

Department of Public Service and Administration



REPUBLIC OF SOUTH AFRICA

Reviving the OGP Process in South Africa
OGP 5th National Action Plan 2023-2026



30 December 2022

1. Foreword



Mr TW Nxesi, MP

In September 2011, South Africa endorsed the *Open Government Partnership (OGP) Declaration of Principles*, thereby committing itself to work with civil society towards enhancing transparency, public participation, accountability, and the fight against corruption in both the public and private spheres.

This global partnership initiative on open government is in line with the African Union's *African Peer Review Mechanism (APRM)* which encourages African governments to improve good governance - including participation, openness and service delivery to their populations.

Open Government in the South African context, is premised on our progressive and transformative Constitution which enshrines a *Bill of Rights* and the principles of good governance. Chapter 9 of our Constitution specifically provides for the establishment of independent institutions to safeguard and enforce openness, transparency, accountability, responsiveness, and ethical governance in the public and private spheres. These institutions are critical in promoting and protecting the rights of citizens.

South Africa is also committed to leading the implementation of the African Union (AU) decision to pursue universal accession to the African Peer Review Mechanism by AU Member States. The Republic of Burundi became the 42nd member of the APRM when the African Peer Review (APR) Forum of Heads of State and Government met on 4 February 2022, which marked the end of our two year Chairship of the APR Forum.

This is also in line with priority seven of the Medium Term Strategic Framework (MTSF) 2019-2024 commitment of ensuring "A better Africa and better World", by using the APRM as a platform to work with other countries to advance good governance and democracy. The

creation and maintenance of genuine avenues for participatory democracy and development and independent institutions to uphold and enforce the broad principles of good governance, is indicative of the South African government's unambiguous commitment to the values and principles of an open society as espoused in, among others, the Declaration of Principles of the OGP.

When the OGP 4th National Action Plan (NAP) 2020-2022 was submitted in December 2020 my predecessor, Minister Senzo Mchunu, stated among others as follows:

“As we commit to continue our support to the global OGP initiative, we will also continue to support and participate in continental initiatives that assess our performance in open governance. In partnership with the other countries and stakeholders, we'll continue to find synergies between the OGP and the APRM as these two initiatives are mutually affirming in strengthening good governance practices in Africa”.

When the Cabinet adopted the high level APRM National Plan of Action (NPoA) 2022 – 2025 on 22 June 2022, it thus affirmed the principle complementarity between the OGP and the APRM by ensuring that the OGP 5th NAP will be responding to the APRM 2nd Generation Country Review Recommendations.

Hence the NPoA 2022-25 states among others as follows:

“The Open Government Partnership (OGP) National Action Plan (NAP) 2023 - 2026 will also respond to some of the issues recommended in the APRM 2nd Generation Country Review Report, especially on issues of combating corruption and improving access to justice by the vulnerable groups”.

This means that the Cabinet's endorsement of the APRM NPoA 2022 - 2025 is broadly an endorsement of the OGP NAP 2023-2026. Civil society will thus, on a continual basis, be at liberty to further formulate focused commitments linked to specific departments as an extension of the macro commitments already endorsed by the Cabinet.

Finally, I want to thank those civil society organisations and government departments who have collaborated with the Department of Public Service and Administration (DPSA) in the development of the OGP 5th National Action Plan.

Mr TW Nxesi MP

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Annexure E:

High Level Summary of the National Plan of Action (NPoA) 2022-2025:

Arising from the 2nd Generation Country Review of South Africa at the 31st Summit of the APR Forum of Heads of State and Government held on the 4th February 2022

1. Background

The OGP was formally launched on 20 September 2011 on the sidelines of a United Nations General Assembly (UNGA) meeting during which the Heads of State from 8 founding governments (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, United Kingdom, and the United States) endorsed the Open Government Declaration.

The OGP focuses on promoting accountable, responsive and inclusive governance. There are over 79 countries and a growing number of local governments, representing more than two billion people, along with thousands of civil society organisations who are members of the OGP.

To join the OGP, governments commit to upholding the principles of open and transparent government by endorsing an Open Government Declaration. Members must meet eligibility criteria and pass the values check. In essence, the programme is a voluntary international effort that seeks to encourage good governance principles, namely: transparency, accountability, participation, and innovation

These good governance principles resonate with South Africa's constitutional values, as well as the vision of a developmental state, as articulated in the National Development Plan (NDP), 2012. The ethos of the OGP has centred on exhibiting exemplary leadership in the global community through being an action-orientated initiative that requires Members to develop National Action Plans (NAPs) that reflect ambitious and time bound commitments.

2. Reflection on the OGP 4th National Action Plan 2020-2022

The central feature of the 4th National Action Plan is that it is essentially a revival plan that seeks to revive the OGP in South Africa, while exploring various ways and means of ensuring that South Africa can sustainably fulfill its commitments and duly comply with the rules and standards of the OGP.

