

Validation of Malawi (2022): Final assessment of progress in implementing the EITI Standard

Contents

Acronyms.....	3
Executive summary	4
1. Effectiveness and sustainability indicators	8
2. Outcomes and impact.....	11
3. Stakeholder engagement	16
4. Transparency	21
Overview of the extractive sector (Requirements 3.1, 6.3).....	21
Legal environment and fiscal regime (Requirements 2.1, 2.4, 6.4)	23
Licenses and property rights (Requirements 2.2, 2.3).....	25
Beneficial ownership (Requirement 2.5).....	27
State participation (Requirements 2.6, 4.2, 4.5, 6.2).....	30
Production and exports (Requirements 3.2, 3.3).....	31
Revenue collection (Requirements 4.1, 4.3, 4.4, 4.7, 4.8, 4.9)	33
Revenue management (Requirements 5.1, 5.3).....	39
Subnational contribution (Requirements 4.6, 5.2, 6.1).....	41
Background	44
Resources	45

Acronyms

ACB	Anti-Corruption Bureau
APR	Annual progress report
ASM	Artisanal and small-scale mining
BO	Beneficial ownership
CDA	Community development agreement
CMEM	Chamber of Mines and Energy
CSO	Civil society organisation
DoM	Department of Mines
EIA	Environmental impact assessment
EITI	Extractive Industries Transparency Initiative
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FPIC	Free Prior and Informed Consent
GDP	Gross Domestic Product
IA	Independent Administrator
MBRS	Malawi Business Registration System
MDA	Mining Development Agreement
MFNR	Ministry of Forestry and Natural Resources
MoF	Ministry of Finance
MoEPD	Ministry of Economic Planning and Development
MRA	Malawi Revenue Authority
MGDS	Malawi Growth and Development Strategy
MKW	Malawi Kwacha
MSG	Multi-stakeholder Group
MWEITI	Malawi Extractive Industries Transparency Initiative
NAO	National Audit Office
OGP	Open Government Partnership
PEP	Politically exposed person(s)
PSA	Production Sharing Agreement
RAP	Remedial Action Plan
RBM	Reserve Bank of Malawi
SOE	State-Owned Enterprise
ToR	Terms of Reference
USD	United States Dollar
VAT	Value-Added Tax

Executive summary

This final Validation report presents the findings of the International Secretariat's Validation of Malawi, which commenced on 1 January 2022. The draft report was finalised for review by the multi-stakeholder group (MSG) on 10 May 2022. On 6 June 2022, the MSG requested an extension on the period for comments on the draft Validation report, which was granted to 27 June. Following comments from the MSG received on 27 June 2022, the Validation report was finalised for consideration by the EITI Board. The assessment suggests that Malawi has exceeded one EITI Requirement, fully met 11 EITI Requirements, mostly met 11 EITI Requirements and partly met one EITI Requirement, with eight requirements assessed as not applicable.

Key achievements

- Malawi has established a platform for meaningful debate on the governance of the extractive industries, as demonstrated in the MSG's discussions around corruption allegations linked to license renewals involving Ilomba Mining Co among other instances.
- Malawi EITI has broadly sustained its disclosures despite the impact of the COVID-19 pandemic, using the transition to "flexible" EITI reporting to improve the timeliness and relevance of its data while maintaining reconciliation of company payments and government revenues in light of stakeholder (civil society in particular) demand for this type of data quality assurance.
- The innovative nature of Malawi EITI's dissemination and outreach efforts, which also proved resilient to the impact of the pandemic, is a particular strength, with publication of EITI Report summaries in three local languages and active outreach at the subnational level.

Areas for development

- Industry engagement in annual reporting and broader implementation, including in outreach and dissemination of EITI findings, should be strengthened to make the EITI more effective. Concurrently, objectives and activities should also be designed to reflect the priorities of the industry constituency to promote outcomes and impact for companies beyond compliance with reporting requirements.
- Malawi has ambitious plans for beneficial ownership transparency and stakeholders in Malawi are invited to accelerate efforts to reform the legislative framework and implement provisions requiring the collection and disclosure of beneficial ownership data. Such efforts are urged not only to meet EITI reporting deadlines, but more importantly to meet the significant public interest and demand for this type of data.
- There is an opportunity for Malawi EITI to strengthen its open data procedures and practices as it explores ways of collaborating with other government entities to strengthen their systematic disclosures of EITI data. The publication of EITI data in machine-readable, inter-operable format is fundamental to the EITI's broader open data efforts and provides a strong basis for analysis of government extractive revenues across years and countries.

Progress in implementation

EITI Validation assesses countries against three components – "Stakeholder engagement", "Transparency" and "Outcomes and impact".

Stakeholder engagement

Malawi has established an effective multi-stakeholder oversight mechanism for all aspects of the EITI process through the MSG. Government and civil society have sustained their engagement since the previous Validation, in the period under review. MSG members have made some efforts to engage the broader industry constituency, but these have remained relatively limited. There do not appear to be any new constraints on civil society or industry engagement in the EITI process since the previous Validation, although proposals for new legislation restrictive of certain civil society operations represent a potential concern in future and the situation should be closely monitored. There is scope for the companies to strengthen their engagement in Malawi's EITI implementation, including in reflecting their priorities in the planning of EITI implementation and in developing companies' systematic disclosures of EITI data.

