



Government of Malawi



Technical Assistance to the Government of Malawi to support the implementation of Public Finance Management Reforms

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## **MALAWI EITI SYSTEMATIC DISCLOSURE (MAINSTREAMING) FEASIBILITY STUDY**

### **FINAL TECHNICAL REPORT**

**Consultant: Samuel Osei Bekoe**

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# Contents

<b>Contents</b>	<b>2</b>
<b>List of Acronyms and Abbreviations</b>	<b>4</b>
<b>List of Figures</b>	<b>5</b>
<b>List of Tables</b>	<b>6</b>
<b>1 Introduction</b>	<b>7</b>
1.1 Background	7
1.2 Specific objectives of the assignment	8
1.2.1 Purpose	8
1.2.2 Scope	8
1.3 Methodology	8
1.3.1 Qualitative analysis	9
1.3.2 Quantitative analysis	9
1.3.3 Political economy analysis	9
1.4 Key Guiding Principles for EITI Systematic Disclosure	10
1.5 Assessment Framework	10
1.6 Assessment Criteria	12
1.7 Assessment Ratings and Colour Coding	15
<b>2 Stakeholder Mapping</b>	<b>16</b>
2.1 Stakeholder Mapping	16
<b>3 Stakeholder Mapping</b>	<b>Error! Bookmark not defined.</b>
3.1 Legal and Institutional framework, including allocation of contracts and licenses (EITI Standard Requirement 2)	17
3.1.1 Legal Framework and Fiscal Regime	17
3.1.2 License Allocations (EITI # 2.2)	21
3.1.3 Register of License and Contracts (EITI # 2.3 and 2.4)	23
3.1.4 Beneficial Ownership (EITI # 2.5)	24
3.2 Exploration and Production	26
3.2.1 Exploration (EITI # 3.1)	26
3.2.2 Production (EITI # 3.2)	27
3.2.3 Exports (EITI # 3.3)	29
3.3 Revenue Collection (EITI # 4)	30
3.3.1 Comprehensive Disclosure of Taxes and Revenues (#4.1)	30
3.3.2 Infrastructure Provision and Barter Arrangements (#4.3)	32
3.3.3 Transportation Revenues (#4.4)	33
3.4 Revenue Allocation (EITI # 5)	33
3.4.1 Distribution of Extractive Revenues (EITI 5.1)	33
3.5 Social and Economic Spending (EITI # 6)	34
3.5.1 Social and Environmental Expenditures by Extractive Companies (EITI # 6.1)	34
<b>4 Main Findings – Institutional Readiness and ICT Capacity Assessment</b>	<b>38</b>
<b>5 SUMMARY OF FINDINGS AND RECOMMENDATIONS</b>	<b>49</b>

5.1	Key findings and Recommendations	49
	<b>Annexures</b>	<b>52</b>
	Key stakeholder institutions and individuals consulted	55

# List of Acronyms and Abbreviations

<b>AER</b>	Annual Economic Report
<b>ASM</b>	Artisanal and Small-Scale Mining
<b>BO</b>	Beneficial Ownership
<b>CIT</b>	Corporate Income Tax
<b>DoM</b>	Department of Mining
<b>DoF</b>	Department of Forestry
<b>EAD</b>	Environmental Affairs Department
<b>EITI</b>	Extractives Industries Transparency Initiative
<b>GSD</b>	Geological Survey Department
<b>MoFEA</b>	Ministry of Finance and Economic Affairs
<b>MoM</b>	Ministry of Mines
<b>MRA</b>	Malawi Revenue Authority
<b>MSG</b>	Multi Stakeholder Group
<b>MWEITI</b>	Malawi Extractives Industries Transparency Initiative
<b>NAO</b>	National Audit Office
<b>PAYE</b>	Pay As You Earn
<b>PEPA</b>	Petroleum Exploration and Production Act
<b>RBM</b>	Reserve bank of Malawi
<b>RFA</b>	Road Fund Administration
<b>TEVETA</b>	Technical Entrepreneurial and Vocational Education and Training Authority
<b>VAT</b>	Value-Added Tax

# List of Figures

FIGURE 1.1 BROAD SCOPE OF THE REPORT .....	8
FIGURE 1.2 OVERALL METHODOLOGY .....	9

# List of Tables

TABLE 1.1. ASSESSMENT RATINGS AND INTERPRETATION ..... 15

# 1 Introduction

## This section sets out the following:

- Background and introduction to the report.
- Specific objectives and scope of the work.
- The methodology used, key guiding principles, limitations and structure of the report.

## 1.1 Background

### *Programme*

**The Government of Malawi, with financial support from the European Union, is implementing the Chuma Cha Dziko programme (Public Finance Management Reforms Project).** One element of this programme is the project titled Technical Assistance to Public Finance Management Reforms in Malawi, implemented through a service contract held between the Government of Malawi's National Authorising Office (NAO) and DAI Brussels, in consortium with Tetra Tech and with support of local operating partner O&M.

Key Result Area 3 of the project aims to improve the effectiveness and efficiency of revenue policy implementation and support the Malawi extractive industries transparency initiative (MWEITI).

Improving domestic resource mobilisation is one of the strategic priorities for Malawi and a main driver for achieving the aspirations under Malawi 2063, the national long-term development vision. In its strategic documents the Government focuses on policies aimed at expanding the revenue base, stimulating investment and economic activities. One of the main activities to achieve the strategic priorities is by creating an enabling environment for smooth investment and governance of natural resources under the extractive sector.

Malawi has been an EITI implementing country since 2015 and has produced 6 EITI reports. The EITI is guided by a set of principles (the EITI Standard) that enhances transparency and accountability in the extractive sector. Since 2016, the EITI has encouraged implementing countries to make preparations to mainstream its reporting on existing government and corporate online reporting systems. Mainstreaming is expected to make data available in a timely manner, useful, cost-effective, and enable data users and citizens to focus on analysing and responding to information. It is expected to enhance transparency, and increase public trust in both governments and extractive companies.

### *Assignment*

The Government of Malawi aims to create enabling environment for smooth investment in her extractive sector. The EITI presents an important path to realising this objective. The 2019 and 2023 EITI Standard enables implementing countries to disclose the information required by the EITI Standard through routine government and corporate reporting systems such as websites, annual reports etc. However, to realise this, countries are encouraged by the EITI to undertake feasibility study to assess the robustness, readiness, capacity and capabilities of existing government systems and corporate reporting systems. The feasibility study is expected to identify the key barriers and gaps to EITI data mainstreaming, including comprehensiveness, level of data disaggregation, data quality and assurance, data format, accessibility, and frequency of data updates, legal barriers, among other barriers that are political economy induced.

The systematic disclosure of extractive sector information, including inter alia, legislative requirements, fiscal regime, licensing, production and exports, social and environmental impacts, will not only enhance transparency in the governance of natural resources in Malawi, but will also improve public accountability and use of revenues from the extractive sector.

Based on the aforementioned reasons, the Chuma Cha Dziko programme engaged a consultant to undertake a feasibility assessment by engaging key stakeholders including the Revenue Policy Division (RPD), the MWEITI National Secretariat (MNS), the MSG and other stakeholders. The findings from the study will be shared with government institutions, key stakeholders, including the mining companies, Civil Society Organisations (CSOs), and development partners.

## 1.2 Specific objectives of the assignment

### 1.2.1 Purpose

**This work assesses the existing disclosures and the feasibility of embedding EITI disclosures on existing government and corporate reporting platforms.** It also evaluates the existing disclosures in line with EITI Standard 2019 and Standard 2023 and key international best principles of disclosures. The overall expected impact of EITI mainstreaming is to shift from ad-hoc and often stand-alone EITI reporting to a more systematic reporting where information is disclosed on existing government and corporate reporting systems (databases, websites, annual progress reports, portals etc.)

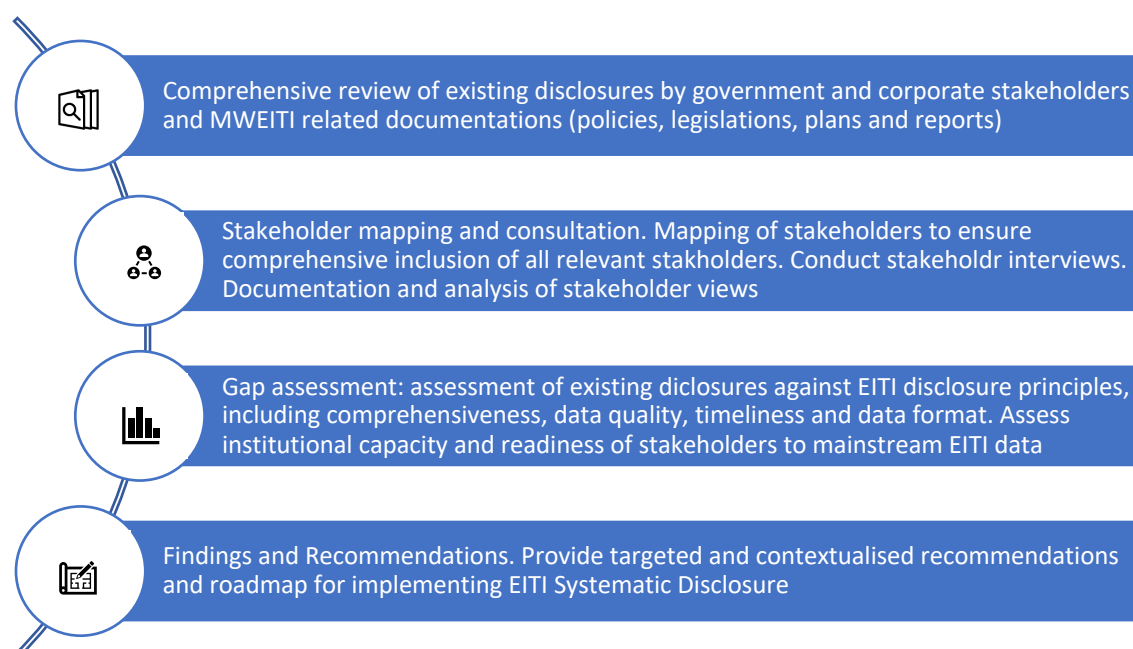
### 1.2.2 Scope

**Undertaking this assignment ultimately encompasses providing an overview of required disclosures under MWEITI.** This includes, among others, the policies, regulatory and legal developments, revenues, environmental regulation, contribution of extractives to the economy, and beneficial ownership disclosures. The report also assesses the performance of relevant institutions in disclosure EITI required information on their existing platforms.

To achieve these objectives, the consultant is expected to undertake the following:

- a) Comprehensive assessment of the disclosures required by EITI and Malawi legislations in the extractive sector against current disclosures under EITI on existing government and corporate reporting platforms.
- b) Documentation of any barriers or gaps in timely, comprehensive, and reliable disclosures, as well as technical or financial support needs by the government agencies responsible for mainstreaming.
- c) Documentation of stakeholders' views and willingness to embed EITI and other disclosures for the extractive sector required under the local legislation in governmental and corporate systems.
- d) Assessment of the suitability of State reporting agencies' existing IT Infrastructure for information disclosure.
- e) Identification of capacity building and system development needs of reporting agencies to ensure smooth implementation of EITI mainstreaming.

**Figure 1.1 Broad scope of the report**



Source: Authors' construct

## 1.3 Methodology

### **Methodology**

The methodology for this report comprised qualitative, quantitative, and political economy analysis. These are explained in more detail below.



### 1.3.1 Qualitative analysis

- **Literature review:** The consultant comprehensively reviewed relevant documents in Malawi's extractive sector (mining, oil and gas, and forestry sectors). The review covered extractive sector policies, legislations, MWEITI annual reconciliation reports, workplans, EITI Standard 2019 and 2023, among other relevant articles. The review aimed to enhance the consultant's understanding of the context and the key mandates of different stakeholders under MWEITI. Further the review afforded the consultant the ability to contextualise EITI Standard requirements and further identify agencies responsible for the provision of data under each Standard requirement. This was then used to identify the key themes used to develop a gap assessment scoring system to assess the existing disclosures and agency's ability to systematically disclosure information.
- **Stakeholder mapping and analysis:** This encompassed a deep dive mapping and analysis of the different stakeholders involved in MWEITI processes and reporting to understand stakeholders' current abilities, capacity, interests and needs on EITI mainstreaming. Key stakeholder interviews (KIIs) were conducted with persons and organisations engaged the extractive sector, policy making and overall MWEITI process. The stakeholder interviews helped to enhance stakeholders' initial understanding of EITI Mainstreaming, identified possible misunderstanding on the respective agencies roles and information required to be provided under MWEITI, and also highlight some institutional capacity gaps including logistics, and technical capacity gaps, which are captured in the recommendations.

### 1.3.2 Quantitative analysis

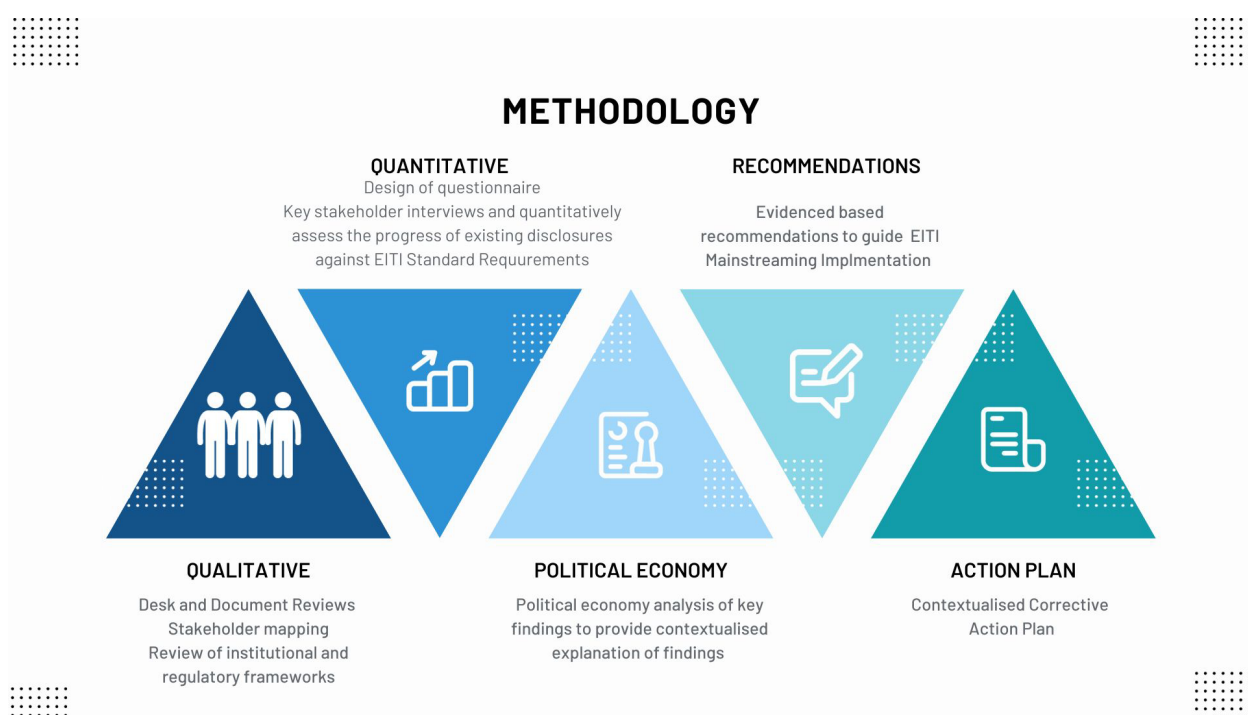
- **Design of disclosure assessment rating framework**
- **Analysis of data collected from relevant stakeholder institutions.**
- **Independent verification** of source documents from stakeholders.
- **Spreadsheet-based data disclosure assessment**

### 1.3.3 Political economy analysis

- The findings from the qualitative and quantitative analyses are further interrogated using a **Problem Driven Political Economy Analysis** to help understand the underlying cause of challenges that are identified under the study. This is also relevant to underscore the proposal of clear and feasible recommendations.

