



MALAWI NATIONAL ACTION PLAN FOR THE OPEN GOVERNMENT PARTNERSHIP

2023-2025

**Office of the President and Cabinet
Capital Hill, Lilongwe
Malawi**

Foreword

During the National Anti-Corruption Conference in Blantyre, on 25 July, 2022, the State President His Excellency Dr. Lazarus McCarthy Chakwera expressed strong commitment to the Open Government Partnership (OGP) and undertook to ensure that Malawi would regain its 'active' status in the OGP by the end of 2022.

This 2023-25 National Action Plan is the last component of a series of activities for reactivating Malawi's national membership in the OGP. It spells out collective commitment to achieving accountable, responsive and inclusive governance.

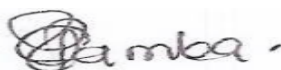
The essence and efficacy of a plan is in its implementation. The commitments, which include more openness and transparency, responsiveness to legitimate public demands and accountability among others, made under this NAP already fall within the remits of the various lead agencies. I, therefore, would like to encourage all Controlling Officers in the Lead Agencies to ensure that appropriate activities leading to the desired results outlined in this NAP are implemented, monitored and reported on a regular basis.

This NAP is an outcome of collaboration of many players. I would like to thank the Steering Committee, the Multi-stakeholder Group and the Institute for Policy Research and Social Empowerment (IPRSE) that facilitated the development of this NAP. I also would like to express sincere gratitude to the Government Officials in lead and supporting Ministries, Departments and Agencies (MDAs) for the various commitments. I further would like to thank the Civil Society institutions that have committed to carry out their supporting roles to ensure that collectively, we deliver on the commitments in this NAP.

I am grateful to the staff of Office of the President and Cabinet, Chief Advisors to the President for assistance and coordination of the process.

The process of developing this NAP benefitted from technical and financial assistance from the Chandler Foundation, Open Contracting, Open Ownership, the National Democratic Institute and the OGP secretariat. I acknowledge this support with much appreciation.

I finally would like to mention special thank you to His Excellency the President for his steadfast commitment and constant direction and guidance in this process.



Colleen Zamba

SECRETARY TO THE PRESIDENT AND CABINET

Acronyms and Abbreviations

ACB	Anti-Corruption Bureau
AGYW	Adolescent Girls and Young Women
ATIA	Access to Information act
ATIA	Access to Information Act
CCJP	Catholic Commission for Justice and Peace
CISANET	Civil Society Agriculture Network
CMD	Centre for Multiparty Democracy
CSAT	Civil Society Accountability and Transparency
DHRMD	Department of Human Resources Management and Development
DPP	Director of Public Prosecutions
EITI	Extractive Industry Transparency Initiative
FEDOMA	Federation of Disability Organizations in Malawi
FOCUS	Forum for Community Support
GCU	Government Contracting Unit
ICT	Information Communication Technology
IPRSE	Institute for Policy Research & Social Empowerment
M&E	Monitoring and Evaluation
MACRA	Malawi Communications Regulatory Authority
MCCCI	Malawi Confederation of Chambers of Commerce and Industry
MDAs	Ministries, Departments and Agencies
MEJN	Malawi Economic Justice Network
MHEN	Malawi Health Equity Network
MIPS	Malawi Institute of Purchasing and Supply
MLS	Malawi Law Society
MSG	Multi-stakeholder Group
MW2063	Malawi 2063
MWEITI	Malawi Extractive Industry Transparency Initiative
NAP	National Action Plan
NICE	National Initiative for Civic Education
NGO	Non-Governmental Organizations
OGP	Open Government Partnership
OPC	Office of the President and Cabinet
PFMA	Public Finance Management Act
PPA	Political Parties Act
PPDA	Public Procurement and Disposal of Assets Authority
S4D	Summit for Democracy
SC	Steering Committee
YAS	Youth and Society

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1.0. Introduction

The Open Government Partnership (OGP) is a unique partnership of civil society advocates and government leaders founded and driven by a unity of purpose to promote transparent, participatory, inclusive and accountable governance. The OGP implements open government commitments that enhance greater transparency, accountability and citizen engagement in policy processes and programming. Thus, OGP membership obliges governments, in consultation with non-state actors such as civil society, citizens, media and private sector, to carry out context-relevant reforms in pertinent thematic areas of the country's choice in cycles of two years. Thus, a country is required to develop a National Action Plan (NAP) as a prerequisite for joining the partnership and/or maintaining an active status.

In developing the NAP, countries select the most pertinent thematic areas from a list of eleven, for domestication. The eleven thematic areas are: Open Parliament, Anti-Corruption, and Right to information, Digital Governance, Fiscal Openness, Gender, Civic Space, Public Service Delivery, Justice, Marginalized Communities and Natural Resources.

Malawi joined the OGP in 2013, two years after the OGP was founded. However, this 2023-2025 OGP-NAP is the second of its kind. The first NAP was co-created for the period 2016 to 2018. The commitments under the first NAP covered the following prioritized thematic areas: Access to Information, fight against corruption, empowerment of citizens and citizen participation, public sector reforms and public service delivery, and Natural resources (i.e. the extractive Industry transparency initiative-(EITI)

A successor NAP was not co-created immediately after the expiry of the first one for various specific reasons but mainly because in 2018, the energies of key stakeholders were directed to responding political and governance developments related to the general election of 2019. Consequently, Malawi became an 'inactive member' of the OGP¹. This new NAP demonstrates renewed commitment of the Government and people of Malawi to the principles that undergird the OGP and the willingness to regain the status of active membership.

2.0. Malawi's Efforts on Transparent, Inclusive and Accountable Governance

The Government and the people of Malawi crafted, and in 2020, adopted a long term governance and development vision for the country i.e. **Malawi 2063: An Inclusively Wealth and Self-reliant Nation**. The vision document identifies seven 'enablers' which are, essentially areas that require reforms in order to catalyze the realization of desired socio-economic outcomes. **Enabler 2: Effective Governance Systems and Institutions** encapsulates the interests of the OGP and Malawi sees the OGP as an instrument for the operationalization or implementation of relevant

¹ Inactive members still receive support from OGP for developing their action plan but are not eligible to vote during forums. They only participate as observers for learning purposes.

reforms that will contribute to the attainment of the desired outcomes of the Malawi 2063. Government of Malawi, through various initiatives, is implementing governance reforms almost in all the thematic areas of the OGP. The reforms vary in age, pace of implementation, and extent of achievement of results. The table below provides highlights of key efforts under each thematic area of the OGP that have been implemented in the period in recent times.

Table 1: Highlights of open government efforts (transparent, inclusive and accountable governance)

Theme	Key 'open government' efforts
1. Open Parliament	<ul style="list-style-type: none"> • Adopted the Parliamentary Committee Cluster system for scrutinizing the national budget where civil society and members of the general public make submissions on budget proposals. This system is acknowledged to have improved transparency and responsiveness of the budget besides affording the public opportunities to participate in the national budget process. • Operationalised parliamentary public hearings/inquiries on any issues of widespread concern and has increased transparency on how MDAs carry out their business and provided good footing for accountability measures. • Instant/live broadcasting of plenary and committee proceedings on radio, television and online platforms which has increased transparency and accountability of public duty bearers.
2. Anti-Corruption	<ul style="list-style-type: none"> • Amended law to remove requirement for prosecutorial consent from the Director of Public Prosecutions (DPP) for the Anti-Corruption Bureau (ACB) to prosecute a corruption case to improve transparency and accountability; • Establishment of an Information Office within the ACB responsible for proactively sharing information with the public and addressing demands for information. • Involvement of the ACB in vetting procurements of high value and also where the method of single sourcing is used to identify a suitable supplier of goods or services² • Requirement that all procuring entities must proactively disclose information under the Access to Information Act (ATIA)
3. Right to information	<ul style="list-style-type: none"> • Enacted the Access to Information Act
4. Digital Governance	<ul style="list-style-type: none"> • Establishment of Department of E-Government

² Section 37 of the Public Procurement and Disposal of Assets Act.

	<ul style="list-style-type: none"> • Through the Public Private Partnerships Commission Malawi launched <i>the ‘Luntha ndi Chuma’</i> Digital Skills and Innovation Grants • Digital Government Strategy
5. Fiscal Openness	<ul style="list-style-type: none"> • Enacted a new Public Finance Management Act (PFMA) (Act No.4 of 2022) which provides for strengthening of transparency, accountability and responsible management and control of public resources • Amended Audit Act to require tabling of Audit Reports in Parliament
6. Gender	<ul style="list-style-type: none"> • Enacted the Gender Equality Act • Revision and implementation of the Gender Policy
7. Civic Space	<ul style="list-style-type: none"> • Amended the NGO Act to allow more freedom of association; • Amended the NGO Act to transform the NGO Board into an NGO Authority to increase transparency and accountability of the NGO Sector
8. Public Service Delivery	<ul style="list-style-type: none"> • Initiated and implemented Public Sector Reforms to improve transparency, efficiency, responsiveness and accountability; • Implemented enhanced fiscal, asset and human resource decentralization; • Developed and rolled out the MW2063 and the first 10 year implementation plan.
9. Justice	<ul style="list-style-type: none"> • Increasing the number of Judges of the Supreme Court of Appeal and High Court to enhance the delivery of justice; • Establishing the Financial Crimes Court (as a Division of the High Court) to decongest the courts of cases/ to expedite delivery of justice on financial crimes.
10. Marginalized Communities	<ul style="list-style-type: none"> • Safety and housing for people living with albinism • Placement of Social Welfare Officers in all the district councils • Creation of victim support committees in communities which work together with community social protection officers • Creation of police victim support units and community policing • Implementation of Adolescent Girls and Young Women (AGYW) Strategy
11. Natural Resources	<ul style="list-style-type: none"> • Malawi Extractive Industry Transparency Initiative (MWEITI)

	<ul style="list-style-type: none"> • Enacted a new Mines and Minerals Act (2019) with provisions on disclosure of contracts and fiscal transparency
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Since 2020, the Government of Malawi has also taken concrete steps in implementing most of its commitments under the Summit for Democracy (S4D). Malawi’s Commitments fall under three broad categories: 1) Commitments for strengthening democracy and defending against authoritarianism; 2) Commitments for addressing and fighting corruption; and 3) Commitments for promoting respect for human rights. Thus, the NAP has been developed on the solid foundation of the Government’s commitment to promote democratic values of accountability, transparency, voice and inclusion.

