess states with a legislated right of access to information**

A central question throughout our discussion revolved around the scope of the IAT. For example, one expert posed the question whether the study should include an assessment of enforcement and another suggested that the volume and complexity of requests plays a role in government’s implementation efforts. This again raised the question of whether we are assessing whether the systems are in place or their functioning.

- **Agreed that an implementation assessment tool can be developed without assessing enforcement**
- **Continue to consider the role of volume and complexity of requests in either promoting or retarding effective implementation**

As a follow-on from the discussion of scope, we explored the potential that the IAT could actually do harm. If the tool is based solely on government actions, rather than the quality of those actions (ie their effectiveness, functioning in practice etc.), we might create too formulaic a measurement, with some countries learning how to “pass” without implementing a high quality system. If too “check the box” driven, we could imagine a situation where a government claims

to have done well on the IAT indicators/measurement, thus receiving “the Carter Center stamp of approval” while not really implementing meaningful access to information. At the same time, quality measures are more challenging and more subjective.

- **Continue to consider the quality issues as we develop the implementation assessment tool to ensure we do not give a rubber stamp based on establishment of systems without assessment of their functioning**

B. DAY TWO

After a recap of the first day’s discussion and findings, a question was raised about the user-side of the equation: should and, if so, how would user expectations and needs be taken into account? As one expert queried, if the objective of the tool is to assess how well the administration is doing their work, can we do that without taking user satisfaction into consideration? Although no consensus was reached, there was some general agreement that a limited study targeted at the government inputs could be crafted to assess the extent of implementation without including the demand side of the equation. However, there should be some recognition of the importance of the demand through indicators related to government awareness-raising efforts.

- **Continue to consider whether, and how, to include “users” in the IAT**

The group then turned our attention to defining the specific question that the IAT would be answering. Following a robust discussion, we agreed that the tool’s framing question would be **“To what extent is the agency capacitated and prepared to provide information and respond to requests.”** From this question, we developed the key pillars of implementation.

First, each participant was asked to identify the six to eight main baskets of activities related to effective implementation. Next the group used an exercise to begin discussing and grouping all the relevant aspects of implementation, eventually creating six pillars with components in each pillar. Using personal experience as well as previous scholarship, the individuals provided a great wealth of knowledge on which to base the discussion and ultimate decisions related to best implementation practice.

The final six pillars that all participants agreed upon were:

- **Procedures for dealing with requests;**
- **Proactive disclosure;**
- **Record management;**
- **Infrastructure and resources;**
- **Leadership function, including oversight and monitoring; and**
- **Training.**

Under each pillar there are a series of components, and for each component there will be one or more binary and/or scaled indicators. The implementation assessment tool may be designed to provide a total per pillar score as well as possible a total aggregated result. In addition to quantitative data, we discussed the need for an accompanying narrative report that provides

supplementary qualitative and country context information. Finally, during this session of the meeting, we discussed some of the factors, outside of the Ministry/agency control, that affect implementation. Many of these elements are national (central government controlled) in nature and direct implementation. We agreed to consider adding an overarching set of indicators that would apply to each Ministry/agency assessment.

- **Continue to consider the components within each pillar and best practices for each**
- **Create the set of indicators and scale/measurement, keeping in mind our mandate to make the tool easy to apply, not overly time consuming and cheap**
- **Continue to consider central government indicators**

In the final session, we discussed the utility of the implementation assessment tool, particularly in light of the variations among countries. One participant suggested that the tool would be most helpful for countries with new laws, as a number of the components measure initial implementation activities, rather than ongoing efforts. In considering how to capture ongoing process and whether this tool would serve a value, we again became trapped by the questions of best practices, breadth versus depth of the IAT objectives, and identifying indicators that are sufficiently narrow to allow for a diagnosis but broad enough to be applicable regardless of the specific country context.

- **Continue to consider indicators that capture ongoing process rather than just one time activities**

Important issues regarding methodology and the tool's design were discussed at numerous points during the meeting. One major agreement of the group was that the assessment would only be used in countries that already have a comprehensive law in practice. Other questions included index versus ranking, how to capture the data, and weighting of indicator. With relation to the weighting of each indicator, we were inclined to weight each equally (i.e. each indicator receives a one) for ease and because there are no definitive studies indicating to what extent some implementation activities are more important, and thus should we weighted more heavily, than others. Another method could be to include more indicators in areas that we believe are the most critical, and in this way some components will be weighted more heavily.

A debate regarding use of requests to obtain data emerged a number of times throughout the two days. Although the tool's methodology will not be based on requests, we may use the rate of response and user satisfaction (as measured by other studies, polling or focus groups) as indicators. Other methods for data collection could include questionnaires, interviews, and desk research.

- **Continue to consider the role of requests in assessing implementation**
- **Continue to consider how to capture data**
- **Continue to consider how to weight the indicators/components**

IV. NEXT STEPS

With broad consensus on the pillars and general components, specific indicators, benchmarks, and metrics will need to be developed. Following this meeting, the Carter Center will:

- Summarize our discussion and findings, including highlight questions that need further consideration
- Share the initial framework with key experts in early November
- Create a draft set of indicators and scaling, based on “best practices”
- Identify criteria for pilot selection (countries and Ministries/agencies)
- Develop a manual to guide application of the IAT and measurement
- In partnership with Global Integrity, pilot the tool in three phases (3 countries; then an additional 3 countries; then 4 countries)