In line with the above, the implementation of the revival plan coincided with South Africa's process of undertaking the APRM 2nd Generation Country Review, which falls under the same Ministry for the Public Service and Administration.

In this regard, the OGP Point of Contact (PoC) is also designated to lead the APRM National Secretariat, with specific responsibilities as defined in the Continental APR Statute and the National Governing Council Charter. Hence a compelling need to find complementarity among the good governance programmes.

Save for the commitment on fiscal transparency and open contracting, progress made on the implementation of the OGP 4th NAP 2022-2022 has been limited. Such an overall self-assessment was shared with Ms Eva Maria, a Researcher assigned by the IRM, during the meeting with the PoC on 19 October 2022.

South Africa consequently acknowledges the detailed recommendations of the Independent Reporting Mechanism (IRM), and will be mindful of them when rolling-out the approach and methodology outlined below.

3. Design of the OGP 5th National Action Plan 2023-2026

The lessons and constraints associated with the OGP 4th NAP 2022-2022 inherently informed the change in the approach, as reflected in the approach and methodology of adopting the APRM/ OGP complementarity as outlined below.

Hence every effort is being made to apply the OGP values of active transparency, participation and accountability in outlining the approach and methodology below.

3.1 First meeting of the OGP Steering Committee held on 4 March 2022

Consequently, the in-person meeting of the OGP interim Steering Committee, which plays the role of a multi-stakeholder forum, was convened on 4 March 2022 to discuss the challenges facing the implementation of the OGP, and to explore means and ways of sustaining the revival of the OGP. The civil society was represented by the following organisations:

- Public Service Accountability Monitor (PSAM);
- Corruption Watch;
- Community Advice Offices South Africa;
- Human Sciences Research Council;
- OpenUp South Africa.

The essence of the meeting was that it concurred with the approach and methodology as presented by the OGP Point of PoC, which entails finding complementarity between the APRM and OGP; as both programmes focus on promoting good governance.

The PoC also outlined the process of developing and seeking Cabinet approval for the APRM National Plan of Action (NPoA), as the APRM NPoA implements the recommendations of South Africa's Peer Report which was adopted by the APR Forum of Heads of State and Government on 4 February 2022.

3.2 Conference on Collective action for beneficial ownership transparency in South Africa - From commitment to implementation

During OGP Open Week in May 2022, the OGP interim Steering Committee co-hosted a Conference in Cape Town on 16-17 May 2022, which was themed:

“Collective action for beneficial ownership transparency in South Africa - From commitment to implementation”

At the said Conference the way forward on the use of the approach and methodology on development of the OGP 5th NAP in the context of the APRM/ OGP complementarity, where the approach and methodology was specifically highlighted.

3.3 IRM Co-Creation Brief to Support the Design of South Africa's 2022 OGP Action Plan

On 7 June 2022, the Independent Reporting Mechanism Brief was received by the PoC with a view to share its Co-Creation Brief in support of South Africa's forthcoming co-creation process for the 2022 action plan.

On 9 June 2022, the PoC responded to the IRM Brief as follows:

“Dear Mia,

I wish to acknowledge receipt of your email and attachment.

Certainly South Africa is still committed to submitting the 5th NAP by the end of December 2022, and I'm conscious of South Africa's role in the OGP.

The snapshot on the co-creation process (as per the attached brief) states in part “... The fifth action plan also provides a platform for government and civil society to coalesce around and act on shared priorities such as implementing recommendations from the Africa Peer Review Mechanism and Zondo Commission reports.”

The above quote captures the essence of our approach which was discussed with civil society in March 2022; under the principle of complementarity among all the good governance programmes, especially the APRM/ OGP complementarity.

The APRM National Plan of Action was adopted by the National Governing Council in April 2022, and I'll further present same to the Cabinet Committee next week for their concurrence.

I'll share the detail once the plan has served before the full Cabinet by the end of June 2022.

Note: Due to my workload, my responses to your emails will sometimes be a bit slow – but the task at hand will be attended to following the *Pareto Principle*.

Kind regards,

Patrick”

3.4 Adoption by the Cabinet of the approach and methodology of complementarity among the good governance programmes

Arising from the 2nd Generation Country Review of South Africa at the 31st Summit of the APR Forum of Heads of State and Government held on the 4th February 2022 a High Level National Plan of Action (NPoA) 2022-2025. The NPoA 2022-2025 is prefaced as follows:

“In line with the methodology of the Country Self-Assessment Report, the NPoA will be a continuation of the previous reporting, accompanied by adaptations and alignments, which will be further complemented and tracked through a stronger focus on research analytics that is informed by credible and verifiable sources.

The focus of the high level summation that follows is thus on the big picture issues in line with the summation of the newsletter “From the President’s Desk” of the 07th February 2022, in order to ensure that the focus of the NPoA remains pitched to the level of the Heads of State and Government.

Nonetheless, all the detailed issues arising from the Country Self-Assessment Report, 2021 and the Country Review Report, 2022 will still be tracked in line with the methodology highlighted above.”