3.0. Process for Developing the National Action Plan

3.1. Participatory and inclusive process

This 2022-2024 NAP was co-created by the Government in collaboration with civil society and private sector actors in a process that effectively commenced in 2019 when the Office of the President and Cabinet (OPC) convened a participatory review workshop focusing on the implementation and outcomes of the 2016-2018 NAP. The review workshop also signposted areas of focus for the subsequent NAP that should have been developed for the period 2019-2020. The process lapsed because of tumultuous political developments related to the general elections of 2019 which went on until a new socio-political equilibrium was attained in mid-2020.

In August 2022 another inclusive consultative workshop on the OGP was convened in Lilongwe which resuscitated the OGP framework and discussed themes and issues for the 2023-2025 NAP. The workshop involved the formation of a multi-stakeholder steering committee which oversaw the development of this NAP and will be responsible for providing oversight during the implementation and reporting on the NAP.

The process of developing the NAP was facilitated by an independent consultant familiar with the governance and development landscape of Malawi. The consultant carried out in depth literature review on the thematic areas of the OGP, in –depth interviews with a whole range of thematic lead agencies, supporting government ministries, departments and agencies (MDAs) as well as civil society and private sector actors doing work relevant to the respective OGP thematic areas.

The draft NAP was subjected to an all-inclusive validation workshop on 30th November 2022 and subsequently adopted by the steering committee in early December 2022. Thus, overall, the process of developing the NAP was inclusive, participatory, and iterative.

3.2. Criteria guiding the OGP commitments

Three criteria guided the formulation of the open government commitments that form the bedrock of this NAP. These are ambitiousness, responsiveness and relevance and practicality. The basic operational definitions of the criteria are presented below.

Table 2. Criteria for the formulation of OGP commitments³

Criteria	Meaning
Ambitiousness	Commitments must nudge governments/duty bearers to go beyond current state of practice to yield more and better transparency, inclusiveness and accountability
Responsiveness	Commitments must be reflective of public demands
Relevance and practicality	Commitments are relevant when they address key open government principles of transparency, accountability and public participation

4.0. Summary (overview) of Malawi's OGP Commitments

For the 2023-2025 NAP, Malawi has prioritized five thematic areas which will stretch and expand Government's transparency and accountability and participation of citizens in inclusive governance. The thematic areas, corresponding issues to be addressed, and the Government lead institutions for implementation and reporting are outlined in the table below:

Table3: Malawi NAP Thematic Areas, Issues, Lead Institutions and contacts

Thematic Area	Issues to be addressed under OGP	Lead Institution and contact persons
Anti-Corruption	Beneficial ownership transparency and open contracting	Public Procurement and Disposal of Assets Authority.
Right to Information	Increasing access to information on political party financing	Registrar of Political Parties.
Natural Resources	Enhancing transparency in natural resource governance	Ministry of Natural Resources and Mining
Digital Governance	Accelerating adoption of digital governance in government and use of ICT among Malawians	Ministry of Information and Digitalization. Department of E-Government.
Open Parliament	Enhancing transparency and parliamentary oversight on Government borrowing	Parliament of Malawi

³ OGP (2022) OGP National Handbook: Rules and Guidance for Participants. Version 5.

5.0. Detailed OGP Commitments

5.1. Anti-Corruption

Number and Name of the Commitment	1: Open Contracting and Beneficial Ownership transparency		
Brief Description of the Commitment	Enhanced Open Contracting to improve transparency and reduce opportunities for procurement malfeasance through open tendering; Institutionalizing (legislation/regulation) and operationalizing (collecting, publishing, verifying and using) beneficial ownership transparency for all legal entities in Malawi engaged in public procurement.		
Commitment Lead	Public Procurement and Disposal of Assets Authority(PPDA) Contact: Dr. Edington Chilapondwa, Director General. E:dg@ppda.mw P:+265887083261		
Supporting Stakeholders	Government	Civil Society	Other Actors (Parliament, Private Sector, etc.)
	Anti-Corruption Bureau; Government Contracting Unit; Registrar General (registration of companies and businesses); Office of the Ombudsman; Ministry of Finance; National Audit; Ministry of Justice	Various CSOs including the following: Civil Society Accountability and Transparency (CSAT); Malawi Economic Justice Network (MEJN); Youth and Society (YAS); OXFAM in Malawi	Parliament to enact amendments to the Public Procurement law; Malawi Institute of Procurement and Supply (MIPS); Development partners.
Period Covered	2023 - 2025		

Problem Definition

1. What problem does the commitment aim to address?

The commitment will address the following governance problems:

1. Grand corruption by public servants including malfeasance such as awarding contracts to business entities whose beneficial owners are themselves, family or associates;

2. Collusion and fraud in public procurement involving state (Public servants and governing politicians) and business actors to rig the public procurement system to their mutual benefits;
3. Rigging of the public procurement system by removing any meaningful competition among bidders especially when procurement methods other than single sourcing are used which enable different business entities belonging to the same shareholders to compete against each other;
4. Procurement monopolies and cronyism whereby certain families dominate public procurement through their business outfits and effectively disproportionately feed off the state and effectively 'capture the state'⁴
5. Collusion involving price fixing which distorts the operation of the market to determine the correct value of goods and services being procured and defeats the principle of value for money.
6. Verification of compliance with the MSME Public Procurement Order especially to check big companies participating in public procurement under the MSME order through fronting MSMEs.

2. What are the causes of the problem?

1. Non-disclosure of beneficial ownership of business entities: The law in its current format requires businesses to declare and register directors of business entities as legal owners of the entities. Beneficial owners are left out and recent experiences show clearly that addressing or avoiding the problems of procurement monopolies and the specter of state capture, the registration of business entities with the Registrar General as well as the registration with the Public procurement and Disposal of assets Authority and bid documents must require disclosure of beneficial owners of the business entities participating in the public procurement system.
2. Frequent or normalized use of exclusionary procurement methods especially restricted tender and single source which provide opportunities for various procurement malfeasance and in recent times have proved to be the most effective ways through which procurement monopolies have been created and have also catalyzed the phenomenon of state capture by business elements.

Commitment Description

1. What has been done so far to solve the problem?

1. Introduced vetting of public procurements of high value by the Anti- Corruption Bureau (ACB) but the vetting process has

⁴ Dr. Lazarus Chakwera, President of the Republic of Malawi, speech delivered at the Occasion of unveiling an Investigation Report of the ACB on Allegations of Corruption Against Senior Public Officers, June 2022.

institutional and operational weaknesses so much that it does not detect all or some procurement malfeasances;

2. In 2012, Government introduced downstream vetting of contracts by the Government Contracts Units (GCU) in OPC but it is sometimes by-passed by MDAs and is accused of delaying procurements;
3. PPDA Regulations to address opacity in the public procurement chain including providing guidance on dealing with conflict of interests and other malfeasance but compliance and enforcement of the regulations in a context where the PPDA is centralized but public procurement is decentralized is problematic;
4. Legal requirement for procuring entities to seek authorization ('No objection') from the PPDA to use exclusionary methods of procurement such as single sourcing. However, compliance, enforcement and quality of due diligence have been problematic as evidenced by the continued occurrence of procurements with problematic issues.
5. The PPDA has stepped up efforts to curb corruption by partnering Deloitte's Tip Offs Anonymous, an ethics hotline where informants can report malpractices. Deloitte's Tip Offs Anonymous has been offering the service for over 13 years and its core competency is the ability to keep informants' identity anonymous. Deloitte submits the tip-offs with a report to concerned institutions to investigate but does not monitor the conclusion of the cases. Through the partnership, PPDA receives and considers reports on flouting procurement procedures, conflict of interest, disclosure of sensitive and privileged information, corruption, kickbacks and collusion, contract and procurement fraud and fast-tracking of registration processes and overriding policies, among others.
6. PPDA is in the process of establishing an E- Procurement System that will revolutionize procurement. This five-year project is being financed by the World Bank under the Digital Malawi Project.

2. What solution are you proposing?

1. Malawi's Companies Act (and associated corporate affairs regulations) and public procurement laws are strengthened by including provisions to mandate the collection and open publication of beneficial ownership information of all companies. This, coupled with publishing the list of beneficial owners of companies that engage in public procurement will address the problem of procurement monopolies that have arisen through companies with a shared beneficial owner competing for contracts with each other. Likewise, the bids must contain the names of the beneficial owners which will appear in bid evaluation reports, Notices of Intention to Award and the Contract Award Notices published in widely read newspapers and the PPDA website. This will allow the citizens, civil society organisations and other non-state actors to ventilate the

decisions made by the public officers especially when certain rules or principles like competition or value for money are violated.