Transparency

Systematic disclosures of EITI data are relatively limited in Malawi, although the Ministry of Mining maintains a publicly accessible mining cadastral portal and there are some sporadic disclosures of export data on government websites covering the small amount of extractive exports from the country. Malawi has used its EITI reporting to disclose meaningful information which includes contracts, revenues, and social expenditures. Beyond EITI reporting, the MSG has provided a key platform for civil society to discuss corruption allegations related to the licensing process, although there is scope to strengthen the use of annual EITI disclosures as a diagnostic tool for non-trivial deviations in licensing practices. Malawi EITI has used the Board's flexibility in EITI disclosures in a meaningful manner, by publishing an EITI Report covering timelier information (two fiscal years 2018-20 published in December 2021) with more forward-looking disclosures (e.g., on the impact of the COVID-19 pandemic on the extractive industries). It has, however, continued to maintain the conventional approach to EITI reconciliation covering the largest companies' payments to the government. There is scope for Malawi to develop alternative approaches to ensuring the reliability of its disclosures of company payments and government revenues, for instance through a risk-based selection of companies and payments based on the MSG's assessment of risks in the collection of government revenues from the extractive industries. There is significant room for improvement in progress on beneficial ownership transparency in the extractive industries. While Malawi is working on a draft beneficial ownership legislation that will cover all sectors of the economy, it has not published any mining, oil or gas company beneficial ownership data to date.

Outcomes and impact

Malawi has improved its annual EITI work plan development process since the previous Validation, by preparing a clear monitoring and evaluation tool for the MSG's oversight of implementation. While there is scope for improvements in the implementation of work plan activities, Malawi has made efforts to undertake outreach and dissemination around the EITI process and to follow up on EITI recommendations. The scope for stakeholder input to the annual review of EITI outcomes and impact could be broadened, thereby helping strengthen annual EITI work planning. Publication of EITI information in open data format continues to be a weakness of the process, hindering broader use of EITI data for cross-country and time series analysis. There is scope for Malawi to build on its robust work planning to strengthen its open data and impact analysis efforts.

Validation scorecard

Component & module	EITI Requirement	Progress	Score	
Outcomes and impact		Moderate	84/100	
Extra points	Effectiveness and sustainability indicators		1	-
Outcomes and impact	Work plan (#1.5)	Fully met	90	↑
	Public debate (#7.1)	Exceeded	100	↑
	Data accessibility and open data (#7.2)	Mostly met	60	-
	Recommendations from EITI (#7.3)	Fully met	90	=
	Outcomes & impact (#7.4)	Mostly met	75	↑
Stakeholder engagement		High	86/100	
Multi-stakeholder oversight	Government engagement (#1.1)	Fully met	90	=
	Industry engagement (#1.2)	Mostly met	75	↑
	Civil society engagement (#1.3)	Fully met	90	=
	MSG governance (#1.4)	Fully met	90	=
Transparency		Moderate	70/100	
Overview of the extractive industries	Exploration data (#3.1)	Fully met	90	=
	Economic contribution (#6.3)	Mostly met	60	↓
Legal and fiscal framework	Legal framework (#2.1)	Fully met	90	=
	Contracts (#2.4)	Mostly met	60	-
	Environmental impact (#6.4)	Not assessed	-	-
Licenses	Contract and license allocations (#2.2)	Mostly met	60	↓
	License register (#2.3)	Fully met	90	↑
Ownership	Beneficial ownership (#2.5)	Partly met	30	-
State participation	State participation (#2.6)	Not applicable	-	=
	In-kind revenues (#4.2)	Not applicable	-	=
	SOE transactions (#4.5)	Not applicable	-	=
	SOE quasi-fiscal expenditures (#6.2)	Not applicable	-	=
Production and exports	Production data (#3.2)	Fully met	90	-
	Export data (#3.3)	Fully met	90	=
Revenue collection	Comprehensiveness (#4.1)	Mostly met	60	=
	Barter agreements (#4.3)	Not applicable	-	=
	Transportation revenues (#4.4)	Not applicable	-	=
	Disaggregation (#4.7)	Mostly met	60	-
	Data timeliness (#4.8)	Fully met	90	=
	Data quality (#4.9)	Mostly met	60	=
Revenue management	Distribution of revenues (#5.1)	Mostly met	60	↑
	Revenue management & expenditures (#5.3)	Not assessed	-	=
Subnational contributions	Direct subnational payments (#4.6)	Not applicable	-	=
	Subnational transfers (#5.2)	Not applicable	-	=
	Social and environmental expenditures (#6.1)	Mostly met	60	↑
Overall score		Moderate	80/100	

How EITI Validation scores work

Component and overall score

The three components of EITI Validation – “Transparency”, “Stakeholder engagement” and “Outcomes and impact” – each receive a score out of 100. The overall score represents an average of the component scores.



Assessment of EITI Requirements

Validation assesses the extent to which each EITI Requirement is met, using five categories. The component score is an average of the points awarded for each requirement that falls within the component.