This combination of these methods allows for the effective analysis of secondary information related the MWEITI, stakeholder views and observations garnered by the consultant.

Figure 1.2 Overall Methodology



Source: Authors' construct

## 1.4 Key Guiding Principles for EITI Systematic Disclosure

To implement EITI mainstreaming, the [EITI Guidance on Systematic Disclosure](#) suggest that mainstreaming should be guided by some key principles of data disclosure. These include data comprehensiveness, reliability, timeliness, accessibility, and open format. The consultant's assessment of MWETI stakeholders' compliance to these guidelines is based on the review of existing disclosures on the websites and online reports by state agencies and corporate stakeholders under MWEITI.

The initial review of the existing disclosure under MWEITI vis-a-vis the [EITI Standard](#) requirements shows that there is some limited level of information being published routinely, however, scattered in various electronic reports, web pages and paper reports. Further, mainstreaming is expected to adhere to [EITI Standard](#) requirements, however there exist significant levels of gaps in the existing information. For instance, whilst there is more contextual information found on various platforms, they remain fragmented and difficult to access in a meaningful way.

## 1.5 Assessment Framework

EITI implementation is guided by the [EITI Standard](#) which contains a set of disclosure requirements along the extractive decision chain. EITI implementing countries (including Malawi) are required to disclose a certain minimum level of information, notably policies, legislations, systems, and practices that govern extractives. The 2023 EITI Standard is the most recent Standard expected to be used by implementing countries from 2025, however this assignment will be based on the 2019 Standard.

The following assessment procedures were followed:

- The consultant identified the key stakeholders and further assessed the level of disclosures required by each stakeholder. Most of these disclosures exists in EITI Reconciliation reports.
- Assessment of current routine disclosures in Malawi against the EITI Standard.
- Further interrogation of identified gaps to understand the political economy context
- Interrogate respondents and assess their institutional readiness for mainstreaming EITI information on their existing online platforms.

### Figure 1.3 EITI Guiding Principles for Disclosure

### Comprehensiveness

It means information disclosure encompasses all relevant and material information under the EITI Standard requirements that is disaggregated to project-level reporting. With mainstreaming, the consultant would have to first review the current disclosures by MWEITI, often based on their reconciliation reports and stakeholder interviews to identify any potential gaps in comprehensiveness. The gap will help the consultant to shape applicable mainstreaming recommendations.

### Data Reliability or Quality Assurance

Data reliability guarantees information disclosed is quality assured by a qualified and independent professional, agencies, or corporates who are the owners of the data. As such, EITI requires the MSG to agree on an assurance process before publication. MWEITI may require audited information to unaudited information. This would mean, systematic disclosure systems should build in processes for data quality assurance while ensuring timeliness of data publication.

### Data Timeliness and Data Retention

One of the main principles underpinning mainstreaming is to achieve timely disclosure of information. This would require an assurance process and establishments in most institutions to release or publish information timely. Experiences from other jurisdictions have shown that timely publication of routine information often led to significant data use. In addition, it is important for agencies to be assessed their capabilities to retain published information on their public platforms as that has the potential to affect data accessibility.

### Data Format

EITI Standard requires data to be published under an open data format, which underscores the need for open license publications. With this, potential users can download, reuse and operate data over multiple platforms (interoperability). Disclosures by MWEITI stakeholders is therefore expected to be in an open formats. This will require more than just publication and include assessment of the suitability of its existing online platforms to be able to publish in open formats.

### Accessibility

- EITI information must be easily accessible by data users. Under mainstreaming, this principle will be key to validating data disclosures. To achieve this MWEITI's Stakeholders' routine publications should be easily accessible to the public as per the EITI Standard.

- Propose recommendations on how these gaps can be addressed in the short to medium term to allow for electronic mainstreaming on existing disclosure platforms. MWEITI's disclosure practice is based on the following broad-based questions:
  - How does government and companies routinely disclose information required under the 2019 Standard requirement? That is, the level of disaggregation and comprehensiveness.
  - Are the data up to date? This means the frequency of updating the information and how long the data is retained on digital platforms?
  - What is the level of accessibility?
  - Is data in an open data format?
  - What is the existing medium of disclosure?
  - Is it on electronic platforms and by which government agency?

### Box 1. EITI STANDARD, 2023

The 2023 EITI Standard is the latest Standard that outlines the requirements applicable to countries implementing the EITI as well as the Articles of Association governing the EITI. In line with previous updates of the EITI Standard, some of the new elements in the 2023 Standard are voluntary at first and not a mandatory part of the requirements or there is a period for countries to prepare for implementation.

#### New elements of the 2023 EITI Standard

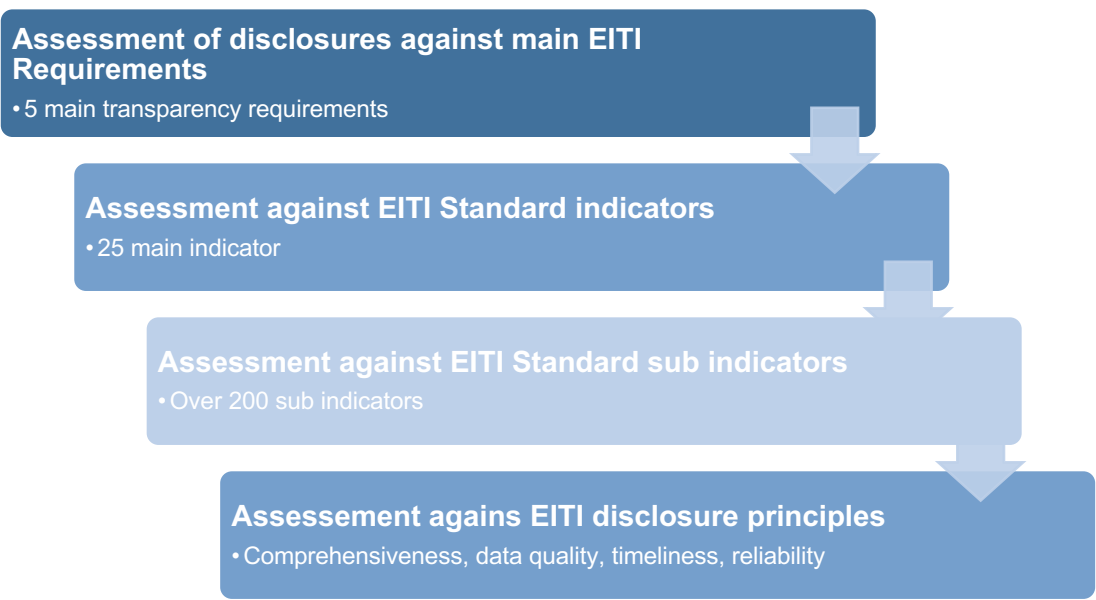
- **Anti-corruption:**
  - Disclosing companies' anti-corruption policies and practices (Requirements 1.2 and 2.6)
  - Linking license registers with ownership registers to improve the usability of data (Requirement 2.3)
  - Implementing lower ownership thresholds for reporting beneficial owners; clarifying reporting requirements for politically exposed persons (PEPs) and state-owned enterprises; disclosing the full ownership structure leading to beneficial owners (Requirement 2.5)
- **Energy Transition:**
  - Increasing understanding about energy transition policies, carbon pricing and subsidies (Requirement 2.1)
  - Increasing transparency in fast-tracked license awards (Requirement 2.2) and shedding light on investments by state-owned enterprises in the extractive sector (Requirement 2.6)
  - Disclosing proven reserves (Requirement 3.1); companies' greenhouse gas emissions (Requirement 3.4)
  - Considering revenue projections and scenarios (Requirement 5.3)
- **Gender, Social and Environmental:**
  - Disclosing policies related to artisanal and small-scale mining (Requirement 2.1)
  - Reporting on free, prior, and informed consent and community consultation (Requirement 2.2)
  - Disclosing gender-disaggregated data on benefits to communities and disclosing contracts mandating social and environmental payments (Requirements 5.2 and 6.1); granular data on employment (Requirement 6.3); environmental, social and gender impact assessments and an overview of the legal framework for managing environmental and social impacts (Requirement 6.4)
- **Revenue Collection:**
  - Clarifying the scope of contract disclosure (Requirement 2.4)
  - Reporting more granular, comprehensive and higher quality disclosures on production and exports (Requirements 3.2 and 3.3) • Disclosing sales agreements; infrastructure and barter provisions; and contracts mandating social and environmental payments (Requirements 4.2, 4.3 and 6.1) • Clarifying disclosure requirements on resource-backed loans, including collateralised sovereign debt (Requirement 4.3) • Introducing leaner processes for revenue disclosure; disclosing companies' effective tax rates, incentives and deductions (Requirements 4.1 and 4.9) • Shedding light on companies' costs and government systems for monitoring costs (Requirement 4.10)

Source: EITI 2023

## 1.6 Assessment Criteria

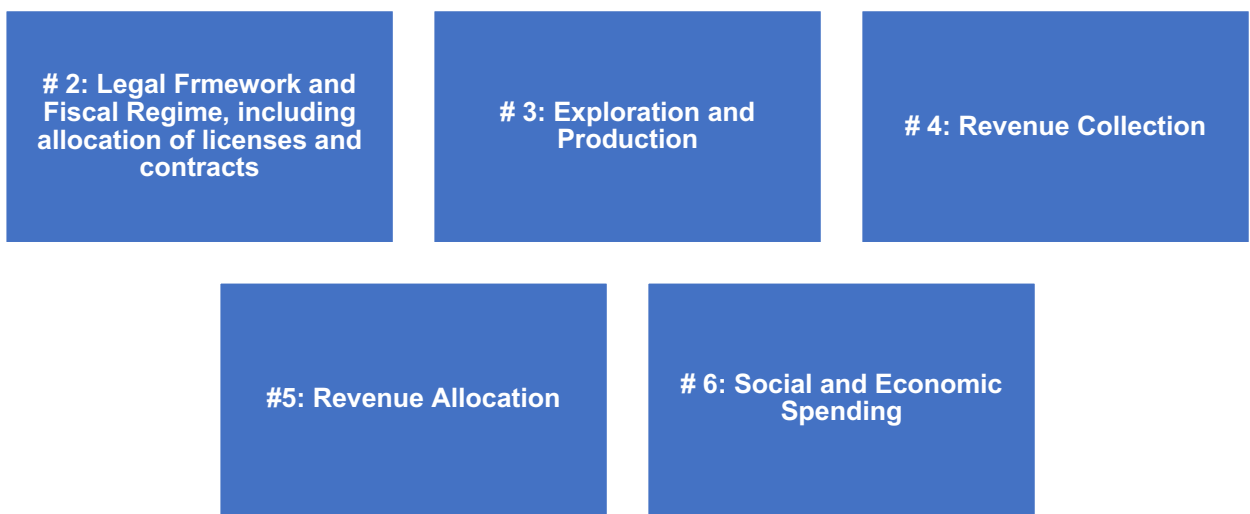
The process for assessment is based on four varying levels including for both oil and gas and mining sectors respectively:

### Figure 1.4 Overall Assessment Criteria



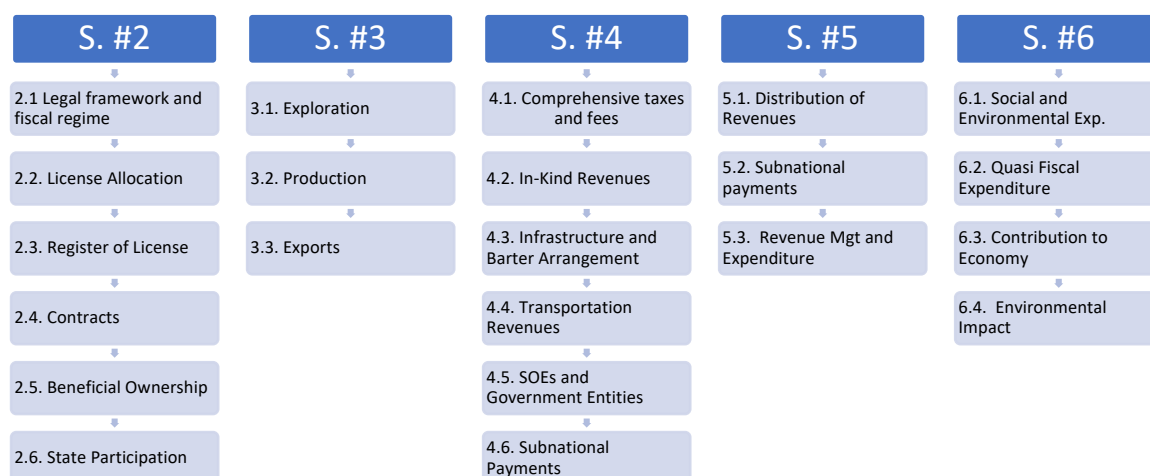
1. *Assessment against main EITI requirements (5 main Standard requirements): We assessed whether MWEITI stakeholders routinely discloses information required under Standard requirement 2 to 6. Financial information is checked against data reliability (the credibility of data, independently audited and under internationally acceptable standards)*

**Figure 1.5 EITI Standard Requirements (Transparency)**



2. *Assessment against indicators under each EITI Standard requirement's indicator: The consultant drilled down to assess disclosures against indicators under each of the Standard requirements*