2. Adoption of and instilling principles of Open Contracting in the public procurement process to increase transparency. This will minimize or completely stop the abuse of exclusionary procurement methods i.e. Single source and restricted tender.
3. Adopt and transition to centralized e-procurement to be managed by the PPDA to foster transparency and accountability hence promoting integrity in public procurement.

3. What results do we want to achieve by implementing this commitment?

The implementation of this commitment is expected to enhance efficiency, transparency, accountability and competitiveness⁵ in public procurement. The following output level results will be achieved:

- a. Strengthened legal framework that require registration and disclosure of beneficial owners of companies.
- b. List of beneficial owners published online and other media outlets and accessible to the public for accountability and transparency.
- c. Paradigm shift to more open and competitive electronic public procurement process.
- d. Increased citizen monitoring of public procurement through civil society organisations who will now be able to monitor cost-effectiveness in public spending and detect red flags for corruption, and generally support accountability in public spending.
- e. Increased corruption prevention in public procurement through vetting of bids and beneficial ownership by the ACB.
- f. Increased ethical conduct of officers in the public procurement profession as the mechanism will prevent public money ending up in private pockets of public officials; will detect and prevent unlawful arrangements among companies in public procurements and will prevent illusionary competition in tender procedures among companies with same beneficial ownership.

Commitment Analysis	
Questions	Answer (if not applicable, just answer with N/A)
1. How will the commitment promote transparency? <i>How will it help improve citizens' access to information and data? How will it make the government more transparent?</i>	The list of beneficial ownership will be proactively shared to the public through the PPDA website and other channels and will be available upon request under the Access to Information Act. The publication of the list of beneficial ownership coupled with increased open tendering and contracting will promote transparency which is necessary for accountability in public procurement.

⁵ Recommendations for the Public Procurement System of the Republic of Malawi. Institute for Development of Freedom of Information and Malawi Economic Justice Network, 2018.

Commitment Analysis	
<p>2. How will commitment help foster accountability?</p> <p><i>How will it help public agencies become more accountable to the public? How will it facilitate citizens' ability to learn how the implementation is progressing? How will it support transparent monitoring and evaluation systems?</i></p>	<p>The procuring entities will be more accountable in the utilization of public funds because there will be more scrutiny from the public including civil society organisations due to easily accessed information on public procurements.</p> <p>The citizens will be sensitized on how to access the list of beneficial ownership from the PPDA and other contractual documents using the PPDA Act and the Access to Information Act. Access to information on huge public procurements will foster monitoring of public procurements by oversight bodies like the Anti-Corruption Bureau, the Auditor general, Parliamentary Oversight Committees, and civil society organisations.</p>
<p>3. How will commitment improve citizen participation in defining, implementing, and monitoring solutions?</p> <p><i>How will it proactively engage citizens and citizen groups?</i></p>	<p>The commitment is envisaged to catalyze the participation of civil society in the process of developing the relevant amendments to the law. Once the amendment Bill will be published by the Ministry of Justice or Clerk of Parliament, it will trigger Civil society organisations and private sector associations including the MCCI to consider the Bill and develop their inputs and positions on the Bill and engage authorities such as the Ministry of Justice or the Legal Affairs Committee of Parliament on appropriate amendments to the Bill. The legislative process of the Malawi Parliament has a few points that invite public inputs into proposed legislation that is under consideration by Parliament. In particular, the Legal Affairs Committee of Parliament is expected, as per the Standing Orders of Parliament, to call for inputs into the Bill from the public and to hold a public hearing on the Bill as part of Parliament's consultative process⁶. Furthermore, civil society organizations can prepare their own bill and present to Parliament for consideration as a private bill⁷ or may present a petition to Parliament regarding the Bill⁸</p> <p>The private sector is particularly targeted by the reform in this commitment. Upon publication of the first version of the Bill, Peak business associations at macro and sectoral levels, will be specifically asked to prepare and submit their views and suggestions on the Bill either before it is introduced in Parliament or during its consideration by Parliament.</p> <p>The disclosure of the list of beneficial ownership and the competitive open tendering processes and contracts will increasingly open public procurement thus stimulate public interest and activism against malpractices in the procurement cycle from advertising of tenders, evaluation of the bid</p>

⁶ Standing Orders of Malawi Parliament (2020), Part XXIII –Bills and Bill Procedure.

⁷ Standing Order No. 124 of Malawi Parliament.

⁸ Standing Orders of Malawi Parliament (2020) Part XVI – Petitions and Papers.

Commitment Analysis	
	documents, offering and signing of contracts and implementation, monitoring and evaluation of performance of the contractors.

Commitment Planning (This is an initial planning process largely looking at milestones and expected outputs, as well as key stakeholders involved.)									
Milestones (Milestones are part of a series of actions or events that, when executed, will lead to the achievement of the result the commitment would like to achieve.)	Expected Outputs (Outputs are concrete, objectively verifiable results that are direct products of activities conducted or implemented.)	Expected Completion Date	Stakeholders						
Requirement for the publication of the list of beneficial ownership of companies incorporated into the procurement law.	Legal provisions that make the publication of the list of beneficial ownership mandatory.	December 2023	Lead: PPDA						
			<table border="1"> <thead> <tr> <th colspan="3">Supporting Stakeholders</th> </tr> <tr> <th>Government</th> <th>CSOs</th> <th>Others (e.g., Parliament, Private Sector etc)</th> </tr> </thead> <tbody> <tr> <td>ACB; Ministry of Justice; Registrar General</td> <td>Various CSOs including CSAT; YAS; Church and Society; MEJN</td> <td>Parliament; Malawi Confederation of Chambers of Commerce and Industry</td> </tr> </tbody> </table>	Supporting Stakeholders			Government	CSOs	Others (e.g., Parliament, Private Sector etc)
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Proactive disclosure of information of public procurement ⁹ .	Public disclosure of beneficial owners of companies”	December 2024	Lead: PPDA						
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Supporting Stakeholders									
Government	CSOs	Others (e.g., Parliament, Private Sector etc)							

⁹ The information will be available with the Registrar of Companies as is ordinarily the case. The PPDA will or should be required to include information on beneficial ownership when they publish the list of approved companies and firms to participate in public procurement. All procuring entities will or should be required to include information on beneficial ownership in the publications of Intention to award contracts or Notice of award of contracts.

			ACB; Ministry Justice	of	Various CSOs includin g CSAT; YAS; Church and Society; MEJN	Parliament; Malawi Confederati on of Chambers of Commerce and Industry
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5.2. Access to Information

Number and Name of the Commitment	2. Increasing public access to information on political party financing.		
Brief Description of the Commitment	The commitment seeks to actualize transparency on political party and campaign financing by enabling the implementation of the Political Parties Act (2018) which require financial reporting and disclosures by political parties to the Registrar of Political parties.		
Commitment Lead	Office of the Registrar of Political Parties Mr. Chikumbutso Namelo, Registrar- General. E:dg@registrargeneral.gov.mw P:+2651824355		
Supporting Stakeholders	Government	Civil Society	Other Actors (Parliament, Private Sector, etc.)
	Malawi Human Rights Commission; Anti-Corruption Bureau	Various CSOs including: CSAT; MEJN; YAS; Church and Society; MEJN; Centre for Multi-party Democracy (CMD); NICE Trust; Catholic Commission for Peace and Justice	Parliament, Media Institute for Southern Africa (MISA) Malawi Chapter; Development Partners
Period Covered	2023-2025		

Problem Definition

3. What problem does the commitment aim to address?

The commitment seeks to address the secrecy surrounding political party and campaign financing which is known to be one of the driving factors of public finance mismanagement and corruption in the public sector especially through the public procurement system¹⁰. The Political Parties Act require political parties to submit financial reports to the Registrar, who is required to publish the reports and also make them available on request under the Access to Information Act.

¹⁰ See the assessment of party financing in the Global Data Barometer: <https://globaldatabarometer.org/open-data/>;

Ross, Kenneth et al (2022) Beyond impunity: New Directions for Governance in Malawi. UCT with MZUNI Press;

'Political parties, campaign financing and political corruption in Malawi', https://ideas.repec.org/h/elg/eechap/18509_7.html

Under s.40 (2) of the Constitution, a party represented in Parliament which secured at least 10% of the national vote in the parliamentary elections is eligible for state funding through a budget vote of the National Assembly. Since 1995, eligible political parties have enjoyed state funding but without any regulation, transparency or accountability for it¹¹. The 2018 Political parties Act requires political parties to prepare and submit financial reports and subjects them to audit¹²: The Act allows political parties to receive private funding and donations from any individual or organization, within or outside Malawi and that a political party may perform any lawful activities for the purpose of raising funds for the party. This has all along been the practice and is believed to have provided a conducive environment for corruption to finance political activities and also illicit inflows of money from outside the country¹³. Under the Political parties Act, sources of funds and amounts received have to be disclosed through a process managed by the Registrar of political parties.

However, the law is not enforced because the Office of the Registrar of Political Parties has not been operationalized¹⁴. As a transitional arrangement, the Registrar General is required to discharge the mandate of the Registrar of Political parties but the office has no resources and other capacities necessary for the mandate on political parties financing and disclosure reports. Furthermore, political parties have not yet started complying.