- **Exceeded** (100 points): All aspects of the requirement, including “expected”, “encouraged” and “recommended” aspects, have been implemented and the broader objective of the requirement has been fulfilled through systematic disclosures in government and company systems.
- **Fully met** (90 points): The broader objective of the requirement has been fulfilled, and all required aspects of the requirement have been addressed.
- **Mostly met** (60 points): Significant aspects of the requirement have been implemented, and the broader objective of the requirement is mostly fulfilled.
- **Partly met** (30 points): Significant aspects of the requirement have not been implemented, and the broader objective of the requirement is not fulfilled.
- **Not met** (0 points): All or nearly all aspects of the requirement remain outstanding, and the broader objective of the requirement is far from fulfilled.
- **Not assessed**: Disclosures are encouraged, but not required and thus not considered in the score.
- **Not applicable**: The MSG has demonstrated that the requirement doesn’t apply.

Where the evidence does not clearly suggest a certain assessment, stakeholder views on the issue diverge, or the multi-stakeholder group disagrees with the Secretariat’s assessment, the situation is described in the assessment.

1. Effectiveness and sustainability indicators

The country is awarded 0, 0.5 or 1 point for each of the five indicators. The points are added to the component score on Outcomes and impact. The Secretariat's assessment is that a total of one extra point is added to the Outcomes and impact component, reflecting strengths in the national relevance of EITI implementation and the environment for citizen participation in extractive industry governance. In its comments to the draft assessment, the MWEITI MSG requested consideration for additional points based on the fact that CSOs facilitated a number of outreach activities and the EITI reporting includes the forestry sector. These aspects have been already considered under the "Environment for citizen participation in extractive industry governance" and "National relevance of the EITI implementation" indicators, where the Secretariat proposed awarding 0.5 additional points respectively.

1.1 National relevance of EITI implementation

This indicator considers the extent to which EITI implementation in Malawi addresses nationally relevant extractive sector challenges and risks.

Implementation of EITI focuses on four strategic objectives. These include efforts to increase sector contribution to GDP, improve extractives sector growth and performance, improve information, openness, and awareness on issues of extractive industries and enhance capacity of Malawi Extractive Industry Transparency Initiative (MWEITI) and its stakeholders to implement the EITI Standard. The strategic pillars are aligned with the [Malawi Growth and Development Strategy \(MGDS\)](#) for 2017-2022 and the recently launched [2063 Malawi's Vision](#) as well as integrated into the [2021-2022 Malawi EITI work plan](#).

The planned development of an anti-corruption strategy and expansion of the scope of EITI disclosures to the forestry sector demonstrates the MSG's efforts to ensure national relevance of EITI implementation. Malawi has used its EITI implementation to identify corruption risks around the renewal of the mining licence for Ilomba Mining Company, which were highlighted both in the 2017-2018 MWEITI Report and MSG deliberations in 2021. Calls for accountability by CSOs on the MSG and the MSG's further discussions on the issue resulted in a formal review of the case by the Anti-Corruption Bureau (ACB) in Malawi. The 2018-2020 MWEITI Report notes stakeholders' interest in the topic of corruption in the licensing process and provides an update on progress in addressing this issue. Moreover, stakeholders consulted confirmed that the ACB had concluded its investigation, with results expected to be published in a final report in 2022. Malawi has made plans to follow up on the issue of corruption risks in its mining licensing process and included plans to develop an anti-corruption policy and strategy in the MWEITI 2021-2022 work plan. Malawi has also used its EITI reporting on the forestry sector to engage with stakeholders in the sector and enhance transparency in a sector that accounts for a greater share of economic activity than the oil and gas sector. The coverage of the forestry sector was highlighted again in the MSG's comments on the draft assessment.

Since joining the EITI, MWEITI has been working on furthering transparency of the country's forestry sector, which accounts for approximately 7% of gross domestic product (GDP). Responding to significant public interest in the topic, the scope of EITI disclosures on the forestry sector has been expanded in the 2018-2020 MWEITI Report, including reconciled data for the first time.

Furthermore, there is evidence that Malawi's EITI reporting has provided more comprehensive information on the extractive sector and forestry value chain, including the revenue contribution to government. Recommendations from Malawi EITI Reports, for example on revisions to the fiscal regime in the extractive industries, have informed deliberations and contributed to the development of the 2019 Mines and Minerals Act. MWEITI Reports have also offered recommendations on the implementation of the new Artisanal and Small-scale Mining (ASM) Policy in line with the [government's plans](#) to formalise ASM activities and enhance their contribution to government revenues.

Lastly, the 2018-2020 EITI Report includes an analysis of the impact of the COVID-19 pandemic on the extractive industries in Malawi. The analysis was based on publicly accessible information as well as a questionnaire circulated to reporting companies. The 2018-2020 Malawi EITI Report provides a summary of the companies' responses as well as some recommendations for further government support for economic recovery from the pandemic.