**Figure 1.6 EITI Standard Requirement Indicators (Transparency)**



3. *Assessment and ratings for each questionnaire under each sub indicator. Under each sub indicator, the consultant adopted EITI guidance questionnaire and developed additional questionnaire based on the local context. Each questionnaire was assessed through reviews of routine online disclosures and interviews with senior management and MWEITI MSG representative of each agency that report under MWEITI. We used colour coding to irate whether routine disclosures are satisfactory, meaningful, or inadequate based on assessment against the EITI Standard requirements including of data disclosure principles.*

**Figure 1.7 EITI Standard Requirement with Assessment Questionnaire**

SUB INDICATORS UNDER EACH INDICATOR	
EITI Requirement Sub-indicator 2.1	Assessment Questionnaire
<b>Mining sector Oil and gas sector</b>	<i>Laws and regulations</i>
	<i>Overview of government agencies' roles</i>
	<i>Mineral rights' regime</i>
	<i>Fiscal regime</i>
	<i>Level of fiscal devolution</i>
	<i>Ongoing and planned reforms</i>
<b>Forestry</b>	<i>Laws and regulations</i>
	<i>Overview of government agencies' roles</i>
	<i>Petroleum rights' regime</i>
	<i>Fiscal regime</i>
	<i>Level of fiscal devolution</i>
	<i>Ongoing and planned reforms</i>

## 1.7 Assessment Ratings and Colour Coding

A traffic light system of performance of the various assessments is produced based on the key EITI Standard requirements and sub-indicators. The initial review of existing disclosures is complemented by interviews of relevant stakeholders. These ratings are based on the level of gaps and efforts needed to address the gaps. The following provide explanations to the ratings and colour coding:

**Table 1.1. Assessment Ratings and Interpretation**

Colour scheme	Interpretation
	<b>No Progress (Not Mainstreamed).</b> Information is not systematically disclosed. No information under the sub-indicator as per the EITI Standard is not published on any government or corporate website. That is, the institution may have the information in hard copy reports or submit to MWEITI annually but does not comply with mainstreaming requirement by publishing on its or other relevant government or corporate website
	<b>Inadequate progress (Mainstreamed with significant challenges).</b> Information is published on a website but only a portion of that information is published. The information published is not comprehensive and well disaggregated as a project level information.
	<b>Meaningful progress (mainstreamed with minor challenges).</b> Information is published on the website and well disaggregated and comprehensive as per EITI Standard. However, it does not conform to other EITI disclosure principles such as open data formats, timeliness and reliability.
	<b>Satisfactory progress (Fully Mainstreamed).</b> All aspects of the information is clearly published and conforms to all EITI disclosure principles – comprehensiveness, reliability timeliness, open data format.
	<b>Outstanding progress (Fully mainstreamed and have additional features beyond EITI requirements).</b> Information is fully mainstreamed and complies with all EITI requirements, however, information disclosure goes beyond EITI requirements and clearly delineated with additional download options.

The remainder of the report is structured as follows:

- **Section 2** presents the Stakeholder Mapping conducted for the assignment.
- **Section 3** undertaker the main findings of the assessment of routine disclosures under MWEITI
- **Section 4** assesses the institutional capacity of exiting state and corporate institutions to participate in MWEITI mainstreaming.
- **Section 5** presents overall findings and quantitative ratings of MWEITI's existing disclosures and key findings of the report. It also present recommendations for consideration for strengthening MWEITI's mainstreaming
- **Section 6** present a draft roadmap/action plan for MWEITI's mainstreaming

## 2 Stakeholder Mapping

### This section examines

- Key stakeholders that are relevant to MWEITI's mainstreaming.

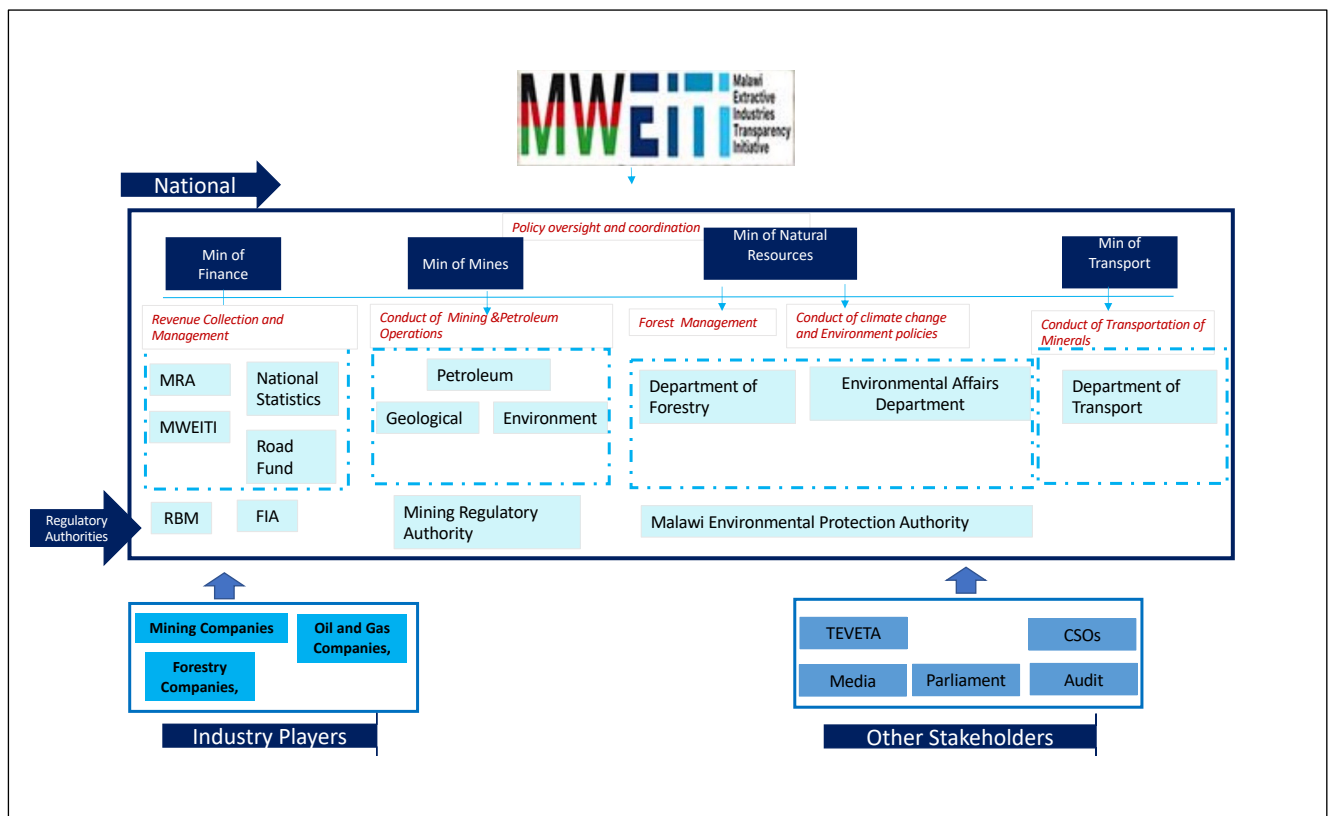
### 2.1 Stakeholder Mapping

To implement EITI mainstreaming, it is expected that relevant stakeholders (including state agencies and corporate agencies) are engaged to explore opportunities systematic disclosure. Hence, the consultants worked closely with all stakeholders under the existing MWEITI reporting process, particularly categorised under policy makers, regulators, implementing agencies, and industry players. The following stakeholder mapping has been conducted by the consultant based on desk research the outcome from the inception meeting with MWEITI MSG and the secretariat. The process of arriving at the mapping result included:

- The review of existing MWEITI annual reconciliation reporting process to identify stakeholders that supply information.
- Engagements with MWEITI MSG and secretariat to jointly identify other relevant stakeholders who have not previously been part of the process.
- Stakeholder interviews were conducted with agencies that supply information to the MWEITI process. The consultants received feedback from other stakeholders who plays external oversight role for the EITI process in Malawi.

The detailed stakeholder mapping in terms of responsibility for MWEITI data disclosure can be seen in Annex 2

Figure 2.1 MWEITI Stakeholders





## 3 Mainstreaming Feasibility Assessment

### This section presents

- The assessment of existing data disclosures against EITI Standard Requirement
- Ratings of existing disclosures against EITI Standard Requirements

### 3.1 Legal and Institutional framework, including allocation of contracts and licenses (EITI Standard Requirement 2)

Under this section the assessment is made against six sub indicators including:

- Legal framework and fiscal regime
- License Allocation
- Register of Licenses
- Contracts
- Beneficial ownership
- State owned enterprises

#### 3.1.1 Legal Framework and Fiscal Regime

##### **EITI Requirement**

*The Standard requires description of the legal framework and fiscal regime governing the extractive industries, including fiscal regime, with emphasis on the level of fiscal devolution, relevant laws and regulations, types of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals, as well as information on the roles and responsibilities of the relevant government agencies<sup>12</sup>.*

##### **Findings: Context**

The regulation of Malawi's forestry, mining and oil and gas sectors takes place under several legislations and regulations. There exist a wider government policy and legislative frameworks which defines natural resource ownership, guides the award of mineral rights, fiscal policy, regulation of mineral operations as well as commercial participation. **In terms of mainstreaming, the main regulators for the sectors are required to publish all policies, legislations, regulations, and fiscal regime for the sector on their websites in alignment with EITI disclosure principles.**

Below are the key legislative frameworks, regulations, and policies that guides the mining, forestry and per sector

#### Figure 3.1 Key Sector Legislations and Policies

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<sup>1</sup> EITI 2019 Standard. <https://eiti.org/document/eiti-standard-2019>.

<sup>2</sup> EITI Standard 2023 <https://eiti.org/sites/default/files/2023-06/2023%20EITI%20Standard.pdf>

### Key Primary Acts for Mining, Forestry and Oil and Gas

1. Mines and Minerals Act, 2023
2. Mines and Minerals Act, 2019
3. Mines and Minerals Act, 1981
4. Explosives Act, 1968
5. Petroleum Exploration and Production Act 1983
6. Forestry Acts (2007)
7. Forestry Rules (2010)

### Key Regulations for Mining, Forestry and Oil and Gas

#### Mining

1. Mines and Minerals (Claims) Regulations
2. Mines and Minerals (Disputes) Regulations,
3. Mines and Minerals (Mineral Rights) Regulations
4. Mines and Minerals (Miscellaneous Fees) Regulations
5. Mines and Minerals (Non Exclusive Prospecting License) Regulations
6. Mines and Minerals (Prescribe Minerals) Regulations
7. Mines and Minerals (Prescribed Operations) Regulations
8. Mines and Minerals (Public Purpose) (Prescription) Regulations
9. Mines and Minerals (Reserved Minerals) Regulations
10. Mines and Minerals (Reserved Mineral License) Regulations
11. Mines and Minerals (Royalties) Regulations
12. Mining (Safety) Regulations

#### Petroleum

1. Petroleum (Applications) Regulation
2. Petroleum (Constitution of Blocks) Regulations
3. Petroleum (General Provisions) Regulations
4. Petroleum (Prescribed Fees and Annual Charges) Regulations
5. Petroleum (Records, Reports, and Accounts) Regulations
6. Petroleum (Registration and Transfer of Licenses) Regulations

### National Policies with relevance to Minerals, Forestry and Oil and Gas

1. Petroleum Policy (2023)
2. Mines and Minerals Policy (2013)
3. National Forestry Policy (2016)

### Other Policies and Legislations relevant to Mining, Oil and Gas and Forestry Sectors

- National Environment Policy (2004)
- National Land Policy (2002)
- National Decentralization Policy (1998)
- Water Policy (2005)
- National Parks and Wildlife Policy (2000)
- Land Resources Management Policy (2000)
- Energy Policy (2000)
- Lands Act (2019)
- Taxation Act (2006)
- Land Act (2016)
- Environmental Management Act (2017)
- Water Resources Act (2013)
- National Parks and Wildlife Act (1994)

## Findings: Analysis of Disclosures

### Comprehensiveness and Level of Disaggregation

A review of existing disclosures showed that the primary legislations for the oil and gas and mining sectors are published in pdf formats on the department of mines website. However, the key regulations as aforementioned are not published. Hence the existing disclosure of the required legal frameworks and regulations under the mining and oil and gas sectors is not comprehensive. The department of mines publishes description of the type of mineral rights and other relevant documents such as the Artisanal and Small-Scale Mining Handbook. The EITI requires the description of fiscal regime for the extractive sector.

The fiscal regime for the mining sector, oil and gas sector is based on a new law, Mines and Minerals Act, 2023, and [Taxation Act, 2006](#) ( which are both published by the department of mines and the Mineral Revenue Authority’s websites respectively. However, it does not satisfy the EITI requirement since the publications do not provide clear description of the fiscal regime. The EITI requires an explicit routine disclosure of the sector’s fiscal regime. It is important to note that even though the fiscal regime of the sector is captured in the mains Act, other aspects of the fiscal regime (including Corporate Income Tax, Pay As You Earn, among others) are captured by other legislations. An explicit publication of the fiscal regime achieves the EITI disclosure principle on comprehensiveness. A good example of mainstreamed fiscal regime is presented in Figure 3.2 by Ghana’s Minerals Commission

**Figure 3.2 Ghana’s Example of Fiscal Regime Description – Minerals Commission, Ghana**

MINING FISCAL REGIME (FISCAL INSTRUMENTS & INCENTIVES)	
FISCAL INSTRUMENT	APPLICATION RATE
Mineral Royalty	5%
Corporate Income Tax	35%
Capital Allowance	20% straight line on mining assets for 5 years
Losses carried forward	5 years
Thin Capitalization	03.01
VAT	12.5% (Refundable)
NHIL & GET Fund Levy	2.5% each and tax deductible
Pay As You Earn (PAYE tax)	Graduated rate
Dividend tax	8%
National Fiscal Stabilization Levy (NFSL)	5% of profit before tax
Government Carried Equity	10%
Annual Mineral Right Fees	As prescribed by L.I 2176
Withholding tax on resident entities	Goods 3%, Works 5%, Service 7.5%
Withholding tax on interest payable to non-residents	8%
Withholding tax on royalties, natural resource payments and rents	15%
Ground Rent	As prescribed by L. I. 2357

Source: Ghana Minerals Commission (2023) <https://www.mincom.gov.gh/fiscal-regime/>

The department of forestry does not routinely publish any legislation or information on the fiscal regime for the forestry sector, hence does not satisfy EITI mainstreaming requirement. This is because the department does not have active website. The fiscal regime for the forestry sector is spread across the Forestry Rules (2010) and the Taxation Act (2006). The former empowers the department of forestry to receive payments in the form of royalties, revenues from the sales of firewood, license and application fees, rest-house fees and overall sales revenues whiles MRA collects PAYE, withholding taxes, income tax, resource rent tax, fringe benefit tax, VAT, among other general taxes. There is no explicit description of the forestry fiscal regime, hence it does not satisfy EITI mainstreaming requirements.