However, media reports and revelation of corruption at the level of state capture and how one businessman funded politicians and political parties for the 2019 and 2020 elections, catalyzed public demand for financial reports and disclosures of political parties. Consequently, the Malawi Law Society (MLS), acting on behalf of the people, asked the Registrar General to share the financial reports of political parties under the protocols outlined in the Access to Information Act. Subsequently, the Malawi Law Society sued the Registrar General for failure to share the reports¹⁵. The gist of the matter is that groups of citizens asked for information without success because the Registrar General had not received any reports and disclosures from political parties and had not taken appropriate administrative action to enforce the law. The matter is still in court but it is hoped that the court will make determinations and orders that will compel the

¹¹ See: 'Political parties go 27 years unaudited' available at: <https://times.mw/political-parties-go-27-years-unaudited/> .

¹² Chingaipe, Henry and Kizito Tenthani (2022) Adoption and Implementation of Political Party Finance Legislation and Regulations in Malawi: Experiential Lessons for Zambia. Paper prepared for NDI Zambia for an Advocacy workshop of Transparency International Zambia on Political Financing.

¹³ See: 'Political parties, campaign financing and political corruption in Malawi' available at https://ideas.repec.org/h/elq/eechap/18509_7.html .

Dulani, Boniface (2019) Political Parties, Campaign Funding and Political Corruption in Malawi in Inge Amundsen (ed.) Political Corruption in Africa. Elgaronline.

¹⁴ See: 'Political Parties Act awaits registrar appointment', available at <https://www.nyasatimes.com/political-parties-act-awaits-registrar-appointment/> .

¹⁵ See: 'Registrar of Political Parties dragged to court over failure to reveal financiers of parties'. Available at <https://malawi24.com/2022/05/25/registrar-of-political-parties-dragged-to-court-over-failure-to-reveal-financiers-of-parties/> .

Registrar and political parties to comply with the law on reporting and disclosing their financial information.

4. What are the causes of the problem?

The opacity on political party and campaign financing persists due to the following factors:

- a. Absence of a functional office of the Registrar of Political Parties since the enactment of the Political Parties act in 2018. The current (transitional arrangement) in which the Registrar General doubles as Registrar of political parties is sub-optimal as mandates related to political parties are not prioritized, the office is not capacitated for the tasks;
- b. Enforcement mechanisms are not fully developed to ensure compliance which is currently close to zero;
- c. Some (may be all) political parties are unwilling to release financial information to the Registrar due to several reasons including the fact that finances constitute a strategic resource that provides a competitive edge in elections and political mobilization; uncertainty on consequences of disclosures or the need to cover up illicit financing or preserve the anonymity of donors;
- d. Political parties have claimed unfamiliarity with the financial reporting and disclosure process and procedures, the need for reporting templates and orientation

Commitment Description

4. What has been done so far to solve the problem?

1. **Enactment of relevant laws** (Political Parties Act and Access to Information Act) which have created a conducive legal framework for ensuring transparency and accountability for political party and campaign financing. Compliance by political parties and enforcement by the Registrar General have been sub-optimal so much that opacity on political party and campaign financing persists pretty much as if there is no law requiring otherwise;
2. **Public interest litigation** commenced by the Malawi Law Society (MLS) against the Registrar General in his behalf as Registrar of Political Parties for failing in his duty to make available on request disclosures of financial reports of political parties related to the 2019 general election and the 2020 Fresh Presidential election. On May 19, 2022, the court granted the MLS permission to apply for judicial review of the Registrar's decision to omit or fail to provide information on political party financing. The action of MLS was motivated by questions from stakeholders on whether the country's political parties were complying with provisions of the Act in declaring donations they receive, maintaining a separate bank account for the donations and providing audited financial records to the registrar. The matter is still in court. It is hoped that the determination will trigger a chain effect that will ultimately

compel political parties to comply with the law or risk sanctions which include de-registration.

5. What solution are you proposing?

Operationalization of the Office of the Registrar of Political Parties. This entails recruitment of the Registrar; securing a budget vote or sub-vote for the office; Functional analysis, organizational design and development; and recruitment of staff subordinate to the Registrar.

The operationalization of the Office of Registrar of Political Parties will address the question of agency of enforcement and implementation of the Political Parties Act. Once in full swing, the office will develop training and orientation programs, learn best practices from other jurisdictions in terms of procedures for disclosure, templates for reports, verification and authentication of disclosures and reports made by political parties and protocols for public access to records of political parties held by the Registrar.

6. What results do we want to achieve by implementing this commitment?

Four output level results are expected. They are as follows:

- a) A functional and effective office of the Registrar of Political parties;
- b) Clear reporting templates and protocols for political parties to use in meeting their reporting and disclosure obligations;
- c) Public awareness and empowerment to access and analyze financial reports of political parties and subsequent demands for accountability for questionable elements in the reports;
- d) Improved integrity of politicians and political parties
- e) Diminishing prospects of state capture by businesses that acquire *de facto* power through clandestine financing of politicians and political parties.

Commitment Analysis	
Questions	Answer (if not applicable, just answer with N/A)
<p>5. How will the commitment promote transparency? <i>How will it help improve citizens' access to information and data? How will it make the government more transparent to citizens?</i></p>	<p>The Office of the Registrar of Political Parties is, under the law, the fulcrum for transparency on political party funding and the legally mandated authority to enforce financial reporting and disclosures by political parties and designated office for public access to records on political party financing. Getting it operational activates a point of call for the public to demand correct information on political funding. Without operationalizing the Office of the Registrar of Political Parties, the legislative intent for transparency on political financing will remain unrealized.</p>

<p>6. How will the commitment help foster accountability? <i>How will it help public agencies become more accountable to the public? How will it facilitate citizens' ability to learn how the implementation is progressing? How will it support transparent monitoring and evaluation systems?</i></p>	<p>The commitment will help citizens to hold political parties accountable for the ways in which they raise money. The disclosures, accessed through the Registrar of Political Parties, will provide opportunities for public and media discourse on financing of specific political parties and compel integrity; It will also enhance the performance of the accountability functions of the Registrar of Political Parties which are currently not performed at all or performed not very well performed.</p>
<p>7. How will the commitment improve citizen participation in defining, implementing, and monitoring solutions? <i>How will it proactively engage citizens and citizen groups?</i></p>	<p>The commitment will increase the need for the political parties to have registered members and seek donations from the members and adopt innovative and sustainable ways of financing the political party budgets; Public discourse on financial disclosure will shape the path of integrity for political parties, identify problem areas and proffer possible solutions and harness demand for changes in legislation or enforcement practices; It is also envisaged that transparency will enhance ownership of parties by the members, enhance commitment to party values and prevent plutocratic tendencies within political parties.</p>

Commitment Planning <i>(This is an initial planning process largely looking at milestones and expected outputs, as well as key stakeholders involved.)</i>												
Milestones <i>(Milestones are part of a series of actions or events that, when executed, will lead to the achievement of the result the commitment would like to achieve.)</i>	Expected Outputs <i>(Outputs are concrete, objectively verifiable results that are direct products of activities conducted or implemented.)</i>	Expected Completion Date	Stakeholders									
Recruitment process and Appointment of	Advertisement; Report of Interview Panel;	April-June 2023	<table border="1"> <tr> <td colspan="3" data-bbox="906 1724 1469 1766">Lead: Ministry of Justice</td> </tr> <tr> <td colspan="3" data-bbox="906 1766 1469 1797"><u>Supporting Stakeholders</u></td> </tr> <tr> <td data-bbox="906 1797 1109 1871">Government</td> <td data-bbox="1109 1797 1263 1871">CSOs</td> <td data-bbox="1263 1797 1469 1871">Others (e.g., Parliament,</td> </tr> </table>	Lead: Ministry of Justice			<u>Supporting Stakeholders</u>			Government	CSOs	Others (e.g., Parliament,
Lead: Ministry of Justice												
<u>Supporting Stakeholders</u>												
Government	CSOs	Others (e.g., Parliament,										

Registrar of Political Parties	Report of Public Appointments Committee; Notice of appointment; Office bearer in place				Private Sector etc.)
			Civil Service Commission	Various CSOs including CMD	Parliament (Public Appointments Committee)
Functional Analysis, organizational design and development of the Office of the Registrar of Political Parties	Organizational Development (OD) Report; Recruitment of subordinate staff	July- Sept 2023	Lead: Registrar of Political Parties		
			<u>Supporting Stakeholders</u>		
			Government	CSOs	Others (e.g., Parliament, Private Sector etc.)
			Department of Human Resources Management and Development (DHRMD) in OPC; Malawi Human Rights Commission; Malawi Electoral Commission; Civil Service Commission	Various CSOs including CMD	
Fully operational Office of the Registrar of Political Parties	Political party reports and disclosures and public access to information ¹⁶	Sept 2023-Dec 2024	Registrar of Political Parties; MHRC; ACB	Various CSOs	
Public awareness and empowerment program on access and analysis of	IEC materials Reports of capacity building initiatives	2023-2025 (on-going)	Registrar of Political Parties	Centre for Multiparty Democracy;	

¹⁶ Financial reports of political parties are required annually and must cover income received from the state, any private funding and donations, and also expenditures for the financial year. The Registrar is permitted under the Political Parties to receive information anonymously about the financial dealings of political parties and also deregister non-compliant political parties and to initiate prosecution of the Secretary General of the non-compliant party.

financial reports of political parties ¹⁷				National Initiative for Civic Education (NICE)	
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¹⁷ Interactive sessions will target civil society organisations, journalists and individual actors. Media based programs on television, radio etc will reach a wider audience.