Therefore, there is some evidence to suggest that EITI implementation has contributed to addressing relevant national issues around addressing corruption and improving access to critical information on the extractive and forestry sectors during the period under review. There is scope for further strengthening the EITI's contribution to discussing broader governance challenges in the extractive industries, and for developing innovative implementation objectives and activities to further the EITI's contribution to public debate and policymaking in all aspects of natural resource governance.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.2 Systematic disclosures of extractive industry data

This indicator considers the extent to which data on applicable requirements of the EITI Standard are routinely disclosed by relevant government agencies and companies. Documents provided by Malawi EITI and stakeholder consultations show that the MSG has encouraged reporting entities to systematically disclose data required by the EITI Standard. The MSG has in recent work plans included activities to undertake a mainstreaming feasibility study to analyse how the reporting entities should transition to systematic disclosures, although the Terms of Reference (ToR) for the feasibility study were pending approval at the start of this Validation.

In practice, some aspects of the EITI Standard are currently systematically disclosed, albeit only in a limited scope. Malawi's Ministry of Mines hosts a publicly accessible [Mining Cadastre Map Portal](#) which provides up-to-date information on licenses. Some legal and policy instruments, including the Mines and Minerals Act (2019) and Petroleum Exploration and Production Act (1983), can also be accessed on the [Malawi Legal Information Institute's portal](#). Outdated and less disaggregated data on the extractive sector's contribution can be accessed from the [National Statistics Office portal](#). Yet there is only limited systematic disclosure of information related to key thematic areas covered by the EITI Standard that appears to be of high public interest, such as beneficial ownership, contract transparency, social and environmental expenditures. A significant share of information required by the EITI Standard is not yet routinely disclosed by relevant government agencies and companies in Malawi during the years under review.

Therefore, the Secretariat proposes that zero additional points be added to the score on Outcomes and impact for this indicator.

1.3 Environment for citizen participation in extractive industry governance

This indicator considers the extent to which there is an enabling environment for citizen participation in extractive sector governance, including participation by affected communities. Documents provided by Malawi EITI for this Validation suggest that the MSG promotes an inclusive approach to implementation through consultations and involves all relevant institutions and stakeholders, including within civil society. In particular, the MSG's 'Outcomes and impact' template highlights the convening of an EITI Report Validation National Stakeholders Workshop where active groups and citizens are invited in as open a manner as possible.

Rankings by international NGOs such as [CIVICUS](#) assess the broader civic space in Malawi to be 'obstructed'. While there have been [some reports](#) of threats on the broader civic space in the period under review, it does not appear that the space for CSOs and citizens to protest or express themselves on issues related to natural resource governance has been limited. The MSG appears to constitute a safe space for open debate on the extractive industries, including civil society allegations of corruption in the licensing process as was demonstrated in early 2021 when civil society blocked publication of the EITI Report pending investigation of corruption allegations.

Beyond the MSG, Malawi EITI has prioritised dissemination and engagement workshops to promote citizen participation in EITI implementation. The [2019-2020 annual progress report \(APR\)](#) describes engagement workshops in mining-affected communities. All constituencies consulted noted that cooperation between civil society, government and companies was strengthened through EITI implementation. The MSG's comments on the draft assessment highlighted the role of CSOs in facilitating several EITI outreach activities in the period under review, reflecting their role as key drivers of the EITI process.

There is some evidence to suggest that EITI implementation has enhanced the enabling environment for citizen participation in extractive sector governance in the period under review, including in following up on corruption allegations related to mining licensing practices. The civil society organisations engaged in EITI implementation represent networks of CSOs across Malawi, including at the grassroots level. Stakeholder consultations, particularly with civil society, highlighted how EITI implementation had created a forum for civil society to push for greater transparency in the mining, oil and gas, and forestry sectors. However, Malawi EITI could strengthen its role as a platform for discussing the environment for citizen engagement in broader natural resource governance.

The Secretariat proposes that 0.5 additional points be added to the score on Outcomes and impact for this indicator.

1.4 Accessibility and use of extractive industry data

This indicator considers the extent to which extractive sector data is accessible and used for analysis, research and advocacy. Documents provided by Malawi EITI point to publishing of EITI Reports and brochures in three local languages. These are well documented in the 2019-2020 APR, where despite the impact of COVID-19 and subsequent funding constraints, the MSG prioritised the dissemination of EITI Reports and capacity-building workshops in Salima, Karonga and Rumphi districts among others. The MSG established a special EITI Media Taskforce focusing on both traditional and social media engagement. Despite these efforts, challenges persist, Malawi EITI is yet to finalise the summary data for the 2017-2018, 2018-2019 and 2019-2020 fiscal years. This poses a significant impediment for data users interested in accessing and using well disaggregated open data from EITI Reports. There appears to have

been occasional media coverage of Malawi EITI with a [few published news articles](#) referring to EITI data.

Therefore, there is no evidence to suggest that significant efforts have been undertaken to make extractive sector data in Malawi accessible and that such data are actually used for analysis, research and advocacy.

The Secretariat proposes that zero additional points be added to the score on Outcomes and impact for this indicator.

1.5 EITI-related changes to extractive industry policy and practice

This indicator considers the extent to which EITI has informed changes in extractive sector policies and practices. The ‘Outcomes and impact’ template submitted for this Validation does not suggest that EITI data is used to inform reforms related to the extractive industries. Other documents, including the EITI Reports, suggest that recommendations from Malawi EITI Reports, for example on amendment of extractive sector fees, have informed debates and discussions and contributed to the development of [the 2019 Mines and Minerals Act](#). There is little documented evidence of improvements in government and company systems, procedures, policies and practices as a result of EITI implementation.