The extractive sector covered under MWEITI are all regulated within a multi-agency policy space, given that potential investors need to secure multiple permits from different departments. For instance, although the mining regulatory authority is the main regulator for the mineral sector, application for mineral license also require the need to engage with the Environmental Affairs Department, among other departments which is not under the Ministry of Mines. The EITI Standard therefore requires the description of the overview of roles and responsibilities of relevant agencies involved in the regulation of the extractive sector. Based on the consultant’s review, the Ministry of Mines provides quick links on their website to other relevant government agencies’ whose mandates falls other different Ministries, however there is not overview in the description of the roles and responsibilities of these agencies.

*Data Quality*

The publication of the relevant legislations on the ministry of mines and MRA websites can be considered reliable as they are legislations that have been enacted through a thorough parliamentary and legislative procedure and assented to by the President of the Republic. Based on the review, confirmation of legislations published were assented to by the President, hence deemed reliable.

*Timeliness*

New updates on legislations, policies, fiscal regime are usually based on enactment of formulation of new policies or laws. Hence, it is directly dependent on when new amendments or enactments are available for publication. The assessment show that the MRA updates their website regularly while the department of mines update their website on at least every month.

#### Data Accessibility

EITI requires mainstreaming information to be published and freely accessible in open data formats. This means potential users should not be encumbered by any means in order to access the information. Further, users can download, reuse and operate data over multiple platforms (interoperability). Our review of the existing disclosures on the Ministry of mines and MRA website indicated that the information is not published in open formats but in searchable pdfs formats. Although accessibility is not restrictive, its current format does not satisfy EITI's Open Data Policy requirements.

**Overall Review: Inadequate progress (Mainstreamed with significant challenges).**

**Table 3.1. Assessment Ratings for EITI Standard Requirement 2.1**

EITI Requirement 2.1	Questions	Status of Systematic Disclosures
Mining and Oil and Gas sector	<i>Laws and regulations</i> <sup>3</sup>	
	<i>Overview of government agencies' roles</i>	
	<i>Mineral rights' regime</i> <sup>4</sup>	
	<i>Fiscal regime</i>	
	<i>Level of fiscal devolution</i>	NA
	<i>Ongoing and planned reforms</i>	
Forestry	<i>Laws and regulations</i>	
	<i>Overview of government agencies' roles</i>	
	<i>Forestry rights' regime</i>	
	<i>Fiscal regime</i>	
	<i>Level of fiscal devolution</i>	NA
	<i>Ongoing and planned reforms</i>	

#### Overall review Comments for Requirement 2.1

- **Mining and Oil and Gas:**
  - Legislative publications are not comprehensive as they do not include regulations, and with the published legislations, they are pdf formats
  - Strategic plan published on the website does not explicitly provide information on the ongoing reforms in the mining or oil and gas sector
- **Forestry Sector:**
  - Does not publish any information online as the department of forestry does not have an active website.

<sup>3</sup> <https://www.mining.gov.mw/index.php/resouces/downloads/policies>

<sup>4</sup> <https://www.mining.gov.mw/index.php/component/sppagebuilder/41-mineral-development-and-planning-division>

### **3.1.2 License Allocations (EITI # 2.2)**

#### ***EITI Requirement***

Standard # 2.2 requires the disclosure of the processes that guides the award and transfer of license, the technical and financial criteria used in assessing a license application, information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable. The Standard also requires the disclosure of material deviation from the applicable legal and regulatory framework governing license transfers and awards.

#### ***Findings: Analysis of Existing Disclosures***

The allocation of minerals rights in Malawi is based on an open-door direct negotiation policy where the process of awarding is purely based on first-come-first-serve basis. However, a license can only be granted if recommended by the Mineral Resource Committee, an inter-agency committee established by the Mines and Minerals Act, 2019. Despite the involvement of other agencies in the award of mineral license, its processes are not usually mainstreamed or publicly available for the sake of transparency. The Ministry of Mines is currently working to ensure an online mineral right application process, which is likely to enhance transparency in the award of licenses.

Based on the review of the existing website against EITI systematic disclosure requirement #2.2, there remain major challenges with respect to the mainstreaming of mineral license application process.

- There is no disclosure of the mineral licensing process (neither mineral license or exploration license) for the application of license, being the administrative and technical procedures and requirements.
- There is no disclosure of the processes required for the transfer of a license even though this can be found in the main legislation, Mines and Minerals Act, 2019.
- The technical and financial criteria used by the Mineral Resource Committee is not published on the Ministry of Mines' nor any state agency's website.
- There is no publicly available feedback or platform to report material deviations from the legal procedures for awarding mineral rights.

In the oil and gas sector, license allocation is conducted under an open door negotiated system and guided by Petroleum Regulations (1984) as amended by subsequent Regulations (2009). Petroleum exploration application follows a well-coordinated procedure, but it is not published on by the Ministry of Mines, although snippets of such process can be found in the Petroleum Exploration and Production Law (1983). Further, there is no publicly available information on the technical and financial criteria used to assess petroleum license applications. In addition, no official channel has been created for applicants or citizens to report material deviation from legally required processes.

The transfer of petroleum interest is guided by the Petroleum (Registration and Transfer of Licences) Regulations, in line with a written consent from the Minister responsible for Mining and Petroleum. However, the transfer procedures nor the relevant petroleum regulations is published on the Ministry of Mines website.

These issues notwithstanding, the department of mines has a license cadastre for both oil and gas and mineral concessions which includes the name of applicant, license application date, license expiry, and type of commodity.

The forestry sector does not have a website hence, it does not satisfy any mainstreaming requirement under EITI Standard 2.2.

#### ***Comprehensiveness***

Based on the review of existing information published on the Ministry of Mines' website, license allocation for oil and gas and mining is not comprehensive. Although there is an active mining cadastre, it does not provide data on such as the number of licensed awarded per year, transfer process, license award process and regulations that guides the award and transfer of licenses. Further, there is not information on the technical and financial criteria that is used to assess oil and gas and mineral licenses.

#### ***Data Quality***

Based on stakeholder interviews, information published on the cadastre and on the ministry of mines website usually goes through internal conventional processes before they are published. Consequently, the data is reliable even though there is no written policy on data reliability.

#### *Timeliness*

The assessment of the mining cadastre confirmed information is not regularly updated, however information enshrined in laws and regulations is only updated ones there are changes or new enactments.

#### *Data Accessibility*

The review of limited information on the existing public information on license allocation is open to the public with no hinderance to public accessibility of information, however information on the license transfers processes enshrined in the Mines and Minerals Act, is accessible via pdf format which does not conform to EITI Standard requirement for Open Data and accessibility.

The overall review for requirement 2.2 show that a greater percent of information required are not mainstreamed and hence would require significant efforts to address the key challenges.

**Table 3.2. Assessment Ratings for EITI Standard Requirement 2.2**

<b>EITI Requirement 2.2</b>	<b>Indicators</b>	<b>Status of Systematic Disclosures</b>
<b>Mining and Oil and Gas</b>	<i>No. of license awards for the covered year</i>	
	<i>the award process(es)</i>	
	<i>the technical and financial criteria used</i>	
	<i>the existence of any non-trivial deviations from statutory procedures in license awards in the period under review?</i>	
	No. of license transfers for the covered year	
	<i>the number and identity of licenses transferred in the period under review</i>	
	<i>the transfer process(es)</i>	
	<i>bidding rounds/process(es)</i>	NA
<b>Forestry</b>	<i>No. of license awards for the covered year</i>	
	<i>the award process(es)</i>	
	<i>the technical and financial criteria used</i>	
	No. of license transfers for the covered year	
	<i>the number and identity of licenses transferred in the period under review</i>	
	<i>the transfer process(es)</i>	
	<i>and the technical and financial criteria used</i>	
	<i>the existence of any non-trivial deviations from statutory procedures in license transfers in the period under review?</i>	
	<i>bidding rounds/process(es)?</i>	

### **3.1.3 Register of License and Contracts (EITI # 2.3 and 2.4)**

#### ***EITI Requirement***

The Standard requires the maintenance of timely and comprehensive information regarding each of the licenses pertaining to companies within the agreed scope of EITI implementation.

- License holder(s).
- Where collated, coordinates of the license area. Where coordinates are not collated, the government is required to ensure that the size and location of the license area are disclosed in the license register and that the coordinates are publicly available from the relevant government agency without unreasonable fees and restrictions. The disclosures should include guidance on how to access the coordinates and the cost, if any, of accessing the data. The government should also document plans and timelines for making this information freely and electronically available through the license register.
- Date of application, date of award and duration of the license
- In the case of production licenses, the commodity being produced

With regards to contracts, implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas, and minerals before the stated date. This applies to contracts granted, entered into or amended before 1 January 2021. Implementing countries are required to disclose any contracts and licenses that are granted, entered into or amended from 1 January 2021.

#### ***Findings: Analysis of Existing Disclosures***

Malawi has a register of mining and oil and gas license [cadastre](#), however it is understood that not all mineral licenses have been updated on the cadastre. The cadastre is available to the public without any restrictions, however, information provided by the cadastre does not include coordinates, date of application, size, status of license, date of application, start date, expiry date, duration of license, date of renewal, district, license code and application code and details of beneficial owners of licenses. It is understood that the Ministry of Mines is currently implementing a programme aimed at promoting transparency and efficiency in the processing and issuance of mineral licences, enhance and secure mineral rights system and records the geographical location, ownership, and time validity of mining rights.

Malawi does not have any contract transparency portal for mining, oil and gas nor forestry, hence does not comply with mainstreaming requirements on register of contracts.

#### ***Comprehensiveness***

Based on the review of existing disclosures, the mining and oil and gas cadastre is not comprehensive. Malawi does not have any written policy on contract transparency, but equally no legislation restricts the publication of extractive contracts. There are third party publication of mineral leases and oil and gas contracts, notably, resource contracts on the [Resource Contract Ghana Portal](#). Even though these are not official government sources, they remain relevant for public references.

#### ***Data Quality***

The Ministry of Mines has conventions on internal data assurance processes where information published on their respective websites. There are established license application procedures backed by legislative frameworks and regulatory procedures, hence the quality of information in relation to register of license and contracts have gone through official assurance process.

#### ***Timeliness***

Based on the review, license information is not up to date as new mineral licenses signed since 2022 have not been updated on the cadastre. At the time of writing, it was confirmed that some information (new licenses) was still in the process of being upload.

#### ***Accessibility***

Accessibility to the cadastre is unrestricted and open to all, and some details on licenses on both mining and oil and gas cadastres are in open formats.

The overall review for requirement 2.3 and 2.4 show that a chunk of information required are not already published on any government agency's website, Hence, it will require significant effort to mainstream adequate information in the medium to long term.

**Table 3.3. Assessment Ratings for EITI Standard Requirement 2.3 and 2.4**

<b>EITI Requirement</b>	<b>Indicators</b>	<b>Status of Systematic Disclosure</b>
<b>Mining and Oil and Gas sector</b>	<i>Licenses register for the mining sector</i>	
	<i>License-holder name:</i>	
	<i>License coordinates:</i>	
	<i>License dates of application, award and expiry:</i>	
	<i>Commodity(ies) covered by licenses:</i>	
	<i>Coverage of all active licenses</i>	
	<i>Coverage of all licenses held by material companies</i>	
	<i>Government policy on contract disclosure</i>	
	<i>Are contracts texts disclosed</i>	
	<i>Are full license texts disclosed</i>	
	<i>Contract register for mining sector</i>	
<b>Forestry Sector</b>	<i>License register for petroleum sector</i>	
	<i>License-holder name:</i>	
	<i>License coordinates:</i>	
	<i>License dates of application, award and expiry:</i>	
	<i>Commodity(ies) covered by licenses:</i>	
	<i>Coverage of all active licenses</i>	
	<i>Coverage of all licenses held by material companies</i>	
	<i>Government policy on contract disclosure</i>	
	<i>Are contracts texts disclosed</i>	
	<i>Are full license texts disclosed</i>	
	<i>Contract register for petroleum sector</i>	

### 3.1.4 Beneficial Ownership (EITI # 2.5)

#### **EITI Requirement**

Implementing countries are required to request and companies are required to publicly disclose, beneficial ownership information. This applies to corporate entity(ies) that apply for or hold a participating interest in an exploration or production oil, gas, or mining license or contract and should include the identity(ies) of their beneficial owner(s), the level of ownership, and details about how ownership or control is exerted. Any significant gaps or weaknesses in reporting on beneficial ownership information must be disclosed, including naming any entities that failed to submit all or parts of the beneficial ownership information.

#### **Findings: Analysis of Existing Disclosures**



BO implementation in Malawi commenced in the earlier part of 2023, following the enactment of BO Regulations (2022)<sup>5</sup>. The Department of the Registrar General is the lead implementer of BO disclosure, with support from MWEITI and the Financial Intelligence Authority. All companies incorporated or registered in Malawi are required to complete an online BO form as part of the main company incorporation forms. The definition of a beneficial owner under Malawi's legislation means a natural person who:

- a. Directly or indirectly owns or controls more than five percent of shares of a company or other body corporate;
- b. Directly or indirectly owns or controls more than five percent of a company's voting rights; or otherwise exercises control over a company or its management;
- c. Directly or indirectly, has a substantial economic interest in or receives substantial economic benefit from, a company, whether acting alone or together with other persons;
- d. Has a significant stake in a company and on whose behalf activity of a company is conducted; or
- e. Exercises significant control or influence over a person through a formal or informal agreement, and where such ownership, control or interest is through a trust, the trustee (s), beneficiaries or anyone who controls the trust.

The current BO Regulations conforms to EITI Standard requirements. Specifically, the regulation includes a detailed definition of BO, clear data particulars of a BO such as name, nationality, country of residence, national ID number, date of birth, residential address, and means of contact. In terms of mainstreaming, implementing countries are required to publicly disclose BO register for all entities that bid for, or invest or operate in the extractive sector. The Registrar General confirmed that public access to BO information shall be based on satisfactory payment of a prescribed fee, however competent authorities shall have free access to BO information. While the details of beneficial owners as per the Regulations conforms to EITI Standard Requirements, the restrictions to public access to BO information remains a challenge. Fees for accessing BO information forms part of the Registrar General's internally generated funds, hence there will be a need for public discussion on how to balance the government needs against the satisfaction of EITI requirements.