5.3. Digital Governance

Number and Name of the Commitment	3. Accelerating the adoption of e-government and utilization of ICT among Malawians		
Brief Description of the Commitment	The commitment seeks to enhance Government's capacity to utilize ICT in service delivery while increasing citizen utilization of ICT in accessing information in order to make service delivery transparent, responsive and accountable.		
Commitment Lead	Ministry of Information and Digitalization. Mr. Francis Bisika, Principal Secretary for E-Government. E: chief.director@information.gov.mw +265 1 759032/033		
Supporting Stakeholders	Government	Civil Society	Other Actors (Parliament, Private Sector, etc.)
	Department of E-Government; Malawi Communications Regulatory Authority (MACRA) National Commission for Science & Technology	Various CSOs including Malawi Internet Service Providers Association; Malawi Health Equity Network; Civil Society Coalition for Education; Civil Society Agriculture Network; Media Institute for Southern Africa Malawi Chapter; and FEDOMA	
Period Covered	2023-2025		

Problem Definition

8. What problem does the commitment aim to address?

The commitment seeks to address the problem of underdevelopment and underutilization of digital and electronic facilities for delivering services in the Government ministries, departments and agencies (MDAs). It also seeks to address low ICT penetration among the Malawian population. The four specific problems to addressed are as follows:

- a) Manual processes for service delivery which are slow, inefficient and prone to loss of documents which delay service uptake. The problem is pervasive across the entire public service. It is associated with low levels of transparency and accountability for service delivery.

- b) Personalization and loss of official information and records due to use of personal web-based email systems that are prone to cyber-attacks and preclude transparency and accountability as the emails are personal and not accessible for verification by supervisors to ensure responsive services;
- c) Silo mentality - an attitude within the public sector where MDAs or teams do not share knowledge, data or information or do not ordinarily collaborate with one another, leading to delays and other inefficiencies in delivering services that straddle several MDAs.
- d) High cost of digital gadgets and data which limit ICT uptake or penetration and use of digital means of accessing public information.

9. What are the causes of the problem?

Manual Process

There is inadequate and unreliable ICT equipment and infrastructure for most of the Ministries Departments and Agencies. As a result, officers still have to provide services and do so using available means which are manual. Also, even when equipment is available, there are frequent system failures ('network problems') so much that urgent transactions are carried out using parallel manual systems. However, the non-use of systems (such as the Integrated Financial Management Information system-IFMIS) allows malfeasance to happen but also creates gaps in electronic records and affect transparency.

A good number of government employees are technophobic. One reason for this state is that many of them do not have sufficient ICT skills to enable them carry out work transactions and provide the services that they are required to provide using ICT. Even for the slightest glitches, they need an ICT specialist to sort it out for them;

Personalization of official information

This problem is attributed to the unreliability of government ICT infrastructure. It is reported that the Government Wide Area Network (GWAN) is often down. Consequently, people resort to using web-based email. Furthermore, there is a culture of co-mingling personal and official information in pretty much the same way that formal and informal stuff are mixed which creates the incentive to shun use of official emails when it suits officers and avoid accountability.

Silo mentality

The silo mentality is attributed to the tendency of MDAs to protect their mandates in order to safeguard their budget allocations or to just maintain political and bureaucratic relevance. Furthermore, it is worsened by the absence of a shared database that MDAs can access and use to provide services to citizens especially those services whose transaction cover several MDAs.

NB: At the core of the causation of the three foregoing problem is inadequate or sub-optimal institutional leadership on ICT leadership within the Government Service. The Department of E-Government has structural, institutional and human resource challenges that constrain it from effectively driving the ICT uptake and deployment in Government MDAs.

High cost of digital equipment and data

This is attributed to the cost of importation, currency fluctuations and government taxes.

Commitment Description

7. What has been done so far to solve the problem?

Various initiatives have been or are being implemented. Some of these are as follows:

The Government has adopted a digital transformation roadmap focusing on e-government and digital services beyond the Government realm.

- a) The Department of E-Government has rolled out a Digital Government Transformation Agenda which focuses on delivering better and more accessible digital services to the citizenry including modernizing public service delivery, securing and controlling citizens personal information, adopting cloud technologies to deliver better digital services, and increasing the transparency of digital Government services
- b) Efforts to improve broadband coverage, from the 38% to 75% through licensing over 30 community broadband operators.
- c) Malawi is spearheading the formation of diplomatic data corridors with its neighbouring countries in a bid to reduce the cost of data. The diplomatic data corridors will enable Malawi to have affordable and meaningful internet connectivity.
- d) An annual targeted Innovation and Research Fund for the youth, in partnership with the private sector, to the tune of \$350,000.00 per year to ensure secure and sustainable funding for young innovators in Malawi.
- e) Government through the Public Private Partnerships Commission launched Digital Skills and Innovation Grants aimed at transforming the digital space in Malawi. It will provide free public WIFI and internet connectivity in 500 public institutions and has disbursed resources to six Tech Hubs to impart digital skills to youths¹⁸.

8. What solution are you proposing?

Institutional review and strengthening of the Department of E-Government to make it 'fit for purpose' in form, mandate and functionality, to effectively drive digitalization of transactions and service delivery across the public sector. This requires a functional review of the Department of E-Government with a view to making it a more autonomous quasi government agency, an enhanced mandate for setting standards on ICT usage and enforcing them across the public sector and ensuring ICT- based harmonization, coordination and sharing of databases and platforms for e-services.

9. What results do we want to achieve by implementing this commitment?

What outputs would we like to produce? What changes in knowledge, skills, and capacities do we want to achieve? What changes in behavior, systems, and practices do we want to create?

The following results are expected:

¹⁸ The six tech hubs which have benefited from the grant are mHub, Mzuzu e-Hub, Dzuka Africa, Growth Africa, Technolab and Ntha Foundation.

- i. The Department of E-Government transforms in form, mandate and authority to accelerate digitalization of transactions and service delivery across the public sector;
- ii. Efficiency and effectiveness of service delivery using ICT in selected sectors
- iii. Interoperability i.e. connectedness of information systems and sharing of database by MDAs

Commitment Analysis	
Questions	Answer (if not applicable, just answer with N/A)
<p>4. How will the commitment promote transparency? <i>How will it help improve citizens' access to information and data? How will it make the government more transparent to citizens?</i></p>	<p>Use of ICT in service delivery enables citizens to track the status of their requested services and generates useful trail for accountability. It will also create a conducive environment for proactive disclosures of information about services by the MDAs through digital means.</p>
<p>5. How will the commitment help foster accountability? <i>How will it help public agencies become more accountable to the public? How will it facilitate citizens' ability to learn how the implementation is progressing? How will it support transparent monitoring and evaluation systems?</i></p>	<p>Digital governance will enhance the accountability and transparency of government business through automation of transactions which generates unadulterated audit trails necessary for accountability when it becomes necessary.</p> <p>Also proactive disclosures of information enable citizens and CSOs to track progress and developments and may raise red flags or blow the whistle when anomalies occur and trigger accountability mechanisms</p>
<p>6. How will the commitment improve citizen participation in defining, implementing, and monitoring solutions? <i>How will it proactively engage citizens and citizen groups?</i></p>	<p>Digitalization of government services and proactive disclosure of information through electronic means will enable access to information by media groups and civic groups that will disseminate the same through many other means and whip up public interest in defining problems and solutions and advocating for implementation modalities that ensure transparency, inclusiveness and responsiveness.</p> <p>Furthermore, with the help of E-Government, MDAs will develop web-based interactive platforms through which they can ask for specific information and submit their suggestions on service delivery that respond to their needs. The specific MDAs that the E-Government Department will work with will rollout public education programs on how citizens can access their services digitally.</p> <p>As part of reviewing the performance of the ICT infrastructure, the Department of E-Government in collaboration with Civil society Organization such as MEJN may carry out citizen satisfaction</p>

	surveys with digital services. This will enhance citizen voice and hopefully make the ICT designs responsive to citizen feedback.
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Commitment Planning <i>(This is an initial planning process largely looking at milestones and expected outputs, as well as key stakeholders involved.)</i>					
Milestones <i>(Milestones are part of a series of actions or events that, when executed, will lead to the achievement of the result the commitment would like to achieve.)</i>	Expected Outputs <i>(Outputs are concrete, objectively verifiable results that are direct products of activities conducted or implemented.)</i>	Expected Completion Date	Stakeholders		
			Lead: Ministry of Information		
			Supporting Stakeholders		
			Government	CSOs	Others
Institutional Review and Restructuring of Dept of E-Government	Institutional Review report Establishment charter or statutory of a revamped E-Government agency	Jan-June 2023	DHRMD MDAs		
MDAs have active digital interactive platforms for disclosing information to the public	MDAs compliance with the ATIA. Capacity development of MDAs on Digitalization and orientation on the ICT platforms for sharing information with the public. MDAs have active digital interface with the public including websites and mobile phone interfaces	July 2023	Lead: Department of E-Government		
			Supporting Stakeholders		
			Government	CSOs	Others (e.g., Parliament, Private Sector etc)
			Malawi Human Rights Commission; Ministry of Information	Various CSOs including CSAT; YAS, MEJN; Church and	Parliament; Malawi Internet Service Providers Association; Development Partners

				Society	
Groups of citizens are actively accessing digital information and monitoring the performance of the MDAs	Civil society is actively monitoring information from the selected MDAs and ensuring publicity for citizen engagement. Citizens have more access to ICT services and ICT gadgets	December 2023	Lead: E- Government		
			Supporting Stakeholders		
			Government	CSOs	Others (e.g., Parliament, Private Sector etc)
			ACB; PPDA; Ministries of Health; Education and Agriculture	MEJN; CSAT; YAS; Church and Society	Parliament; MCCCCI; Malawi Internet Service Providers Association