Therefore, there is significant scope for EITI implementation in Malawi to inform changes in extractive sector policies and practices in future, although little evidence exists that this has been the case to date.

The Secretariat proposes that zero additional points be added to the score on Outcomes and impact for this indicator.

2. Outcomes and impact

This component assesses EITI Requirements 7 and 1.5, which relate to progress in addressing national priorities and public debate.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Work plan (Requirement #1.5)</p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 1.5 is fully met. Malawi EITI’s work plans are accessible on the MWEITI Website (here and here). There was broad consensus across all three constituencies that the objective of annual planning for EITI implementation to support implementation of national priorities for the extractive industries had been fulfilled. The current work plan, covering 2021-2022, was agreed in July 2021. The 2021-2022 work plan (and previous work plans) are formulated based on four strategic objective pillars, developed in alignment with the Malawi Growth and Development Strategy (MGDS) and the recently launched 2063 National Vision, which emphasises openness and transparency in natural resource governance. Alignment with the MGDS and the National Vision was also confirmed in the MWEITI MSG’s comments to</p>

	<p>the draft assessment. Moreover, the MWEITI MSG's comments emphasised the inclusion of the forestry sector into EITI reporting and work plan activities as a sign of alignment with national priorities and stakeholder interests. The scope of EITI implementation, corrective actions from Validation, thematic priorities such as systematic disclosures, contract disclosure, beneficial ownership and anti-corruption as well as innovative efforts to cover the forestry sector and develop a gender policy are covered in the work plan. Explicitly linking to planned outcomes and outputs, the work plan includes over 20 specific activities that are costed, measurable and time-bound.</p> <p>Despite a well-drafted work plan, the COVID-19 pandemic has affected progress in its implementation. In its comments on the draft assessment, the MWEITI MSG noted that the progress in addressing the activities in the work plan is tracked (pp.6-22). However, for example, plans to develop and implement a costed Remedial Action Plan (RAP) covering all previous EITI recommendations that remain unaddressed were postponed due to the pandemic, according to stakeholders consulted. Also, while it is clear from the minutes of MSG meetings that all constituencies on the MSG were consulted in the finalisation of the work plan, there is little evidence to demonstrate stakeholder consultations on the development of the work plan beyond MSG members. Stakeholder consultations did not highlight consultations with the broader constituencies. However, in its comments on the draft assessment, the MWEITI MSG argued that stakeholder consultations were conducted, and stakeholder feedback was incorporated into the work plan. Despite the challenges, the MSG has undertaken efforts to link the work plan to a monitoring framework, with support from an external consultant.</p> <p>Based on the aforementioned, the Secretariat's assessment is that Malawi EITI has made progress on both the required and encouraged aspects of Requirement 1.5 and thus has achieved the objective of this requirement. Several stakeholders consulted expressed satisfaction with the 2021-2022 MWEITI work plan and considered that the objective of annual EITI implementation planning supporting implementation of national priorities for the extractive industries had been fulfilled. Despite the limited capacity operating in a small extractive sector during a period of the pandemic, there is adequate evidence to suggest Malawi EITI have developed a robust results-based work plan that supports implementation of national objectives, captures innovation and thematic priorities and lays out specific realistic activities based on multi-stakeholder consultations. There is scope for Malawi EITI to clearly define target stakeholder groups and articulate more detailed plans for adhering to EITI Requirements 2.4 and 2.5 on contracts and beneficial ownership transparency.</p>
<p>Public debate (Requirement #7.1)</p> <p><i>Exceeded</i></p>	<p>Considering limited contribution of the oil, gas and mining sectors to Malawi's GDP and limitations caused by the COVID-19 outbreak, the Secretariat's assessment is that Requirement 7.1 is exceeded. Most stakeholders consulted across constituencies considered that the objective of active dissemination of EITI data to generate public debate was being fulfilled or exceeded. MWEITI Reports, including the latest 2018-2020 EITI Report, are publicly accessible on the MWEITI website. The MSG has made efforts to actively promote MWEITI Reports through dissemination and training workshops as well as TV and radio shows. Malawi has agreed on an EITI Communications Strategy covering 2017-2022, which provides the framework for its outreach and dissemination activities. The MSG has</p>