BO information collection and processing began in the first quarter of 2023, however the Registrar General confirmed that there is a need for capacity building of its staff to enhance BO data collection and processing. At the time of writing, the Department of Registrar General had yet to finalize the necessary administrative procedures to guide BO data collection.

#### *Comprehensiveness*

Based on the current BO forms and discussions with Registrar General, the details and particulars captured under the Malawi's BO regime is comprehensive as they conform to all requirements under the EITI Standard 2.5. However the legislation that guides the implementation of BO is not publicly available on any website.

#### *Data Quality*

Information disclosure by companies is reviewed by internal staffs of the Registrar General and goes through an approval processes which ensure all BO information is accurate and attested to by those who provide the information

#### *Timeliness*

BO information is collected and processed by an online system, hence it is has a high probability to ensure up to date information and timely access to data.

#### *Accessibility*

Accessibility to BO information is currently based on manual request, even though Registrar General is in the process of developing a public phasing portal to allow for easy accessibility. This notwithstanding, BO information is expected to be accessed at a fee.

Overall, this requirement is still under implementation even though there seem to be a higher probability for it to satisfy EITI systematic disclosure requirements once it is in full implementation.

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<sup>5</sup> Malawi Gazette Supplement No. 27A, dated 23rd December, 2022

**Table 3.4. Assessment Ratings for EITI Standard Requirement 2.5**

<b>EITI Requirement</b>	<b>Indicators</b>	<b>Status of Systematic Disclosure</b>
<b>Extractive</b>	<i>Government policy on beneficial ownership</i>	
	<i>definition of the term beneficial owner</i>	
	<i>laws, regulations, or policies on beneficial ownership</i>	
	<i>beneficial ownership data disclosure</i>	
	<i>is beneficial ownership data disclosed by applicants and bidders</i>	
	<i>quality assurances for data reliability</i>	
	<i>names of stock exchanges, for publicly listed companies</i>	
	<i>Public BO Register exist</i>	
	<i>Disclosure of legal owners</i>	

## 3.2 Exploration and Production

### 3.2.1 Exploration (EITI # 3.1)

#### *EITI Requirement*

Implementing countries are required to disclose an overview of the extractive industries, including any significant exploration activities.

#### **Findings: Analysis of Existing Disclosures**

The Ministry of Mines is responsible for the issuance of exploration licenses as well as regulate same. This is done by the Minister responsible for mines based on recommendation from the Mineral Resource Committee (multistakeholder committee). Exploration licenses have validity period that ranges between 12 months and one year. Exploration in the mining sector is conducted under three different licenses: reconnaissance, prospecting, and non-exclusive prospecting licence. EITI Standard requires the routine publication of significant exploration programmes or activities including the overview of the sector based on new explorations, and details of key companies conducting exploration. Countries are encouraged to publish this information including details on license, coordinates and ensure information is disaggregated in accordance with EITI Standard Requirements. Based on the review of the Ministry of Mines website, there is no publication on the overview of the exploration activities. Although the ministry has published the mining sector Strategic Plan<sup>6</sup> (2022-2027) which provides a more strategic, coordinated and forward looking objective for the mining sector, it does not provide any details on the planned exploration activities for mining and oil and gas. It is understood that the overview of the sector is published in various sector reports published by Ministry, including the Strategic Plan, ASM Handbook and submit same to MWEITI annually, but not comprehensively published on the website. With regards to the forestry sector, there is

no publication of any information on the potential plans for rehabilitation of forests in the medium term by the department of Forestry.

The Ministry of Finance publishes details on new exploration licenses and mining leases issued annually, however the information is not disaggregated by licensee details, location and coordinates. Further, the Annual Economic Report<sup>7</sup> published by the Ministry of Finance, provides information on tree planting and rehabilitation by zones.

#### *Comprehensiveness*

Based on our assessment, current information published on exploration activities in terms of overview of the sector is limited for the mining and oil and gas sector. While this information is not fully published on the Ministry of Mines website, they have provided same information to be published through MWEITI's annual reconciliation reports.

#### *Data Quality*

Existing information on the Ministry of Mines website goes through internal approval processes to ensure quality and accuracy. This notwithstanding, there is no written policy on data reliability.

#### *Timeliness*

Information on Exploration activities including its overview and key exploration companies are expected to be updated based on availability of new exploration information or licenses.

#### *Accessibility*

Accessibility to information on exploration activities is unrestricted and published in pdf format, hence not compliant with EITI disclosure principles.

**Table 3.5. Assessment Ratings for EITI Standard Requirement 3.1**

<b>EITI Requirement</b>	<b>Indicators</b>	<b>Status of Systematic Disclosure</b>
<b>Mining and Oil and Gas sector</b>	<i>Overview of the extractive industries</i>	
	<i>Overview of key companies in the extractive industries</i>	
	<i>Overview of significant exploration companies</i>	
<b>Forestry</b>	<i>Overview of the extractive industries</i>	
	<i>Overview of key companies in the extractive industries</i>	
	<i>Overview of significant exploration companies</i>	

#### **3.2.2 Production (EITI # 3.2)**

##### *EITI Requirement*

<sup>7</sup> <https://www.finance.gov.mw/index.php/our-documents/annual-economic-reports>

Implementing countries are required to disclose timely production data, including production volumes and values by commodity. This data could be further disaggregated by region, company, or project, and include sources and the methods for calculating production volumes and values.

### **Findings: Analysis of Existing Disclosures**

#### **Comprehensiveness**

Malawi mineral production encompasses several minerals including coal, cement limestone, iron ore, Kaolinitic Clays, hydrated and agriculture limestone, rock aggregates, precious and semi-precious stones and ornamental stones. The department of mines (now Mining Regulatory Authority) is mandated to monitor mineral production as well as require companies to file production information at the Ministry of mines. At the same time, MRA is expected to receive mineral production information from mining companies to be used as the basis to verify the value of production and apply relevant taxes.

The department of forestry is responsible for the documentation of timber and rubber production and exports. It collects this information on exports of products disaggregated by product types but not per concessions. EITI requires production information to be disaggregated at project level (which means per concession). Despite providing information on exports of timber and rubber productions to MWETI, the department of forestry does not routinely publish this information.

The Ministry of Finance publishes routine information on mineral and forestry production in its [Annual Economic Reports](#), however this information is not disaggregated by company or project level, hence falling short of EITI systematic disclosure requirements.

Based on the review of publicly available online platforms, the existing disclosures are not comprehensive due to the level of disaggregation.

#### *Data Quality*

Information published by the Ministry of Finance goes through internal approval processes before publication.

#### *Timeliness*

Annual Economic Reports are published annually, however there remain a lag as the latest report was published for the year 2021.

#### *Accessibility*

The Ministry of Finance website does not restrict access to the public. However, the information is published in pdf format and does not conform to EITI Open Data Requirements.

**Table 3.6. Assessment Ratings for EITI Standard Requirement 3.2**

<b>EITI Requirement</b>	<b>Indicators</b>	<b>Status of Systematic Disclosure</b>
<b>Mining Sector (not applicable to oil and gas)</b>	<i>Disclosure of production volumes</i>	
	<i>Disclosure of production values</i>	
<b>Forestry Sector</b>	<i>Disclosure of production volumes</i>	
	<i>Disclosure of production values</i>	

### 3.2.3 Exports (EITI # 3.3)

#### EITI Requirement

Implementing countries are required to disclose timely export data, including export volumes and the value by commodity. This data could be further disaggregated by region, company, or project and include sources and the methods for calculating export volumes and values.

#### Findings: Analysis of Existing Disclosures

##### Comprehensiveness and Accessibility

Malawi exports a chunk of its minerals in raw form because there are no refineries or major processing plants. Other stones are also cut and polished to add value before exports. To boost export of minerals and leverage on Malawi's export potential and business opportunity, the government of Malawi established the Export Development Fund Limited (EDF) in 2012 under the Reserve Bank of Malawi. EDF participate in the purchase of Artisanal and Small-Scale mineral production and submit information on purchases to the RBM. However, there is no routine publication of total purchases and exports by EDF.

The Ministry of Finance publishes information on mineral and forestry product export volumes and values in its Annual Economic Report. The publication is disaggregated by commodity type and not by project level report, hence it does not comply with EITI Stander requirement on comprehensiveness. Further, the basis of estimation or calculation of aggregated export information is not published.

##### Data Timeliness

Annual Economic Reports are published annually, however there remain a year lag as the latest report was published for the year 2021.

##### Data Quality

Information published by the Ministry of Finance goes through internal approval processes before publication.

##### Accessibility

The Ministry of Finance website does not restrict access to the public. However, the information is published in pdf format and does not conform to EITI Open Data Requirements.

**Table 3.7. Assessment Ratings for EITI Standard Requirement 3.3**

EITI Requirement	Indicators	Status of Systematic Disclosure
Mining sector	<i>Disclosure of Export volumes</i>	
	<i>Disclosure of Export values</i>	
Forestry Sector	<i>Disclosure of Export volumes</i>	
	<i>Disclosure of Export values</i>	

### 3.3 Revenue Collection (EITI # 4)

#### 3.3.1 Comprehensives Disclosure of Taxes and Revenues (#4.1)

A review of MWEITI's sixth reconciliation report indicated the following scope of taxes and revenues in the extractive sector and their collection agencies. Therefore, the systematic disclosure of these taxes and revenues falls under their remit. The table below provides the details of each agency and their associated responsibility.

**Table 3.8. Extractive Revenues and Receiving Agencies**

Agency	Mineral Taxes and Revenues	Oil and Gas taxes and Revenues	Forestry Taxes and Revenues
Malawi Revenue Authority	Corporate Taxes, VAT, Resource Rent Taxes, Non-Resident taxes, PAYE, Fringe Benefit taxes, Penalties, Excise Duties, Import Duties, Withholding taxes	Corporate Taxes, VAT, Resource Rent Taxes, Non-Resident taxes, PAYE, Fringe Benefit taxes, Penalties, Excise Duties, Import Duties, Withholding taxes	Corporate Taxes, VAT, Resource Rent Taxes, Non-Resident taxes, PAYE, Fringe Benefit taxes, Penalties, Excise Duties, Import Duties, Withholding taxes
Department of Mines	Royalties, Annual Charges, Application/License fees	Royalties, Annual Charges, Signature Bonus, Application and License Fees, Training fees	
Department of Forestry			Concession fees, Royalties
Ministry of Finance	Dividends	Dividends	Dividends

#### 3.3.1.1 Malawi Revenue Authority (MRA)

MRA operates as an integrated, functionally based administration responsible for collecting all scores of taxes in the extractive sector (see table above). MRA has a Mining Unit with clear mandate with clear mandates to assess, collect and account for minerals, oil and gas and forestry revenues respectively. It is understood that MRA generates detailed annual reports on total revenues collected and submits to the Ministry of Finance. The same information, disaggregated at company or project level is also submitted to MWEITI annually as part of MWEITI's annual reconciliation report. However, neither MRA nor the Ministry for Finance publishes detailed revenue information disaggregated at project level on their websites. Based on the review, there is no comprehensive disclosure of mineral, forestry, and oil and gas revenues on any online platform aside MWEITI's annual reconciliation reports. This presents a major setback to EITI systematic disclosure.

**Section 6 (2)** of the Taxation Act, encourages the Commissioner General to prepare and publish statistics showing the total amount of income or taxable income received by any class or classes of persons from all or any particular sources during any year of assessment as declared in returns made to the Commissioner. Similarly, paragraph 24(1) of the 16th Schedule to the Taxation Act, requires the Commissioner General to publish annual taxable income during the year from each mining project and from each holder of a reserved minerals licence, as well as the amount collected during the year from each mining project and from each holder of a reserved minerals licence.

With respect to mineral royalties, paragraph 15(1) of the 17th Schedule to the Taxation Act, requires the Commissioner General to publish annually the amount of royalty due during the year from each mining project and from each holder of a reserved minerals licence and the amount collected during the year from each mining project and from each holder of a reserved minerals licence. These disclosure requirements align with EITI disclosure requirements.

### 3.3.1.2 Department of Mines

The department of mines, under the Ministry of Mines, coordinates mineral and oil and gas policy implementation and operations. Among their legal regulatory responsibility include the need to ensure extraction is undertaken in accordance with the relevant laws and policies and international best practices along the extractive value chain. As part of delivering their mandates they work with the Ministry of Mines to coordinate the issuance of licenses, permits, and authorizations to industry players from exploration to production to the trading or buying of minerals. Revenues generated from these activities forms part of extractive revenues and are therefore required under the EITI Standard to be systematically disclosed. Currently, there is no routine publication on revenues received from the sector on its website. It is understood that they prepare annual report to be submitted to the Ministry of Finance, National Statistics office and MWEITI, however these reports are not publicly available. This presents major challenge for EITI systematic disclosure

### 3.3.1.3 Department of Forestry

The Department of Forestry is responsible for regulation and supervision of all forestry operations in Malawi. This includes the coordination and promotion of active participation of all stakeholders in the sustainable management and utilisation of forest resources, goods, and services. Further, DoF supervises and monitor compliance with contractual/concessional obligations by forestry companies. It also carries out assessment and collection of royalties and concession fees paid by forestry companies. This arrangement requires routine disclosures of royalty receipts and concession fees by DoF. However, there is no routine disclosures of these receipts on any government’s website, even though DoF submits similar information to MWEITI. In essence, DoF does not satisfy EITI systematic disclosure requirements.

### 3.3.1.4 Ministry of Finance and Economic Affairs

The Ministry of Finance (MoF) is responsible for overall governance of fiscal policy formulation and implementation including through relevant fiscal legislation. Under its revenue policy division, the Ministry takes lead in mineral, oil and gas and forestry fiscal policy implementation and revenue management, including extractive revenue forecasting, allocation of resources required for State participation/interest in the mining and oil and gas sector. Further the Ministry is responsible to coordinate all dividend payments accruing from the State’s interest in mining, and oil and gas industries. However, there is no routine publication of dividend receipts disaggregated by company. This is a major setback in achieving EITI mainstreaming requirements.

### 3.3.1.5 Extractive Companies (Mining, Forestry, and Oil and Gas companies)

Currently, there are no laws that mandates companies that bid, invest, or operates in extractives to disclose financial related information and production data. However, some companies voluntarily disclose relevant information in their annual financial statements or reports. For instance, the Chamber of Mines, Malawi confirmed that they publish [annual reports](#) of Mines, representing a chunk of mining companies under MWEITI’s reporting framework. A review of their report confirmed the publication of aggregated reports on mineral licenses, production by commodity, value of production and investment partnership. Whiles this is a routine publication, it is not disaggregated to project level, hence does not fully comply with EITI systematic disclosure requirements.