The NPoA 2022-2025 ends with the paragraph titled:

“Complementarity of Government Programmes to Respond to the 2nd Generation Country Review Recommendations” which further embeds the APRM/ OGP complementarity as follows:

“The Open Government Partnership (OGP) National Action Plan (NAP) 2023- 2026 will also respond to some of the issues recommended by the APRM 2nd Generation Country Review, especially on issues of combating corruption and improving access to justice by the vulnerable groups.

In essence, the OGP NAP 2023-2026 and the subsequent plans will serve as a mechanism to implement the APRM National Plans of Action.

Other programmes under the ambit of the National Focal Point will be managed in line with the complementarity principle, and brought to the attention of the National Governing Council, in line with the expanded mandate of the APRM.”

The Cabinet endorsement of the APRM NPoA on 22 June 2022 the firmly entrenches complementarity principle and the approach and the methodology thereof. The OGP 5th NAP 2023 – 2026 and the subsequent are thus firmly entrenched as the implementation platform for the APRM Peer Review recommendation under the five thematic areas of democracy and political governance, Corporate Governance, Economic Governance and Management, Socio economic Management and Development, as well as the newly introduced thematic area named State Resilience and Preparedness [**Annexure E**].

3.5 2nd Meeting of the OGP interim Steering Committee on 15 September 2022

Subsequent to the Cabinet endorsement of the APRM NPoA 2022-2025, the second meeting of the interim Steering Committee was arranged for the 15 September 2022. The PoC sent a briefing note in preparation for the said meeting and it reads as follows:

“Dear Colleagues,

I am following up on the in-person meeting of the OGP Interim Steering Committee held on 4 March 2022 at DPSA in Pretoria.

I wish to advise that the Cabinet has endorsed (on 22 June 2022) five thematic high level/ macro commitments for the APRM National Plan of Action 2022-2025 (Attached as Annexure E – note particularly paragraph 3).

In line with the principle of complementarity of good governance programmes, as advised on 4 March 2022, the same five high level commitments serve as the South Africa’s commitments for the OGP National Action Plan (NAP) 2023-2026.

What is now expected of civil society, is to indicate specific commitments that they require to be allocated to relevant departments/ organs of state and matched to their needs. Once this is clarified, DPSA Minister will then write to those identified departments/ organs of state in line with the focus of the high-level NAP 2023-2026 – with a detailed commitment(s) as per the OGP template.

That's what I need to discuss further with yourselves on the 15 September 2022, and to respond to any further clarity issues.

Kind regards,
Patrick"

4. Action Plan Timelines and Delivery Windows

In accordance with paragraph 2.3 of the National Handbook dated March 2022, South Africa has developed a four action plan, and thus will deliver the OGP 5th NAP by 31 December 2022 based on the Cabinet high-level commitments as outlined in **Annexure E**. The PoC will consequently be the responsible official for the high-level commitments that are contained in the APRM NPoA 2022-2025.

Civil society will however need more time to formulate specific commitments that support the implementation of high-level commitments, as contained in the APRM NPoA 2022-2025. However, the methodology gives space to civil society to formulate supporting commitments and submit them to the PoC, who will then facilitate the co-creation process with the identified lead departments.

At the request of civil society organisations, who constitute the interim Steering Committee, civil society need more time to adjust themselves to the methodology. The PoC will thus encourage civil society organizations to ready themselves to submit their supporting commitments to the PoC by 28 February 2023, in order to enable the co-creation process with the identified lead departments to begin in March 2023; to enable the PoC to submit such supporting commitments to the OGP Support Unit by 30 June 2023.

In essence, by virtue of the methodology and the high-level commitments endorsed by the Cabinet, the co-creation and implementation of the supporting commitments will be ongoing and will be transparently posted on the OGP link platform available at: <https://www.dpsa.gov.za/>

5. Conclusion

The above briefing note thus sums up South Africa's high-level OGP commitments made at the Cabinet level. As per the discussion at the meetings of the OGP interim Steering Committee on 4 March 2022 and 15 September 2022; civil society are now expected to present customised commitments that support the high-level commitments that the Cabinet has made.

Given that the approach and methodology outlined above is new, the civil society organisations necessarily need more time to familiarise themselves with complementarity approach in order to co-create supporting commitments which are linked to lead departments.

It is thus recommended that civil society's supporting commitments be submitted to the PoC by 28 February 2023, who in turn will facilitate further engagements with the lead departments identified.

These further engagements with the identified lead departments will be finalised by 31 May 2023, and the final supporting commitments will be ready for submission to the OGP Support Unit by 30 June 2023, in line with section 2.2 of the OGP Handbook on Rules and Guidance for Participants.

Finally, the IRM's brief of recognising the complementarity of the APRM and OGP is indeed appreciated, and the response of the PoC thus seeks to recognise the effort of the IRM to accommodate South Africa's efforts in seeking to consolidate the implementation of its good governance programmes.