	<p>recognised opportunities to revise and improve the communications plan as part of the 2021-2022 MWEITI work plan. Evidence provided by the MSG suggests that at least seven events were organised in the 2019-2021 period, targeting stakeholders in the Salima, Karonga and Rumphi Districts. To ensure the reports are publicly accessible to diverse range of stakeholder groups, the MSG further published summaries of EITI Reports in three local languages for previous EITI Reports, but not yet for the most recent EITI Report. A media task force was established by the MSG in 2020 bringing together press representatives, which received capacity building in a workshop in Salima. Evidence provided by the MSG suggests that the MSG facilitated discussions aimed at addressing corruption allegations in the renewal of the Ilomba Granite Mine license. None of the stakeholders consulted raised concerns over the MSG's outreach and dissemination activities, although some CSOs consulted considered that the government and industry constituencies could have done more to contribute to these aspects of EITI implementation (see <i>Requirements 1.1 and 1.2</i>). Nonetheless, most stakeholders considered that the objective of enabling evidence-based public debate on extractive industry governance through EITI dissemination and outreach was being fulfilled, with many citing the example of the MSG's role in the public debate on the Ilomba Granite Mine licensing affair. While most EITI outreach activities appear to be focused on awareness raising about the EITI rather than the dissemination of EITI findings and data, the Secretariat's view is that these activities have generated the space for public debate on the extractive industries. In its comments on the draft assessment, the MWEITI MSG argued for an upgrade in the assessment of this Requirement. Annex 1 to the MSG comments on the draft assessment provides additional details on the CSOs' engagement in the EITI process in Malawi. This includes, for example, CSOs' request to include Nyala mining company into the reporting process, CSO's ability to use the EITI process to hold government agencies accountable on issues related to anti-corruption as well as inform public debate on the extractive sector management.</p>
<p>Data accessibility and open data (Requirement #7.2)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 7.2 is mostly met. Stakeholders consulted did not express any views on whether the objective of broader use and analysis of information on the extractive industries through the publication of information in open data and interoperable formats had been fulfilled. However, in its comments on the draft assessment, the MWEITI MSG highlighted the progress made since the commencement of the 2022 Malawi Validation, including the renewal of the open data policy and preparation of the summary data files. Taking into account these recent developments, the Secretariat's view is that the objective is mostly fulfilled, noting delays in preparation of EITI disclosures in an open format and the lack of publication of underlying data in Malawi's EITI Reports in open format.</p> <p>Malawi EITI has had an Open Data policy since December 2016, which focuses on systematic disclosures by government entities and the use of data, rather than the rules related to accessibility, use and re-use of EITI data. While it appears that the MSG hasn't made all EITI disclosures available in machine-readable, open data format, the Open Data Policy was updated on 23 June 2022 and published on the MWEITI website. The policy outlines the MWEITI's plans aimed at "ensuring that data relating to natural resources revenue, expenditure and other information are easily</p>

	<p><i>accessible, user friendly, understood and raises public debate regarding the management of the oil, gas, mining and forestry industries” (pp.3-4).</i></p> <p>The MSG submitted summary data files for EITI reporting covering 2017-2020 to the International Secretariat through its comments on the draft assessment. However, the data in EITI Reports has not yet been published in an open format in accordance with Requirement 7.2.b nor been publicised by MWEITI.</p> <p>While both the old and updated versions of the Open Data Policy include a strong focus on building the capacity of government agencies on systematic disclosures, plans to initiate a systematic disclosure feasibility study appear to have been delayed due to the COVID-19 pandemic and resource constraints. In practice, extractive sector disclosures by government and companies in Malawi are mainly through MWEITI Reports, in PDF format. Systematic disclosures by government related to mining licensing and contract disclosure are not yet in available open format.</p> <p>In its comments on the draft assessment, the MWEITI MSG highlights that EITI Reports are shared with relevant academic institutions and their libraries, which is expected to improve data accessibility and data use.</p>
<p>Recommendations from EITI implementation (Requirement #7.3)</p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 7.3 is fully met in the period under review. Opinions were split among stakeholders consulted on whether the objective of ensuring that EITI implementation is a continuous learning process that contributes to policymaking was being fulfilled. While most stakeholders consulted considered that the objective was being fulfilled, several civil society stakeholders did not consider that this was the case given the lack of progress on EITI recommendations and their repetition across successive EITI Reports. However, available evidence indicates that there is a robust mechanism for following up on EITI recommendations in practice.</p> <p>The latest MWEITI Report provides an overview of progress made to address previous recommendations from EITI Reports. The evidence suggests that despite efforts by MSG members to implement recommendations from the previous MWEITI Reports, several of these recommendations, including those related to systematic disclosures, have yet to be implemented. The current work plan also includes steps to develop and implement a costed Remedial Action Plan (RAP) of all unaddressed recommendations of previous EITI Reports. While there is no evidence that this was carried out, stakeholder consultations explained that the plans to undertake a RAP had been delayed due to the onset of the COVID-19 pandemic. The Secretariat's view is that these delays appear reasonable given the context of the pandemic.</p> <p>A corrective action matrix prepared by the MSG and submitted as part of this Validation provides an overview of key steps taken to address corrective actions. Available evidence suggests that actions have been taken to address some corrective actions. For example, the MSG developed a National Secretariat Sustainability Report in 2018-2019 to address recommendations related to government engagement in the EITI process. The report recommended that the National Secretariat should be integrated into the Ministry of Finance, under the Revenue Policy Department. Similar efforts have been undertaken to ensure improvement in work plan development in response to corrective actions from the last Validation.</p>