Further, companies through the Chamber can disclose disaggregated information on production entitlement, income taxes, royalties, bonus payments, license fees, infrastructure payments, VAT, Stamp Duty, withholding taxes, PAYE, custom duties, and allowances paid to the Government of Malawi.

**Table 3.9. Assessment Ratings for EITI Standard Requirement 4.1**

EITI Requirement	Indicators	Status of Systematic Disclosure
Mining sector/ Forestry/ Oil and Gas	Corporate income tax	
	Royalties	
	PAYE	

EITI Requirement	Indicators	Status of Systematic Disclosure
	<i>Customs excise duties and Import levies</i>	
	<i>Withholding taxes</i>	
	<i>Fringe Benefit taxes</i>	
	<i>License application fees and other permit fees</i>	
	<i>Dividend</i>	
	<i>Non-Resident Taxes</i>	
	<i>Resource Rent Tax</i>	
	<i>VAT</i>	
	<i>Signature Bonus and Training Fees</i>	

#### This section examines

- Key stakeholders that are relevant to MWEITI's mainstreaming.

#### 3.3.2 Infrastructure Provision and Barter Arrangements (#4.3)

##### EITI Requirement

*EITI Standard requires Implementing countries to disclose infrastructure provisions and barter-type arrangements, which provide a significant share of government benefits from an extractive project, that is commensurate with other cash-based company payments and government revenues from oil, gas and mining, as a basis for comparability to conventional agreements.*

##### Findings: Analysis of Existing Disclosures

A review of MWEITI's 6<sup>th</sup> Report confirmed that the Government of Malawi and Nyala Mines has an agreement conforms to the requirements under this Standard.

This agreement stipulates in article 2 that, in consideration of the Government granting the Mining Licence, Nyala shall:

- *Renovate local hospital at Katsekera by providing funds & materials such as new beds and linen.*
- *Install a solar panel at the local hospital at Katsekera;*
- *Provide financial assistance to the Clinic through the provision of drugs, medicines, dressings, and other general medical supplies for use within the local community. This financial aid shall not exceed USD 20,000 per calendar year; and*
- *Provide funds and materials to build at least four (4) houses for teachers at the school at Kandoma*

The MSG confirmed this arrangement as infrastructure and barter arrangement. However, the agreement is not published. The Standard requires the publication of such arrangements to enhance public's understanding of infrastructure provisions and barter-type arrangements. Hence, this does not conform with EITI systematic disclosure requirements.



**Table 3.10. Assessment Ratings for EITI Standard Requirement 4.2**

EITI Requirement	Indicators	Status of Systematic Disclosure
Extractive Sector	<i>Does the government disclose information on barter and infrastructure agreements?</i>	
	<i>Disclosure of the Value of the infrastructure</i>	

### 3.3.3 Transportation Revenues (#4.4)

#### EITI Requirement

EITI Standard requires Implementing countries to ensure transparency in government and SOE revenues from the transit of oil, gas and minerals as a basis for promoting greater accountability in extractive commodity transportation arrangements involving the state or SOEs.

#### Findings: Analysis of Existing Disclosures

Malawi has a transportation system that includes of 15,451 kilometres of roads, 810 kilometres of railway track, four major lake harbours and five commercial airports<sup>8</sup>. Extractive companies either within or outside of Malawi utilizes the rail for its transit of minerals due to the interconnectedness between Malawi and Mozambique. The Nacala Railway project transports coal extracted from Western Mozambique to the Mozambican Port of Nacala passing through Malawi. This generates concession fees to the government of Malawi based on the quantity of coal transported from Mozambique by rail. Further, extractive companies in Malawi also pays concession fees for the use of rail lines. These revenues are assessed and collected by the Public Private Partnership Commission of Malawi, but the funds are managed by the Roads Administration Fund. Both PPPC and the Roads administration funds publishes annual information on revenues generated by the rail fund, however this information is not disaggregated to EITI standard requirements.

**Table 3.11. Assessment Ratings for EITI Standard Requirement 4.3**

EITI Requirement	Indicators	Status of Systematic Disclosure
Extractive Sector	<i>Does the government disclose information on Transportation Revenues</i>	
	<i>Disclosure of value of payments</i>	

## 3.4 Revenue Allocation (EITI # 5)

### 3.4.1 Distribution of Extractive Revenues (EITI 5.1)

#### EITI Requirement

The Standard requires a disclosure of a description of the distribution of revenues from the extractive industries. Implementing countries should indicate which extractive industry revenues, whether cash or in-

<sup>8</sup> MWEITI 6<sup>th</sup> Reconciliation Report (2020-2021), pg. 79

kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable, e.g., sovereign wealth and development funds, sub-national governments, state-owned enterprises, and other extra-budgetary entities. Multi-stakeholder groups are encouraged to reference national revenue classification systems and international standards such as the IMF Government Finance Statistics Manual.

### **Findings: Analysis of Existing Disclosures**

#### *Comprehensiveness*

In Malawi, all extractive revenues are required by articles 172 to 173 of the Constitution of Malawi to be deposited into the Consolidated Fund, apart from revenues determined by other sector specific legislations to be paid into a public Fund other than the Consolidated Fund. There are no subnational transfer requirements in Malawi. Once all revenues are deposited in the consolidated funds, they are then subjected to the same budgetary procedures like all other revenues. Hence there are no further specialised disbursement of extractive revenues.

**Table 3.12. Assessment Ratings for EITI Standard Requirement 5.1**

<b>EITI Requirement</b>	<b>Indicators</b>	<b>Status of Systematic Disclosure</b>
<b>Extractive Revenues</b>	<i>Description of the distribution of revenues from the extractive industries</i>	NA
	<i>Disclosure revenue distribution to budget and other funds</i>	NA
	<i>Are there references to any national revenue classification systems or international data standards in the public domain?</i>	
	<i>Revenue sharing methodology and transfers</i>	NA
	<i>Description of any extractive revenues earmarked for specific programs or geographic regions</i>	NA
	<i>Description of the country's budget and audit processes?</i>	

## **3.5 Social and Economic Spending (EITI # 6)**

### **3.5.1 Social and Environmental Expenditures by Extractive Companies (EITI # 6.1)**

#### *EITI Requirement*

The Standard requires the disclosure of transactions related to material mandatory social expenditure by companies. Where such benefits are provided in kind, it is required that implementing countries disclose the nature and the deemed value of the in-kind transaction. Where the beneficiary of the mandated social expenditure is a third party, i.e., not a government agency, it is required that the name and function of the beneficiary be disclosed.

Where material payments by companies to the government related to the environment are mandated by law, regulation, or contract that governs the extractive investment, such payments must be disclosed.

#### **Findings: Analysis of Existing Disclosures**

Our initial review of existing disclosures and interviews with MWEITI stakeholders confirmed that Malawi does not have a general legally mandated social spending requirements, however where a company can

demonstrate their contribution to charitable organizations, section 39 (e) allows deduction of such payments for taxation purposes. The consultant concludes that this Standard is not applicable to Malawi.

Companies interviewed under this assignment confirmed the publication of their voluntary social contribution in their annual reports or annual financial statements, however most companies do not publish these reports. Based on the stakeholder interviews, companies' disclosure of discretionary social expenditure is not disaggregated by beneficiary, date of implementation, project level or project amount.

### **3.5.1.1 Quasi Fiscal Expenditures (QFEs) (EITI # 6.2)**

#### *EITI Requirement*

In many countries, especially resource rich, State Own Enterprises (SOEs) tend to undertake spending on behalf of the State in terms of either providing critical infrastructure, payment for social services, debt services, guarantees, or subsidies. These expenditures tend not to be recorded in the national budgets and face common governance challenges such as risk of fraud, corruption, less transparency, and lack of auditing. If not identified and well quantified, it can have significant impacts on the national economy as well as government's fiscal position. These off-budget expenditures have been termed as Quasi Fiscal Expenditure (QFEs). The EITI Standard (2023) requires implementing countries' MSGs to develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams and should include SOE subsidiaries and joint ventures.

#### **Findings: Analysis of Existing Disclosures**

It is understood that this Standard is currently not applicable in Malawi. Hence, there is no information to assess the status of routine disclosure.

### **3.5.1.2 Contribution of Extractive Sector to Economy, including ASM (EITI # 6.3)**

#### *EITI Requirement*

The EITI 2023 Standard requires implementing countries to disclose information about the contribution of the extractive industries to the economy for the fiscal year covered by EITI implementation. It is required that this information includes:

- a) The size of the extractive industries in absolute terms and as a percentage of GDP as well as an estimate of informal sector activity, including but not necessarily limited to artisanal and small-scale mining.
- b) Total government revenues generated by the extractive industries (including taxes, royalties, bonuses, fees and other payments) in absolute terms and as a percentage of total government revenues.
- c) Exports from the extractive industries in absolute terms and as a percentage of total exports.
- d) Employment in the extractive industries in absolute terms and as a percentage of the total employment. The information should be disaggregated by gender and, when available, further disaggregated by company and occupational level.
- e) Key regions/areas where production is concentrated.

#### **Findings: Analysis of Existing Disclosures**

The review of existing government disclosures shows that there is some relevant information in the public domain about the contribution of the extractive sector to the economy, however they are scattered on different government platforms. The annual economic report by the Ministry of Finance, the Statistical Yearbook of Malawi by the National Statistics Office and the Reserve Bank of Malawi's annual reports provides routine disclosures on the size of the extractives in both absolute and relative terms but does not explicitly separate artisanal and small-scale mining.

With regards to data on exports, the annual economic report publishes export values for minerals and forestry products and its share to total merchandised exports. In terms of contribution of extractives to employment, there is no explicit publication of direct and indirect employment figures, although the National

Statistics office of Malawi publishes detail employment figures per sector. These existing publications provide positive outlook for MWEITI systematic disclosure.

**Table 3.13. Assessment Ratings for EITI Standard Requirement 6.3**

<b>EITI Requirement</b>	<b>Indicators</b>	<b>Status of Systematic Disclosure</b>
<b>Extractives</b>	<i>Gross Domestic Product - SNA 2008 C. Mining and quarrying, including oil and gas</i>	
	<i>Gross Domestic Product ASM and informal sector</i>	
	<i>Gross Domestic Product - all sectors</i>	
	<i>Government revenue - extractive industries</i>	
	<i>Government revenue - all sectors</i>	
	<i>Exports - extractive industries</i>	
	<i>Exports - all sectors</i>	
	<i>Employment - extractive sector - male</i>	
	<i>Employment - extractive sector - female</i>	
	<i>Employment - extractive sector</i>	
	<i>Employment - all sectors</i>	
	<i>Investment – extractive sector</i>	
	<i>Investment - all sectors</i>	

### **3.5.1.3 Environmental Impacts of Extractive Sector (EITI # 6.4)**

#### *EITI Requirement*

Implementing countries are encouraged to disclose information on the management and monitoring of the environmental impact of the extractive industries including, an overview of relevant legal provisions and administrative rules as well as actual practice related to environmental management and monitoring of extractive investments as well as information on regular environmental monitoring procedures, administrative and sanctioning processes of governments, as well as environmental liabilities, environmental rehabilitation and remediation programmes.

#### **Findings: Analysis of Existing Disclosures**

Environmental management, monitoring and impacts assessment and management of the extractive sector is regulated by the Environmental Affairs Department of Malawi, under the Ministry of Natural Resources and Climate Change. The EAD works in collaboration with sector specific regulators to regulate extractive companies' operations. However, the EAD does not have an online presence to routinely publish information required under the EITI Standard. EAD confirmed during the stakeholder interviews that there exist the relevant documents related to legal provisions and administrative rules as well as actual practice related to environmental management and monitoring of extractive investments. The lack of online presence is a major challenge for systematic disclosure under this Standard.

**Table 3.13. Assessment Ratings for EITI Standard Requirement 6.4**

EITI Requirement	Indicators	Status of Systematic Disclosure
	<i>Relevant legal and administrative rules for environmental management?</i>	
	<i>Databases containing environmental impact assessments, certification schemes or similar documentation of environmental management</i>	
	<i>other relevant information on environmental monitoring procedures and administration</i>	

## 4 Main Findings – Institutional Readiness and ICT Capacity Assessment

### This section presents

- Assessment of the existing technical disclosures and identifies the current gaps and barriers facing each agency
- Assessment of the IT infrastructure to identify their capacity building needs of each agency to sustain EITI systematic disclosure.
- Agency Specific Recommendations

The assessment is based on the following parameters:

1. **Institutional Structure and Capacity Needs:** This is to assess whether the agency has an existing structure (such as communications or IT) with the necessary tools to implement EITI mainstreaming. It also assesses the capacity of the team or whether there is a need for the agency create a delegated team to handle EITI systematic disclosure.
2. **Online Presence:** This is to find out whether the institution has a website or not. This is a major preamble to the Information Technology assessment
3. **Nature of Website:** This is to find out whether the website is Dynamic or Static. Static websites are ones that are fixed and display the same content for every user, usually written exclusively in HTML. A dynamic website, on the other hand, is one that can display different content and provide user interaction, by making use of advanced programming and databases in addition to HTML. This will aid in advising on which part of the website can host the data.
4. **Website Content Management System:** This is to find out whether the website has a content management system. A website content management system provides website authoring, collaboration, and administration tools that help users with little knowledge of web programming languages or markup languages create and manage website content
5. **Administration of Content Management System:** The administration of the CMS is either outsourced or internally managed.
6. **Competence of Content Management System Manager:** If CMS is internally managed, this is to do a skill assessment of the internal manager to identify gaps if any.
7. **Capacity of Technical Personnel:** This is to test the technical competence of the in-house personnel responsible for the management of the website of the institution. This also includes the numerical strength of the IT unit.