5.4. Open Parliaments

Number and Name of the Commitment	4. Mandatory referral of money Bills (Loan Authorization) to the Budget and Finance Committee of the National Assembly		
Brief Description of the Commitment	The commitment will create the much-sought opportunity for Parliamentarians to effectively address the problem of opaque public debt by enabling transparent meaningful scrutiny of loan Authorization Bills through committee public hearings. This is important because additional public debt should only be agreed with clear, transparent and measurable policy objectives that align with Malawi's Vision 2063.		
Commitment Lead	Parliament of Malawi Mr. Lovemore Nyongo Controller Policy, Planning and Projects E:lonyongo@hotmail.com;/ parliament@malawi.net		
Supporting Stakeholders	Government	Civil Society	Other Actors (Parliament, Private Sector, etc)
	Ministry of Finance (Secretary to Treasury; Debt and Aid Division); Reserve Bank of Malawi; National Audit.	Various CSOs including Malawi Economic Justice Network; Economics Association of Malawi	Parliamentary Budget Office to help the Budget and Finance Committee with Debt sustainability Analysis. Line Ministries responsible for implementing projects funded through Loans authorized by Parliament
Period Covered	2023 – 2025		

Problem Definition

1. What problem does the commitment aim to address?

The commitment seeks to address the problem of opaque public debt i.e. non-transparent lending and borrowing that is done in such ways that the funds are not track-able and neither governments nor lenders can be held accountable for their financial decisions. International loans, authorized by Parliament have so far been opaque debt in the sense that Loan authorization Bills have always been treated as emergencies. The bills appear without adequate notice to MPs, pertinent details of the loans are not disclosed, the Budget and Finance committee is by-passed, debt sustainability is hardly debated, and the bills are enacted without scrutiny. Opaque debt has been the norm for decades and has affected Malawians in many ways including fueling corruption, shrinking future fiscal space and undermining the integrity of Parliament. However, there are serious public concerns with sub-optimal utilization of the loans and the erosion of fiscal space through debt servicing and repayments.

2. What are the causes of the problem?

The root cause of the phenomenon of opaque debt, especially with respect to foreign loans, are the attitudes of the political executive which hold that loans are procured for developmental projects and that no parliamentarian in their sane mind would reject a loan authorization bill. Consequently, the parliamentary procedure is truncated and mostly rubber-stamps loan contracting proposals from the executive. This practice has come to be known as ‘the tradition’ and is used to quickly curtail debate on money bills which forestalls the necessary amount of transparency on Government’s international borrowing. On the other side, despite the availability of an enabling legal and legislative framework for Parliament’s scrutiny, Parliament has lacked the stamina to operationalize its mandate on scrutiny of loan bills and contribute to sustainable public debt management. The Executive dominates and subdues the National Assembly.

The Bills are circulated without adequate information to the MPs especially on the conditions of the loan and the project to be implemented. There is asymmetric information between the loan negotiators (Ministry of Finance) and loan authorizers (Parliamentarians) as the latter only have the bill at their disposal with scanty information in the memorandum section to the Bill and in about six standard clauses that make the money bill.

Commitment Description

1. What has been done so far to solve the problem?

- a. Since 2020, the Speaker of Parliament has required that all Bills, including loan authorization bills, should adhere to the 28 day rule on notice and that the standing order that allows to waive this rule should be used only with the agreement of leaders of other political parties in Parliament. The Speaker has also insisted on at least 7 day notice after publication of the money bill before it is introduced in the National Assembly. However, this has not been sufficiently effective. At best loan bills have been published for two days before being introduced in the Assembly and they are debated and passed in the shortest possible time;
- b. Parliamentarians have raised the need for the Minister of Finance to share helpful information about the loans being sought but this too has not been accomplished except for the Minister to say a few things about the loan when introducing the Loan Authorization bill for debate and approval of Parliament.

2. What solution are you proposing?

The proposed solution of mandatory referral of money bills to the Budget and Finance means that once a money (loan authorization) bill is published, the bill, like any others will stand referred to the Budget and Finance Committee. The Committee will scrutinize the loan in question and prepare a report for the National Assembly. The Committee will be furnished with supplementary information, for example, justification of proposed bills (alignment with policy goals), status of existing loans, information about the lender

Committee scrutiny entails that the committee will deploy the powers given to it under the Public Finance Management Act (PFMA)¹⁹ and Standing Orders to call exercise oversight on government borrowing. Section 22(1) of the PFM provides as follows:

¹⁹ The most pertinent provision is section 22 (1) of the PFMA (2022)

22.-(1) For purposes of exercising any responsibility under this Act, the Budget Committee ---

- a) May inquire into any Government financial matter.
- b) Shall have full access to Government records relating to revenue, expenditure and any other public resources which are relevant to an inquiry.
- c) May, by notice in writing, require any person having possession or control of any Government records relating to revenue, expenditure and other public resources, to deliver to the committee all or any record specified in the notice.

In the absence of a mandatory referral of the money bills to the Budget and Finance Committee, the tradition of by-passing the committee on loan authorization bills will continue and the powers of oversight given to the committee will lie unused.

The work of the committee is open to the public and maybe broadcast live. This process will increase transparency in government borrowing, generate public insights on debt management and sustainability and ascertain the absolute necessity for contracting any given loan. It will also publicize the loan and the corresponding project so that civil society actors and beneficiary communities can engage in social accountability initiatives to ensure optimal utilization of the resources borrowed through the loans in question.

3. What results do we want to achieve by implementing this commitment?

The implementation of this commitment will help to achieve the following results:

- i. Removing opacity and enhancing transparency of government borrowing.
- ii. Members of Parliament will develop skills for assessing debt sustainability and viability of loans.
- iii. Ministry of Finance will become more accountable for its decisions to contract sovereign debt through loan authorization bills.
- iv. Over time, it will reduce the propensity of the political executive to borrow money as they will have to put up a robust case before the Budget Committee of Parliament.

Commitment Analysis	
Questions	Answer (if not applicable, just answer with N/A)
1. How will the commitment promote transparency? <i>How will it help improve citizens' access to information and data? How will it make the government more transparent to citizens?</i>	Committee proceedings will be open to the public and broadcast live. Government Officials will appear before the committee to explain things and answer questions under oath.
2. How will the commitment help foster accountability? <i>How will it help public agencies become more accountable to the public? How will it facilitate citizens' ability to learn how the implementation is progressing? How</i>	Public officers will account for their decision to borrow money.

<p>will it support transparent monitoring and evaluation systems?</p>	
<p>3. How will the commitment improve citizen participation in defining, implementing, and monitoring solutions? <i>How will it proactively engage citizens and citizen groups?</i></p>	<p>During committee hearings, citizens and groups of people and CSOs with competence on the subject will be able to engage the committee and make submissions that will influence recommendations of the committee for or against the loan in question. For approved loans, citizens will have accessed enough information about development projects being financed so they can monitor effectively and hold project delivers accountable.</p>

Commitment Planning
(This is an initial planning process largely looking at milestones and expected outputs, as well as key stakeholders involved.)

<p>Milestones <i>(Milestones are part of a series of actions or events that, when executed, will lead to the achievement of the result the commitment would like to achieve.)</i></p>	<p>Expected Outputs <i>(Outputs are concrete, objectively verifiable results that are direct products of activities conducted or implemented.)</i></p>	<p>Expected Completion Date</p>	<p>Stakeholders</p>								
<p>Panel of Chairpersons of Parliamentary Committees</p>	<p>Recommendation to the Business Committee on mandatory referrals to committee on Budget and Finance of all money Bills</p>	<p>March 2023</p>	<p>Lead: Budget and Finance Committee</p> <table border="1" data-bbox="959 1199 1446 1535"> <tr> <th colspan="3" data-bbox="959 1199 1446 1268"> <p><u>Supporting Stakeholders</u></p> </th> </tr> <tr> <td data-bbox="959 1268 1143 1535"> <p>Government</p> </td> <td data-bbox="1143 1268 1295 1535"> <p>CSOs including MEJN</p> </td> <td data-bbox="1295 1268 1446 1535"> <p>Development Partners including Democracy International</p> </td> </tr> </table>			<p><u>Supporting Stakeholders</u></p>			<p>Government</p>	<p>CSOs including MEJN</p>	<p>Development Partners including Democracy International</p>
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<p>Government</p>	<p>CSOs including MEJN</p>	<p>Development Partners including Democracy International</p>									
<p>Business committee meeting</p>	<p>Decision of the Business Committee on mandatory referrals of money Bills to the budget committee</p>	<p>April 2023</p>	<p>Lead: Speaker of Parliament</p> <table border="1" data-bbox="959 1570 1446 1877"> <tr> <th colspan="3" data-bbox="959 1570 1446 1608"> <p><u>Supporting Stakeholders</u></p> </th> </tr> <tr> <td data-bbox="959 1608 1143 1877"> <p>Government</p> </td> <td data-bbox="1143 1608 1295 1877"> <p>CSOs</p> </td> <td data-bbox="1295 1608 1446 1877"> <p>Others (e.g., Parliament, Private Sector etc)</p> </td> </tr> </table>			<p><u>Supporting Stakeholders</u></p>			<p>Government</p>	<p>CSOs</p>	<p>Others (e.g., Parliament, Private Sector etc)</p>
<p><u>Supporting Stakeholders</u></p>											
<p>Government</p>	<p>CSOs</p>	<p>Others (e.g., Parliament, Private Sector etc)</p>									