	<p>Thus, the Secretariat’s assessment is that the mechanism for follow-up on EITI recommendations has remained robust since the previous Validation and that the repetition of recommendations across EITI Reports is linked to the gradual nature of progress in their implementation.</p>
<p>Review the outcomes and impact of EITI implementation (Requirement #7.4)</p> <p><i>Mostly met (with considerable improvements)</i></p>	<p>The Secretariat’s assessment is that Requirement 7.4 remains mostly met, with considerable improvements since the previous Validation. While stakeholder consultations identified numerous types of outcomes of impact from the EITI process to date, stakeholders consulted did not express any particular views on whether the objective of regular public monitoring and evaluation of EITI implementation had been fulfilled in the period under review. The Secretariat’s view is that it has not yet been achieved given the lack of review of the impact of EITI implementation on an annual basis despite publishing regular annual progress reports.</p> <p>Since the last Validation, Malawi EITI has documented outcomes and impacts of implementation through annual progress reports covering 2015-2020 published on the MWEITI website. The MSG’s ‘Outcomes and impact’ template published online for this Validation, documents progress from the last Validation to December 2021. These reports provide a summary of EITI activities, an assessment of progress in meeting EITI Requirements, an overview of the MSG’s responses to EITI recommendations and an assessment of progress in meeting work plan objectives. The latest MWEITI annual progress report, covering 2019-2020 and published in June 2020, includes a review of measures adopted in response to the COVID-19 pandemic. In its comments on the draft assessment, the MWEITI MSG includes comments on outreach and dissemination activities, and highlights the inclusion of the forestry sector into EITI reporting as one of the achievements reflecting stakeholders’ interests.</p> <p>However, neither the latest annual progress report nor any documents referenced in the MSG’s submission for this Validation provide a narrative overview of the outcomes and impacts of EITI implementation to date, nor of any MSG efforts to strengthen the EITI’s impact. Some civil society stakeholders consulted called for Malawi EITI to undertake a more dedicated review of the EITI’s impact. In addition, the level of consultations beyond members of the MSG in the development of the annual progress report in accordance with Requirement 7.4.b remains unclear. Thus, the Secretariat’s view is that the key corrective action from the previous Validation remains unaddressed, despite the progress since the last Validation.</p>
<p>New corrective actions and recommendations</p>	
<ul style="list-style-type: none"> • To strengthen implementation, Malawi is encouraged to strengthen its mechanisms for ensuring participation of the broader government, industry and civil society constituencies in the development of the annual EITI work plan and to document such efforts. • To strengthen implementation, Malawi may wish to consider access challenges and different information needs of different sectors as well as stakeholder groups in the design and implementation of its EITI-related communications, outreach and dissemination activities. • In accordance with Requirement 7.2, Malawi is required to make EITI data available in an open data format online and publicise its availability. To strengthen implementation, Malawi EITI is encouraged to make systematically disclosed data machine-readable and inter-operable, easily accessed and comparable with other publicly available data. • To strengthen implementation, Malawi may wish to improve its mechanisms for following up on recommendations from EITI reporting and Validation and to document these, to strengthen 	

the accountability of Malawi EITI's efforts to promote reforms in extractive industry governance.

- In accordance with Requirement 7.4, Malawi EITI is required to document its annual review of impact and outcomes of EITI implementation in an annual progress report or through other means agreed by the MSG. This should include any actions undertaken to address issues that the MSG has identified as priorities for EITI implementation. The annual review of impact and outcomes must include a narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance, including any actions to extend the detail and scope of EITI reporting or to increase engagement with stakeholders. To strengthen implementation, Malawi EITI is encouraged to document how it has taken gender considerations and inclusiveness into account. All stakeholders should be able to participate in reviewing the impact of EITI implementation.

3. Stakeholder engagement

This component assesses EITI Requirements 1.1 to 1.4, which relate to the participation of constituencies and multi-stakeholder oversight throughout the EITI process.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Government engagement (Requirement #1.1)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 1.1 remains fully met, as in the previous Validation. Some stakeholders from different constituencies considered that government engagement in the EITI could be more proactive, for instance in following up on EITI reporting and reporting companies as well as recommendations from EITI reporting and Validation. However, the Secretariat's view is that the objective of active government engagement has been fulfilled in the period under review. The government appears to be fully, actively and effectively engaged in the EITI process. There have been regular public commitments to the EITI from high-level government officials in the 2018-2021 period and Minister of Finance Felix Litel Mlusu has provided effective leadership for EITI implementation in this period, including in ensuring adequate funding for implementation both from government and development partners. This engagement appears to have been matched at the operational level, as MSG meeting minutes reflect that the government has provided input to the design of the EITI process, actively participated in MSG meetings at a sufficiently senior level, provided data for EITI Reports and joined outreach and dissemination events. Indeed, there is evidence that the government has followed up on corruption allegations raised by civil society MSG members in relation to mining licensing irregularities and launched an investigation.</p>
<p>Industry engagement (Requirement #1.2)</p>	<p>Given continued weaknesses in industry engagement in the EITI process, the Secretariat's assessment is that Requirement 1.2 is mostly met, with some considerable improvements since the previous Validation. Stakeholders consulted confirmed that weaknesses in company reporting could not be</p>