<b>Agency</b>	<b>Mining Regulatory Authority/Department of Mines/MoM</b>
<b>Level of Awareness</b>	Moderate – Mining Regulatory Authority is a new agency yet to be fully functional. The DoM is aware of MWEITI mainstreaming however most staff did not have any idea on what it will entail in terms of any additional responsibility required under mainstreaming
<b>Institutional Structure and Capacity</b>	DoM/MRA has an existing and capable resource management unit who already has experience in data organization and publication demonstrated by their monthly report production, however, they may need some capacity building on the development of templates, data quality and data management that to sustain mainstreaming.  There is no significant risk or institutional capability gap to hinder the implementation of mainstreaming.
<b>Responsibilities on mainstreaming</b>	<ul style="list-style-type: none"> <li>• Disclosure of all legislations, regulations, policies and guidelines for the mining sector.</li> <li>• Clear description of roles and responsibilities of relevant government agencies that participate in the overall regulation of the mining sector</li> <li>• Processes awarding licenses as well as transferring licenses</li> <li>• Disclosure of all revenues receipts, including royalties, license application fees disaggregated by project level</li> <li>• Explicit disclosure of technical and financial criteria used in the award of license</li> <li>• Publication of contracts –disclosure of all contracts, licenses and authorizations and various agreements granted by the minister under the Act - including contract annex</li> <li>• Overview of the extractive sector – exploration activities and key companies engaged in exploration.</li> <li>• Production volume and values gap –figures disaggregated by project level</li> <li>• Disclosure of beneficial ownership details of companies that invest, operate or apply for license in the mining sector</li> </ul>
<b>IT Capacity Assessment</b>	<p><b>Website:</b> MoM/DoM has a dynamic website being managed by the internal IT unit with a very moderate data update. The website is a low grade with up-to-date security certificate and have links to other agencies' website.</p> <p><b>Data Format:</b> There are some open document formats hosted on the website, which means DoM has the capacity to publish in open formats</p> <p><b>Accessibility:</b> Free for all, however the website set up and arrangements of tabs can be improved to enhance accessibility.</p> <p><b>Website Update Policy:</b> No written policy and website update is averaging every 4 months</p> <p><b>SSL</b> – has a security certificate.</p> <p><b>IT Capacity</b> – Managed internally but hosted externally. Manned by 3 staff IT team of 1 male and 2 female</p> <p><b>Recommendation:</b> Infrastructural requirements for mainstreaming is adequate but capacity building for IT unit on proposed structure or the reporting format.</p>
<b>Data Reliability Process</b>	DoM has no written data reliability process but by convention, every data generated is expected to go through senior staff review, then policy and planning, then directors, then permanent secretaries before approval for publication
<b>Technical Disclosure: Current Gaps</b>	Refer to row 3 – mainstreaming responsibilities

<b>Agency</b>	<b>Department of Forestry</b>
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<b>Level of Awareness - Mainstreaming</b>	Awareness is low among mid and senior level staff. Have limited knowledge on the level of responsibilities that mainstreaming may require from DoF
<b>Institutional Structure and Capacity</b>	DoF has an existing unit that can generate reports required under MWEITI mainstreaming, however do not have an active IT unit to ensure online publication. DoF possesses experience developing annual, monthly, and semi-annual reports and may not need any additional staffing to implement mainstreaming. However, there is a need for a website and IT capacity to implement mainstreaming. There is no legal barrier or significant operation barriers to affect routing disclosure of information
<b>Responsibilities on mainstreaming</b>	<ul style="list-style-type: none"> <li>• Disclosure of all legislations, regulations, policies and guidelines for the forestry sector.</li> <li>• Clear description of roles and responsibilities of relevant government agencies that participate in the overall regulation of the forestry sector</li> <li>• Processes awarding licenses as well as transferring licenses</li> <li>• Disclosure of all revenue's receipts, including royalties, license application and concession fees disaggregated by project level</li> <li>• Explicit disclosure of technical and financial criteria used in the award of license</li> <li>• Publication of contracts/concession agreements –disclosure of all contracts, licenses and authorizations and various agreements granted by the minister under the Act - including contract annexes</li> <li>• Overview of the Forestry sector – Rehabilitation and plantation</li> <li>• Production volume and values –figures disaggregated by project level</li> <li>• Disclosure of beneficial ownership details of companies that invest, operate or apply for license in the Forestry sector</li> </ul>
<b>IT Capacity Assessment</b>	<p><b>Website:</b> DoF does not have an active website to allow for MWEITI mainstreaming.  <b>Data Format:</b> Not able to assessed  <b>Accessibility:</b> Not able to assessed  <b>Website Update Policy:</b> Not able to assessed  <b>SSL –</b> Not able to assessed  <b>IT Capacity –</b> no dedicated IT staff</p> <p><b>Recommendation:</b> IT Infrastructural and capacity building of existing staff dedicated for MWEITI reporting for mainstreaming is adequate</p>
<b>Data Reliability Process</b>	DoF does not have an official data reliability procedure but by means of a convention, data generated is review by the immediate head of the unit and to the director for approval
<b>Technical Disclosure: Current Gaps</b>	Refer to responsibilities on mainstreaming



<b>Agency</b>	<b>Malawi Revenue Authority (MRA)</b>
<b>Level of Awareness - Mainstreaming</b>	Level of awareness is considered high among mid to senior level staff as MRA has participated in previous mainstreaming meetings/discussions
<b>Institutional Structure and Capacity</b>	<p>MRA has an existing and IT department, mining unit under LTO audit section policy and planning, and corporate affairs who combine to work on MWEITI requirements. There is an existing structure and there will be no need for additional staffing to implement mainstreaming, however any development of information publication templates should be participatory with MRA playing critical role as most of the current gaps under the mainstreaming falls under MRA's remit.</p> <p>Mainstreaming can be integrated into existing structures without the need for creating a new structure, however there would be a need for capacity building on templates</p>
<b>Responsibilities on mainstreaming</b>	<p>Disclosure of withholding taxes, non-resident taxes, PAYE, fringe benefit taxes, penalties, import duties, corporate taxes, resource rent taxes, VAT dividend taxes, excise duties, import duties, toll fees for foreign cars</p> <p>All disclosures are expected to be disaggregated by company or project level</p>
<b>IT Capacity Assessment</b>	<p><b>Website:</b> MRA has a dynamic website being managed by the internal IT unit with a very active data update. The website is high graded with up-to-date security certificate and connectivity to other data sources. The website has diverse data formats available for download.</p> <p><b>Data Format:</b> MRA is in the process of rehabilitating its website which provides opportunity to integrate features that allows downloads in multiple open formats</p> <p><b>Accessibility:</b> Free for all <b>Website Update Policy:</b> No written policy but website update is regular averaging every week</p> <p><b>SSL</b> – has a security certificate.</p> <p><b>IT Capacity</b> – Managed internally but hosted externally.</p> <p><b>Issues:</b> No identified issues in relation to mainstreaming</p> <p><b>Recommendation:</b> Capacity building for IT unit on proposed structure or the reporting format</p>
<b>Data Reliability Process</b>	MRA has a data reliability policy and process that ensures that every information published is vetted and approved by a senior management and directors
<b>Technical Disclosure: Current Gaps</b>	<p>No disclosure of withholding taxes, non-resident taxes, PAYE, fringe benefit taxes, penalties, import duties, corporate taxes, resource rent taxes, VAT dividend taxes, excise duties, import duties, toll fees for foreign cars</p> <p>All disclosures are expected to be disaggregated by company or project level</p>

<b>Agency</b>	<b>Reserve Bank of Malawi</b>
<b>Level of Awareness - Mainstreaming</b>	EITI mainstreaming awareness is low among both senior and mid-level staff
<b>Institutional Structure and Capacity</b>	<p>RBM has the necessary capacity to handle EITI mainstreaming as some information is already published via their annual reports. However, information on minerals exports are not well disaggregated to EITI Standard requirements. Information on EDF's purchase of gold and other minerals is not published.</p> <p>The capacity of RBM is high and may only need training on any additional information required to be published under the EITI Standard</p>
<b>IT Capacity Assessment</b>	<p><b>Website:</b> The institution's website is dynamic with secure integrations to other portals. It is managed by the internal IT Unit.'</p> <p><b>Data Format:</b> there are currently no open data format publication however this can be easily integrated</p> <p><b>Accessibility:</b> Free for all</p> <p><b>Website Update Policy:</b> No written policy but website update is regular averaging every weekly</p> <p><b>SSL</b> – has a security certificate.</p> <p><b>IT Capacity</b> – Managed internally but hosted externally. Managed by two permanent staff</p> <p><b>Analytics:</b> Website has features that track number of site visits and analysis of downloads.</p> <p><b>Issues:</b> No identified IT related issues in relation to mainstreaming</p> <p><b>Recommendation:</b> Capacity building for IT unit on proposed structure or the reporting format</p>
<b>Data Reliability Process</b>	BoG has a data reliability policy and process for data generation and publication
<b>Technical Disclosure: Current Gaps</b>	<p>Currently RBM need to disclose the following to satisfy mainstreaming requirements</p> <ul style="list-style-type: none"> <li>• Disclosure of disaggregate export volumes and values for all minerals, forestry products</li> <li>• Disclosure of production volumes and values for all minerals and the basis for estimation</li> <li>• Contribution of the extractive sector to total government revenues, employment, GDP, exports, investment in both absolute and relative terms</li> </ul>

<b>Agency</b>	<b>Environmental Affairs Department (EAD)</b>
<b>Level of Awareness - Mainstreaming</b>	The level of awareness among the senior staff regarding systematic disclosure is low
<b>Institutional Structure and Capacity</b>	Have an existing structure that provide information to MWEITI. Mainstreaming can be integrated once the necessary capacity is provided
<b>IT Capacity Assessment</b>	<p><b>Website:</b> <i>does not have an active website to allow for MWEITI mainstreaming.</i></p> <p><b>Data Format:</b> <i>Not able to assess</i></p> <p><b>Accessibility:</b> <i>Not able to assess</i></p> <p><b>Website Update Policy:</b> <i>Not able to assess.</i></p> <p><b>SSL –</b> <i>Not able to assess.</i></p> <p><b>Recommendation:</b> IT Infrastructural and capacity building of existing staff dedicated for MWEITI reporting for mainstreaming is adequate</p> <p>Recommendation: IT Infrastructural requirements for mainstreaming. Need for capacity building of team</p>
<b>Data Reliability Process</b>	EAD has a convention on internal processes where data generated goes through the legal team and the head of department then management before it is published
<b>Technical Disclosure: Current Gaps</b>	<p>EAD is required to disclose:</p> <ul style="list-style-type: none"> <li>• Disclosure of environmental monitoring procedures and administration for the mining sector</li> <li>• Disclosure of environmental impact assessment, certification schemes and environmental management for the mining sector</li> <li>• Disclosure of legislations that guides Environmental management and regulations.</li> <li>• Disclosure of fees from application and penalties from non-compliance, processing fees</li> <li>• Relevant legal and administrative rules for environmental management for the mining sector</li> </ul>

<b>Agency</b>	<b>Road Fund Administration (RFA)</b>
<b>Level of Awareness - Mainstreaming</b>	The level of awareness among the senior staff regarding systematic disclosure is low
<b>Institutional Structure and Capacity</b>	<p>Have an existing structure that provide information to MWEITI. Mainstreaming can be integrated once the necessary capacity is provided.</p> <p>Have experience in producing similar reports, including annual audited financial reports, annual reports</p>
<b>IT Capacity Assessment</b>	<p><b>Website:</b> The institution's website is dynamic with secure integrations to other portals. It is managed by the internal IT Unit.'</p> <p><b>Data Format:</b> there are currently no open data format publication however this can be easily integrated. Most reports are published in pdf formats.</p> <p><b>Accessibility:</b> Free for all</p> <p><b>Website Update Policy:</b> No written policy but website update is regular averaging every bi weekly</p> <p><b>SSL</b> – has a security certificate.</p> <p><b>IT Capacity</b> – Managed internally but hosted externally.</p> <p><b>Analytics:</b> Website has features that track number of site visits and analysis of downloads.</p> <p><b>Issues:</b> No identified IT related issues in relation to mainstreaming</p> <p><b>Recommendation:</b> Capacity building for IT unit on proposed structure or the reporting format</p>
<b>Data Reliability Process</b>	RFA has procedures for publication where internal auditors review before it goes to management and then the CEOs office before any information is published
<b>Technical Disclosure: Current Gaps</b>	<p>RFA is required to disclose:</p> <ul style="list-style-type: none"> <li>• Disclosure of transportation revenues accrued from the use of railway.</li> <li>• Disclosure of payments of transportation revenues disaggregated by company</li> </ul>

<b>Agency</b>	<b>Ministry of Finance and Economic Affairs (MoFEA)</b>
<b>Level of Awareness - Mainstreaming</b>	The level of awareness is moderate among the various units in the Ministry of Finance
<b>Institutional Structure and Capacity</b>	The Ministry has existing structures that are well set up to ensure publication of information under MWEITI mainstreaming. The existing structure is adequate to integrate mainstreaming. Further, MoFEA has the adequate institutional capacity to implement systematic disclosure
<b>IT Capacity Assessment</b>	<p><b>Website:</b></p> <p>The institution's website is dynamic with secure integrations to other portals. It is managed by the internal IT Unit with a skill graded above average in website management. There are some open document formats hosted on the website and a secured login for access to other parts of the website. However the website could upgrade to enhance accessibility</p>
<b>Data Reliability Process</b>	Has a data reliability convention as data generated goes through unit head approval then divisional head approval before the Permanent Secretary's approval for publication
<b>Technical Disclosure: Current Gaps</b>	<ul style="list-style-type: none"> <li>• Disclosure of disaggregate export volumes and values for all minerals</li> <li>• Disclosure of production volumes and values for all minerals and the basis for estimation</li> <li>• Contribution of the extractive sector to total government revenues, employment, GDP, exports, investment in both absolute and relative terms</li> <li>• Disclosure of dividends payments by mining companies, oil and gas companies and state-participation in the extractive sector</li> </ul>

<b>Agency</b>	<b>Chamber of Mines</b>
<b>Level of Awareness - Mainstreaming</b>	The level of awareness among the companies regarding systematic disclosure is moderate
<b>Institutional Structure and Capacity</b>	The chamber has existing structure that produces annual reports for its members. Hence the structure can be leveraged to participate in MWEITI mainstreaming
<b>IT Capacity Assessment</b>	<p><b>Website:</b> The institution's website. It is managed by the internal IT Unit but hosted externally</p> <p><b>Data Format:</b> there are currently no open data format publication however this can be easily integrated. Most reports are published in pdf formats.</p> <p><b>Accessibility:</b> Free for all</p> <p><b>Website Update Policy:</b> No written policy and website overall update is conducted annually</p> <p><b>SSL</b> – has a security certificate.</p> <p><b>IT Capacity</b> – Managed internally but hosted externally.</p> <p><b>Analytics:</b> Website does not have analytic</p> <p><b>Issues:</b> No identified IT related issues in relation to mainstreaming</p> <p><b>Recommendation:</b> Capacity building for IT unit on proposed structure or the reporting format</p>
<b>Data Reliability Process</b>	Chamber has a convention on ensuing data published is reliable
<b>Technical Disclosure: Current Gaps</b>	<p>Chamber is required to disclose:</p> <ul style="list-style-type: none"> <li>• Disclosure of production figures disaggregated by company or project level</li> <li>• Disclosure of all taxes, fees and payment made to the government of Malawi disaggregated by company or projects.</li> <li>• Disclosure of social and environmental spending disaggregated by company or project level</li> </ul>