Scrutiny of money bills, transparency and accountability on debt stock and utilization	Committee hearings; Parliamentary disclosures on debt, debt analytics, audit reports etc	2023 –Dec 2024	Ministry of Finance; Reserve Bank of Malawi	MEJN, ECAMA and other CSOs working on economic governance	Development Partners; Malawi Confederation of Chambers of Commerce and Industry
Capacity building for parliamentarians on debt data, analytics and management	Effective scrutiny of money bills; Effective oversight on debt dynamics and management	2023-2025	Parliamentary Budget Office	ECAMA; MEJN	

5.5. Natural Resources

Number and Name of the Commitment	4. Enhanced transparency in natural resource governance		
Brief Description of the Commitment	The commitment will increase transparency on all aspects of the natural resource chain. This includes the status of existing known resources, contracting and licensing processes and agreements, production, exports, employment, revenue and expenditure, and social and environmental governance. It builds on but modifies and extends the Extractive Industry Transparency Initiative (EITI) in that the EIT largely focuses only on one component of the resource chain, namely, revenues.		
Commitment Lead	Ministry of Mining Mr. Burnett Msiska, Commissioner for Mines, E:commissioner.mining@mail.gov.mw P:+265 1 722 194		
Supporting Stakeholders	Government	Civil Society	Other Actors (Parliament, Private Sector, etc.)
	Ministry of Finance including Malawi Extractive Industries Transparency Initiative National Secretariat Malawi Revenue Authority; Department of Forestry Environmental Affairs Department Anti-Corruption Bureau Reserve Bank of Malawi; Office of the Ombudsman	Various CSOs including The Natural Resources Justice Network/Publish What You Pay Malawi and its members; Catholic Commission for Justice and Peace. Centre for Environmental Policy and Advocacy Forum for Community Support (FOCUS) Action Aid Malawi Oxfam	Companies holding various types of licenses for mining, petroleum and timber Parliament
Period Covered	2023-2025		

Problem Definition

3. What problem does the commitment aim to address?

The commitment will address two related problems. Firstly, the opacity that characterizes the natural resource chain in Malawi. In particular, the contracting process is not transparent and there is a widespread perception that mining and oil and gas contracts, in particular, are not sufficiently negotiated to the long term economic benefit of the country and its citizens. Beneficial ownership transparency is also weak in the licencing process, which increases the risk of corruption. While there is some delayed transparency on tax and non-tax revenue derived from some companies in the extractive industries, there is no information on expenditure from mining-

related revenue as the revenue comingles with revenue from other sources. Further, responsibilities for environmental rehabilitation/regeneration are either not clearly delineated or are not enforced and affected communities do not have information

Figure1: Natural Resource Governance Chain



Secondly, citizen engagement in natural resource governance is minimal because of the unavailability of information that would be the basis for effective engagement and the pervasiveness of misinformation. Furthermore, there is the lack of clarity of how citizens can take action to improve the situation – both mining affected communities as well as civic actors.

4. What are the causes of the problem?

Insufficient transparency across the mineral resource chain is partly attributed to a lingering culture of secrecy in the public sector as well as in mining corporations. For example, between 2007 when the Kayerekera Mining Agreement was signed and 2016 when the contract was disclosed, Government officials claimed that the contract could not be made public, not even to Parliament, because of a confidentiality clause when the contract did not have such a clause²⁰. Furthermore, despite having the mandate and power to exercise oversight in ways that would enhance transparency over the mineral resource chain, the parliamentary committee on natural resources and climate change has been slow, if at all, on exercising its mandate to benefit transparency in the mining sector, particularly after a disclosure regime kicked in. One reason for this is that Parliamentarians are not well versed with mining discourse and practice to enable them to engage in meaningful oversight to benefit transparency and accountability.

²⁰ Phoya, Etter –Rachel, Malawi’s Journey to Full Contract transparency. Available at: <https://eiti.org/blog-post/malawis-journey-full-contract-transparency>

Commitment Description

4. What has been done so far to solve the problem?

Disclosure of all mining development agreements and licenses. Malawi is required to disclose any contracts and licenses that are granted, entered into or amended that provide the terms attached to the exploitation of oil, gas and minerals²¹. However, the model of disclosure (uploading to a resource contract repository) does not sufficiently disseminate to the majority of Malawians and relevant Malawian authorities such as Parliament. It also only includes mining development agreements and not all licenses issues. Even though licenses are typically standard and are not negotiated, these should all be disclosed to provide information on licence holders, date of issuance, minerals, tenement, and other information that is of particular interest to mining-affected communities. Thus opacity still prevails, much more so because the language of the contracts is not easily accessible to people without mining acumen. Furthermore, contract disclosures only cover the first part of the resource chain and are made public after execution of the contracts with minimal opportunities to influence the fiscal regime embedded in them.

The second part of the resource chain is disclosed, again post facto, through the Extractive Industry Transparency Initiative (EITI) through which Government agencies declare their receipts of payments from mining companies and the companies publish what they pay to government agencies. However, there is still no transparency on how and for what resources from mining are expended. Through the Malawi EITI (MWEIT), Malawi has also committed to the disclosure of beneficial owners; disclosures in the report are voluntary, they are not verified and they do not always include the names of the real owners. In the most recent report published in 2019, only legal ownership was reported.²² Further, only a small proportion of companies are involved in the reporting. The Mines and Minerals Act (2019) also requires applicants for specific licences to disclose the beneficial owners of the applicant entity (with a 5% threshold). In the absence of a central beneficial ownership register, the beneficial owners for all companies with licences in Malawi's natural resources sector should be disclosed to the public by the Ministry of Mines and not only in the annual MWEITI report, which is not accessible to all people.

Malawi recently achieved a moderate overall score in implementing the EITI Transparency Standard.²³ Malawi continued using EITI implementation to further extractive industry accountability, support the country's anti-corruption efforts, strengthen transparency of the mining, petroleum, transportation and forestry sectors, license and contract allocations, distribution of revenues as well as social and environmental expenditures. Identified areas for further improvements on disclosing data on extractive licensing activities, including transfers and non-trivial deviations from statutory procedures, transparency in the full texts of licenses and contracts, and beneficial ownership disclosure.

5. What solution are you proposing?

1. Creation of a Regulatory framework for the sector to ensure that disclosure of natural resource contracts and beneficial owners should entail responsible duty bearers explaining each contract to the parliamentary committee on Natural Resources and

²¹ See also <https://eiti.org/blog-post/malawis-journey-full-contract-transparency>

²² Malawi EITI Report for 2016/2017 fiscal year, 2019, https://eiti.org/sites/default/files/attachments/malawi_eiti_report_-_2016-17.pdf

²³ EITI Board Decision: Malawi has achieved a moderate overall score in implementing the 2019 EITI Standard, Outcome of the Validation of Malawi, 12 October 2022, <https://eiti.org/board-decision/2022-46>

<p>Climate change as a proxy of the people, in live broadcast public hearings to equip the MPs and interested citizens and civil society organisations to exercise meaningful oversight, identify loose ends and loopholes that can be tightened to ensure responsible natural resource governance;</p> <p>2. The creation of a sovereign fund with clear and transparent rules of deposits and withdrawals to ensure that proceeds from mineral wealth are invested in public goods that connect the present to the future.</p> <p>3. For future natural resource contracts, require the draft contracts to be scrutinized by the parliamentary committee on natural resources during which process the Ministry of Finance would be required present a financial model of each proposed fiscal regime especially if it deviates from the Taxation Amendment Act (mining fiscal regime), 2016, to understand and ensure optimization of government revenues from each mining project.</p>
<p>6. What results do we want to achieve by implementing this commitment?</p> <p>The main result to be achieved from this commitment is transparency across the entire natural resource chain which will catalyze active and critical citizenship. The benefits of transparency across the resource chain include better ability to collect payments due to the government; more efficient negotiation and management of minerals extraction agreements; stronger protections against financial crime such as corruption, money laundering, and tax evasion; and greater access to international markets where expectations for responsibly sourced mineral and accountable governance of mineral resources are increasingly becoming the norm. Transparency will optimize the revenue collected from minerals and generate greater value for money expenditures that invest in public goods for the long-term economic development of the country.</p>

Commitment Analysis	
Questions	Answer (if not applicable, just answer with N/A)
<p>5. How will the commitment promote transparency? <i>How will it help improve citizens' access to information and data? How will it make the government more transparent to citizens?</i></p>	<p>Parliamentary committee proceedings will enable many people understand what's going on with each mining agreement and will also enable MPs and other civil society actors to carry out effective oversight of mineral resource governance</p>
<p>6. How will the commitment help foster accountability? <i>How will it help public agencies become more accountable to the public? How will it facilitate citizens' ability to learn how the implementation is progressing? How will it support transparent monitoring and evaluation systems?</i></p>	<p>Disclosure of information along the extractive sector value chain (including, for example mining contracts, beneficial owners and revenue figures) will enhance accountability for payments and receipts from mining activities and also for utilization of the proceeds from mining</p>
<p>7. How will the commitment improve citizen participation in defining, implementing, and monitoring solutions?</p>	<p>The commitment will make information and insight available to citizens and groups and enable them to engage in policy advocacy on any grey areas in the resource chain for any mineral and any mining contract.</p>