<b>Agency</b>	<b>Department of Registrar General</b>
<b>Level of Awareness - Mainstreaming</b>	The level of awareness among the companies regarding systematic disclosure is low
<b>Institutional Structure and Capacity</b>	<p>The chamber has existing structure and system that collects BO information but yet to publish same for extractive companies.</p> <p>Have the necessary staffing to participate in mainstreaming but needs technical capacity building in BO disclosure</p>
<b>IT Capacity Assessment</b>	<p><b>Website:</b> Possesses the relevant IT system to develop BO register and publish or share same with MWEITI</p>
<b>Data Reliability Process</b>	Department is yet to finalize BO verification processes aside checks with national ID
<b>Technical Disclosure: Current Gaps</b>	<p>Registrar general is required to disclose:</p> <ul style="list-style-type: none"> <li>• Disclosure of relevant legislations that form the basis for the definition of BO, collection, processing, management, and disclosure of BO data</li> <li>• Disclosure of BO information for all extractive companies that bid for, invest o operate in Malawi, including name of beneficial owner, address, year and place of birth, nature of interest, and politically exposed persons status of the BO</li> </ul>

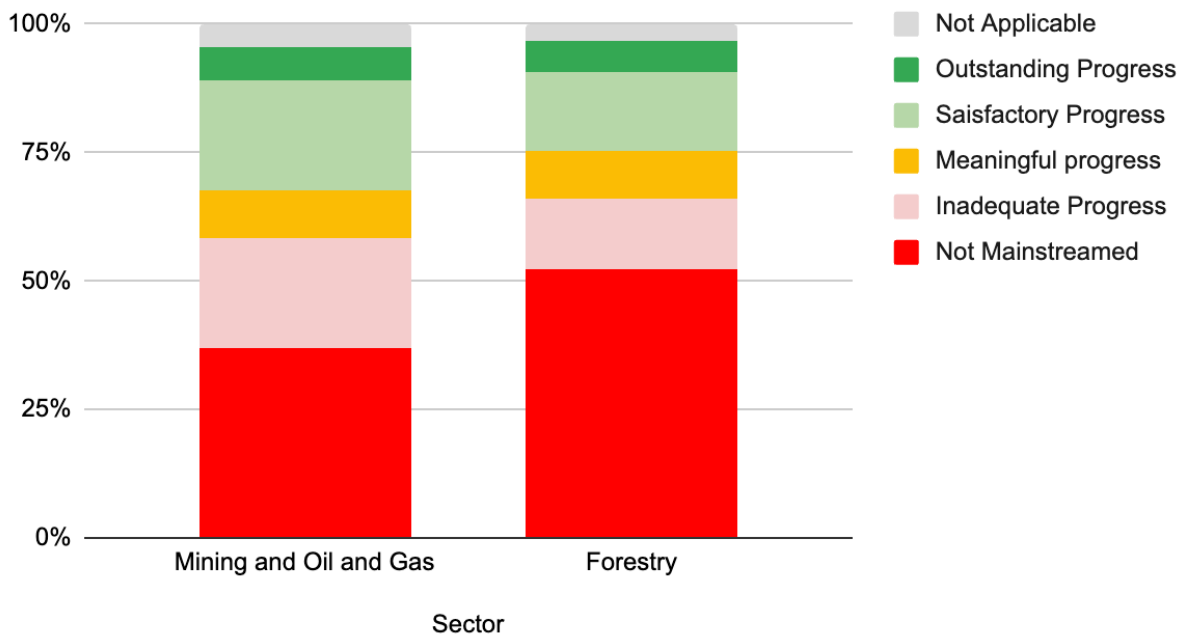
<b>Agency</b>	<b>National Audit Service</b>
<b>Level of Awareness - Mainstreaming</b>	EITI mainstreaming awareness is moderate among both senior and mid-level staff
<b>Key Role in MWEITI Mainstreaming</b>	<ul style="list-style-type: none"> <li>• Certify mainstreaming templates to improve data reliability.</li> <li>• Monitor timeliness of publication under MWEITI mainstreaming</li> </ul>
<b>Institutional Structure and Capacity</b>	<p>NAO has adequate capacity to integrate mainstreaming into their existing responsibilities once there is a dedicated funding for mainstreaming.</p> <p>The compliance audit unit is well placed to integrate mainstreaming responsibilities. They may require initial capacity building on any new requirement under MWEITI</p>



## 5 SUMMARY OF FINDINGS AND RECOMMENDATIONS

The overall assessment of EITI's systematic disclosure assessment show that over 50 percent and about 37 percent of information required to be disclosed under the forestry and mining and oil and gas sectors respectively are not mainstreamed. On the contrary, about 27 percent and 19 percent of information is mainstreamed under the mining and oil and gas and forestry sector respectively. There remain significant challenges with information that are partially disclosed but does not conform to EITI Standard disclosure principles. The following figure depicts the percentage share of each assessment parameter in both Mining, Oil and Gas sectors and the forestry sectors

### Mining and Oil and Gas and Forestry



### 5.1 Key findings and Recommendations

The report outlines key findings and recommendations to EITI mainstreaming in Malawi. Recommendations are proposed based on the identified themes and itemised in the table below.

Disclosure of Legal Frameworks, Policies, Fiscal Regime and Contracts		
Key Findings	Recommendations	Responsible Agency
<p><b>Legal Frameworks</b></p> <ol style="list-style-type: none"> <li>1. The department of forestry and the department of mines (including the mining regulatory authority) are the key regulators for both forestry and mining (including oil and gas) sectors respectively, hence seen as the anchors to enhance MWEITI mainstreaming. Ensuring the relevant legislations, regulations, guidelines and are published on their respective websites will improve mainstreaming by over 20 percent</li> <li>2. Contract transparency remains a key requirement under the EITI Standard, however the government of Malawi does not have an explicit legal provision on contract transparency. This may limit the ability of the department of mines and forestry to publish contracts.</li> <li>3. Fiscal regime and fiscal incentives are scattered across different legislations, hence the lack of disclosure of comprehensive description of the fiscal regime undermines EITI systematic disclosure in Malawi.</li> <li>4. Beneficial ownership is still new in Malawi, however it is understood that the Registrar General need capacity building on BO to effectively collect, process and publish BO information in conformity with EITI systematic standard requirements.</li> </ol>	<ol style="list-style-type: none"> <li>1. MWEITI needs to work with both department of forestry and the department of mines to identify all relevant legislations, regulations, and guidelines to publish them on their respective websites. MWEITI should work with forestry to develop a new and active website. This can be guided by MWEITI's 6<sup>th</sup> report</li> <li>2. MWEITI should work with the sector regulators to review relevant legislations to confirm if there are any barriers to the publication of contracts. Following the legal review, MWEITI should coordinate to publish contracts on the websites of the regulators. This recommendation has been made in lieu of a the lack of a legislation to guide EITI implementation in Malawi</li> <li>3. Department of Mines and Forestry should respectively agree on a comprehensive description of the respective sector fiscal regime and publish same on their respective websites. MWETI can coordinate both regulators to agree on information that satisfy EITI Standard requirements</li> <li>4. MWEITI should coordinate with the Registrar General to agree on a plan for BO implementation that is comprehensive to satisfy EITI Standard requirements in Malawi</li> </ol>	<p>MWEITI Department of Mines Department of Forestry</p> <p>MWEITI Department of Mines Department of Forestry</p>
<p><b>Exploration and Production</b></p> <ol style="list-style-type: none"> <li>5. Exploration and production information is published by the Ministry of Finance in their annual economic report; however, it is not comprehensive or disaggregated to the level that conforms to the EITI Standard (project level disaggregation).The responsibility to mainstream information related to exploration and production should fall under the remit of the department of mines and forestry respectively</li> </ol>	<p><b>Exploration and Production</b></p> <ol style="list-style-type: none"> <li>5. <b>MWEITI should coordinate with the department of forestry and the department of mines</b> to design a template for the disclosure the relevant annual exploration and production information.</li> </ol>	<p>MWEITI Department of Mines Department of Forestry Ministry of Finance</p>

<p><b>Comprehensive Disclosure of Taxes and Revenues</b></p> <p>6. One of the key setbacks for mainstreaming is the lack of existing disclosure on the taxes, fees, penalties and other revenues. The collection of revenues, fees and taxes falls under the remit of MRA, department of forestry and the department of mines. The disclosure of comprehensive taxes and revenues from the extractive sector will enhance MWEITI mainstreaming by about 20 percent. The consultant noticed that the request for publication of taxes by company or project level is highly sensitive, although the same information is usually shared with MWEITI. MRA believes that there are legal barriers to systematically disclosing taxes from the extractive sector</p> <p>7. Some companies disclose information on their tax and levy payments through their annual financial statements, but the data is not disaggregated to EITI Standard Requirement.</p> <p>8. The Ministry of Finance’s Annual Economic Report, provide a broader basis for routine disclosure of most information required under the EITI Standard, however the report is not disaggregated to EITI Standard.</p> <p><b>Data Reliability</b></p> <p>9. The National Audit Office currently vets and confirms the reliability of information provided by relevant agencies under MWEITI reconciliation processes. NAO has confirmed to play similar role under MWETI mainstreaming, however requires a dedicated and sustainable funding</p>	<p>6. MWEITI should organize stakeholder forum between the Ministry of Finance, MRA, Forestry and Mining to discuss way forward on mainstreaming taxes, levies and fees. Other countries examples include the MRA sharing the information with the Ministry of Finance to publish annually to avoid any potential legal breaches.</p> <p>7. MWEITI should encourage similar publications by other companies to widen mainstreaming implementation.</p> <p>8. MWEITI should explore opportunities to work with the relevant unit to enhance disaggregation of information in the Annual Economic Report in order to satisfy a chunk of information that is not currently disclosed</p> <p>9. MWEITI should consider engaging NAO to discuss potential source of sustainable financing to enable NAO play the vetting role during mainstreaming.</p>	
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## 6 Roadmap to MWEITI Mainstreaming Implementation

ACTIVITY	EXPECTED OUTCOME	TIMELINE Short – 1 year Medium – 1 to 3 years Long – Over 3 years	RESPONSIBILITY	ESTIMATED COST	STATUS
Initial engagements and sensitization of stakeholders on EITI systematic disclosure especially among senior management of relevant institutions	MSG members and other stakeholders sensitized  Senior management of relevant institutions aware of the new responsibility required under mainstreaming	Short	MWEITI MSG and Secretariat		
Use findings on institutional capacity needs to draft a capacity building programme for relevant stakeholders	Understand the extent of routines disclosures and identify existing mainstreaming gaps	Short	MWEITI Secretariat  MSG  MWEITI Stakeholders		
Engagement with stakeholders on feasibility study findings and to draw up modalities for further implementation	Clear modalities agreed with stakeholders to implement feasibility studies findings	Short	MWEITI Secretariat  MSG		
Develop Information, Communication, and Education materials as training materials for Mainstreaming	Training materials developed  Public phasing materials developed and rolled out	Medium	MSG  MWEITI Secretariat		

Develop monitoring, evaluation and learning tools to track implementation of key findings from feasibility study	Clear approach and monitoring framework developed to track implementation	Short	MSG MWEITI Secretariat		
Implementation of Infrastructure support to selected stakeholders on mainstreaming implementation (mostly Forestry and other regulators without websites level support)	Stakeholders acquire the necessary tools and infrastructure to implement EITI systematic disclosures	Medium	MSG MWEITI Secretariat		
Develop template for reporting, data collection, and data assurance process	Templates developed to align EITI mainstreaming with EITI Standard and local legislative requirements	Medium	MSG MWEITI Secretariat		
Discuss data reliability role with NAO and agree on modalities to implement mainstreaming	NAO aware of its role as independent auditor for all information published under Mainstreaming	Medium	MSG MWEITI Secretariat		
Develop program to provide technical assistance support to agencies implementing EITI systematic disclosure	Implementing agencies receives adequate technical assistance to ensure efficient implementation	Medium to Long	MSG MWEITI Secretariat		
Develop capacity building program for key implementing agencies, particularly– aimed at ensuring accurate data is furnished and published routinely	Key implementing agencies capacity enhanced to ensure smooth implementation of mainstreaming	Medium to Long	MSG MWEITI Secretariat		

Develop general stakeholder engagements (CSOs media, and government agencies) on mainstreaming	Stakeholders sensitized on Mainstreaming to enhance data use	Medium to Long	MSG MWEITI Secretariat		
Develop capacity of MWEITI and MSG to undertake mainstreaming monitoring role	MWEITI's oversight role enhanced	Medium to Long	MSG MWEITI Secretariat		
Capacity building of extractive companies on EITI mainstreaming to increase routine publication under EITM systematic disclosure	Companies' capacity enhanced to ensure accurate information is routinely published	Medium	MSG MWEITI Secretariat		

# Annexures

## Key stakeholder institutions and individuals consulted

Type	Institution
<b>Public institutions</b>	<ul style="list-style-type: none"> <li>❖ Ministry of Finance</li> <li>❖ Ministry of Mining</li> <li>❖ Ministry of Natural Resource and Climate Change</li> <li>❖ Mining Regulatory Authority</li> <li>❖ Malawi Revenue Authority (MRA)</li> <li>❖ Environmental Affairs Department</li> <li>❖ Department of Forestry</li> <li>❖ Registrar Generals Department</li> <li>❖ Geological Survey</li> <li>❖ National Statistics Office of Malawi</li> <li>❖ Department of Transport</li> <li>❖ TEVETA</li> <li>❖ Road Fund Administration</li> <li>❖ Financial Intelligence Authority</li> <li>❖ Reserve Bank of Malawi</li> <li>❖ National Audit Office</li> <li>❖ Fisheries Department</li> </ul>
<b>Private sector</b>	<ul style="list-style-type: none"> <li>❖ ZALCO</li> <li>❖ Lancaster</li> <li>❖ Chamber of Mines</li> <li>❖ Shayona</li> <li>❖ Lotus Ltd</li> </ul>
<b>Civil society organisations</b>	<ul style="list-style-type: none"> <li>❖ CEPA</li> <li>❖ Youth in Mining</li> <li>❖ Women in Mining</li> <li>❖ EDF</li> <li>❖ NRJN</li> <li>❖ FOCUS</li> </ul>
<b>Independent Administrator</b>	<ul style="list-style-type: none"> <li>❖ EMJ Advisories</li> </ul>