How will it proactively engage citizens and citizen groups?	
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Commitment Planning (This is an initial planning process largely looking at milestones and expected outputs, as well as key stakeholders involved.)						
Milestones (Milestones are part of a series of actions or events that, when executed, will lead to the achievement of the result the commitment would like to achieve.)	Expected Outputs (Outputs are concrete, objectively verifiable results that are direct products of activities conducted or implemented.)	Expected Completion Date	Stakeholders			
Enhanced Regulatory Framework for the Mining Sector ²⁴ .	Regulations under the Mining Act and Enforcement mechanism	2023	Lead: Ministry of Mining			
			Supporting Stakeholders			
			<table border="1"> <tr> <td>Government</td> <td>CSOs</td> <td>Others (e.g., Parliament, Private Sector etc)</td> </tr> <tr> <td>Ministry of Justice Ministry of Mining</td> <td>Various CSOs including CCJP FOCUS Oxfam Action Aid Malawi (Advocacy)</td> <td>Parliament (Consideration of subsidiary legislation)</td> </tr> </table>	Government	CSOs	Others (e.g., Parliament, Private Sector etc)
Government	CSOs	Others (e.g., Parliament, Private Sector etc)				
Ministry of Justice Ministry of Mining	Various CSOs including CCJP FOCUS Oxfam Action Aid Malawi (Advocacy)	Parliament (Consideration of subsidiary legislation)				
Improved role of parliament and oversight institutions	Interface with Natural Resource committee of parliament;	2023	Lead: Natural Resources Committee			

²⁴ This entails a review of the Mining Act to identify all provisions that require detailed subsidiary legislation for the implementation of the provision in the statute and also ensuring that the provisions of the Mining Act cover the entire resource chain adequately and with content that enables the Malawi Government to carry out meaningful resource husbandry while optimizing revenues from the natural resources. Overall, the regulatory framework should reflect the values and principles espoused in the Africa Mining which are about creating “a transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development” (<https://au.int/en/articles/african-mining-vision>).

in natural resource governance ²⁵ .	MOU between MWEITI, Parliament and other oversight bodies to facilitate frequent information sharing and capacity building to enhance the role of oversight bodies in natural resource governance.		<u>Supporting Stakeholders</u>		
			Government	CSOs	Others (e.g., Parliament, Private Sector etc.)
			Ministry of Mines; Ministry of Finance	Various CSOs including MWEITI, Natural Resources Justice Network/ Publish What You Pay Malawi Oxfam, Action	
Creation of a mining sovereign fund. ²⁶	Stakeholder Interface with Budget and Finance Committee of Parliament; Ministry of Finance	2024	Ministry of Finance	Aid Malawi (Empowerment of MPs)	
Disclosure of all contracts and licenses in the extractive industries	All contracts and licenses in the extractive industries are made available to the public online on a government website	2023	Ministry of Mining		

²⁵ This entails obliging responsible public officers to appear before the Parliamentary Committee on Natural Resources and Climate Change to explain development/production agreements and the terms of engagement on each component in the resource chain through meetings open to the public on radio and television.

²⁶ This entails amending the Mines Act to provide for a sovereign fund and curtailment of depositing proceeds from minerals in the General Revenue account of the government. Subsequent to that, the Treasury and Ministry of Mines opening a ring fenced Revenue account for proceeds from minerals and developing rules of withdrawal from that account consistent with the guidelines in the Africa Mining Vision and getting them adopted as subsidiary regulations under the Public Finance Management Act.

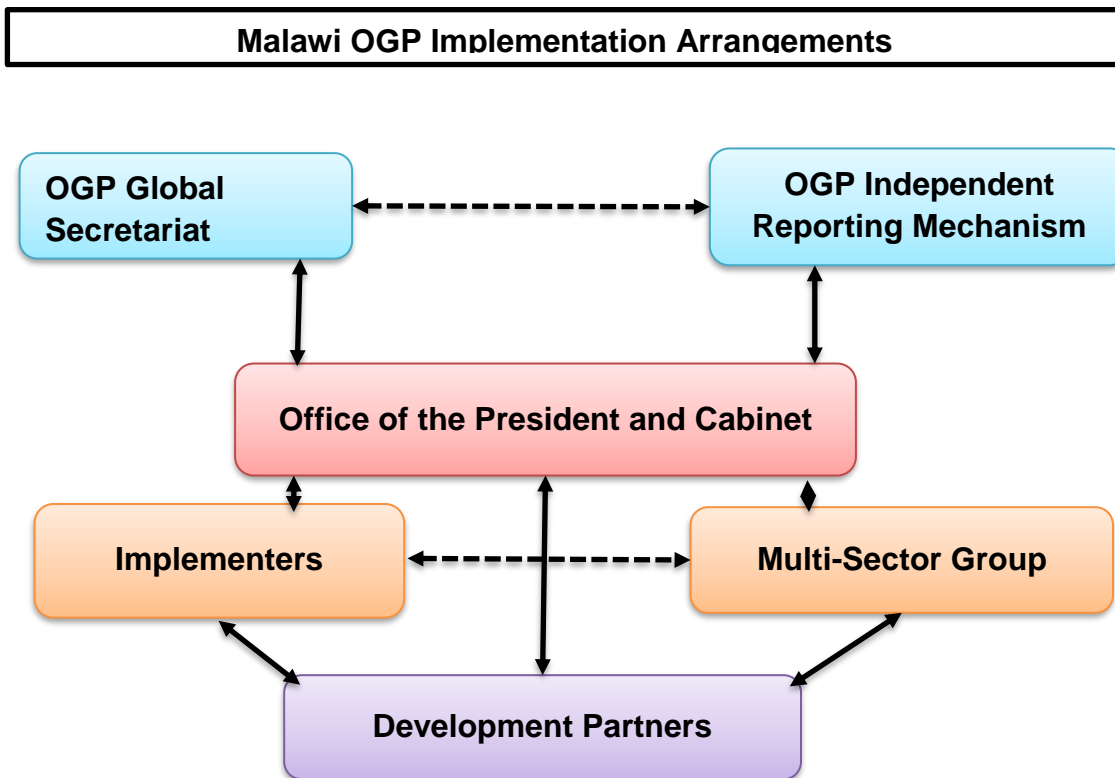
<p>Disclosure of all beneficial owners of entities in the extractive industries</p>	<p>A list of beneficial owners of entities with licences in the extractives industries are made available to the public online on a government website</p>	<p>2024</p>	<p>Ministry of Mining</p>		
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6.0. Implementation arrangements

6.1. Institutional framework

The implementation of the NAP will be anchored by the Office of the President and Cabinet (OPC) which will designate a lead person for the OGP initiative. The implementation arrangement is as depicted in the figure below:

Figure 2: Malawi OGP Implementation Arrangements



6.2. Key roles of the various stakeholders in the implementation of the NAP

The successful implementation of the NAP is dependent on the key stakeholders carrying out their roles diligently. The core elements of the roles for each stakeholder are outlined in the table below:

Table 4: outline of key roles of stakeholders in the implementation of the NAP

Stakeholder	Key roles
Office of the President and Cabinet	<ul style="list-style-type: none"> i. Official contact point for the OGP in Malawi; ii. Responsible for coordinating the OGP processes and activities in the country; iii. Engaging and convening stakeholders on a regular basis; iv. Ensuring compliance and performance on commitments; v. Identifying internal best practices related to local OGP commitments; vi. Encourage implementation of agreed recommendations of the Independent Reporting Mechanism team vii. Coordinate the production of country performance (self-assessment)report
Open Government Partnership	<ul style="list-style-type: none"> i. Provide overall guidance on OGP processes, activities and results; ii. Support learning and capacity building of local stakeholders on a range of topics in the OGP framework
Independent Reporting Mechanism (IRM)team	<ul style="list-style-type: none"> i. Carry out independent reviews of processes and outcomes of OGP processes and activities as outlined in the IRM process pathway: IRM-Guidance Process-Pathway.pdf (opengovpartnership.org)
Implementers	<ul style="list-style-type: none"> i. Develop detailed operational/process plans for accomplishing the desired results/milestones under their commitment and share the same with OPC and the Steering Committee; ii. Implement measures and activities to achieve results under their respective OGP commitments; iii. Prepare biannual implementation and progress reports using the self-assessment template and submitting them to OPC; iv. Present biannual implementation and progress reports to the Multi-Stakeholder Group; v. Uptake of agreed recommendations of the Multi-stakeholder group
Multi-Stakeholder Group	<ul style="list-style-type: none"> i. Receive and consider implementation and performance reports from implementers biannually; ii. Consider issues on OGP processes, activities and outcomes raised by OPC as coordinator, the Steering Committee and implementing agencies and provide guidance and recommendations; iii. Collaborate collectively or individually with the IRM; iv. Validate IRM reports on Malawi’s OGP processes, activities and outcomes before publication.

Development Partners	<ul style="list-style-type: none"> i. Provide technical assistance to OGP processes and activities to the various actors in the implementation framework; ii. Provide financial support to enable the execution of activities necessary to achieve the general objectives and the specific OGP commitments.
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7.0. Monitoring and Evaluation Framework

Monitoring of the implementation of the commitments will be done quarterly by the Steering Committee. The Lead agencies will prepare short progress reports on the implementation of their respective commitments and submit evidence of progress. The reports will be submitted to the OPC which will collate the reports for the Steering Committee monitoring meeting. Representatives of the Lead Agencies may attend the monitoring meetings of the Steering committee to speak to their reports. The monitoring reports will be prepared using the template below:

Table 5: Template for progress /monitoring reports

Commitment				
Lead Agency				
Milestone/outputs	Assessment of Progress (Green/Ambler/Red)	Evidence supporting the assessment	Reasons for the assessment	Next Steps

Colour codes for assessment of progress:

Completed/substantial progress	Limited progress	Not started/ with severe delays

Evaluation of the implementation and performance of this NAP will be carried out under the Independent Reporting Mechanism (IRM) framework as described under 6.2.above.