<p><i>Mostly met (with considerable improvements)</i></p>	<p>attributed to any legal or regulatory barriers but were rather linked to short reporting deadlines or the perception that participation in EITI reporting was voluntary in nature. However, most stakeholders consulted appeared to consider that the objective of industry engagement could be further strengthened. The Secretariat's view is that similar gaps persist as in the previous Validation and that the objective is mostly fulfilled.</p> <p>The industry constituency appears to have made some efforts to address the corrective action from the previous Validation, although gaps in the broader constituency's engagement in the EITI have persisted and increased in relation to company participation in EITI reporting, in the period under review. While the industry constituency does not appear to have prepared a timebound action plan to address corrective actions from the previous Validation, there is evidence that the MSG has discussed the findings related to industry engagement on several occasions. Industry members appear to have broadly participated in MSG meetings in the 2018-2021 period, although participation from mining appears significantly stronger than from forestry or oil and gas both in the participation in meetings and in terms of engagement in MSG discussions.</p> <p>The addition of MSG representation for the oil and gas sector marks an improvement in industry engagement since the previous Validation, although there is no evidence of more proactive outreach to the broader constituencies beyond the formal MSG representation. In the context of a small sector with very few companies in oil and gas exploration, the constituency's commitment to include representatives of oil and gas companies on the MSG marks an improvement in the constituency's engagement. However, MSG meeting minutes indicate that participating MSG members have made regular contributions to the MSG's proceedings. There is some evidence of industry MSG members and the Chambers of Mines and Energy participating in EITI outreach and dissemination, although the constituency does not appear to have been a key participant in EITI-related outreach in this period.</p> <p>According to the constituency's submission for this Validation, the main mechanism for constituency coordination is through the Chambers of Mines and Energy, whose membership does not appear to have grown substantially since the period reviewed by the previous Validation. Besides annual meetings, the industry constituency appears to stay in contact and coordinate on EITI on an ad-hoc basis through WhatsApp and email groups, which include members of the two chambers. There is no documented evidence of outreach to extractive companies beyond the membership of the two industry associations, although industry stakeholders consulted explained that the Chamber of Mines had undertaken some outreach to non-member companies.</p> <p>There have been weaknesses in material company participation in the three EITI Reports published in 2019-2021. The share of non-reporting material companies has increased, from two out of 18 material companies not reporting in the 2016-17 EITI Report, to four out of 17 material companies in the 2017-18 EITI Report, and ten out of the 16 material companies in the 2018-20 EITI Report. Some stakeholders consulted considered that the rise in the number of non-reporting companies in the latest EITI Report was partly attributable to the COVID-19 pandemic, although several stakeholders noted that challenges in comprehensive industry reporting pre-dated the pandemic. While the lack of participation in the latest EITI Report by either of the two</p>
---	---

	<p>material oil and gas companies is partly explained by the two companies' exit from Malawi since the period under review, the lack of participation of six of the nine material mining companies¹ in the 2018-20 EITI Report is a significant concern. None of the non-reporting companies is a subsidiary of EITI Supporting Companies.</p> <p>There is no evidence of follow-up with non-reporting companies by either government or industry, while the IA's follow-up appears to only have been supported by the National Secretariat. There appears to be an enabling environment for company participation in EITI implementation, but the underlining objective of full, active and effective participation of companies is not yet fulfilled. In its comments on the draft assessment, the MWEITI MSG highlighted the planned efforts aimed at strengthening company reporting and engagement in the EITI process. The Secretariat's view is that there have been considerable improvements in industry engagement since the previous Validation given efforts to undertake outreach to the broader constituency in the context of a small sector, with the impact of the COVID-19 pandemic a key factor for the rise in non-reporting companies in the latest EITI Report.</p>
<p>Civil society engagement (Requirement #1.3)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 1.3 remains fully met, as in the previous Validation. Most stakeholders consulted considered that the objective of proactive civil society engagement in the EITI was being fulfilled and that there was broadly an enabling environment for civil society participation in the EITI process, despite differing views on the existence of broader civil society constraints in Malawi.</p> <p>Malawi's rankings in Freedom in the World and CIVICUS have remained 'partly free' and 'obstructed' respectively between 2018 and 2022. However, civil society remains fully, actively and effectively engaged in all aspects of the EITI process and appears to have been a key driver of MSG discussions in the 2018-2021 period. Evidence submitted in the MSG's templates for this Validation and stakeholder consultations indicated that civil society freely engages in the EITI process, including in outreach and dissemination, input to the design of EITI implementation and participation in EITI events. Available documentation reflects civil society's ability to freely associate and assemble in relation to EITI activities, and to use the EITI process to influence public decision-making on the extractive industries, for instance in its use of the EITI to follow up on corruption allegations in the mining licensing process. There is also evidence of use of EITI data by CSOs (see <i>Requirement 7.1</i>). Minutes of MSG meetings and records of other EITI activities such as outreach events indicate that CSOs proactively provide input to all aspects of the EITI process.</p> <p>There is no evidence of any new restrictions on civil society's capacity to engage in all aspects of the EITI. While several stakeholders highlighted a draft NGO bill under deliberation in Parliament since 2020 that would bring in new curbs for CSOs, they noted that it was currently being revised by the Ministry of Justice following significant opposition from civil society and that it was unlikely to be enacted in the previous form.</p>

¹ The material companies that did not participate in EITI reporting for 2018-20 include: Mota Engil Ltd, Lafarge Cement Company Ltd, Strabag International Limited, Cement Products (MW) Ltd, Nyala Mining Limited, Ilomba Granite Mining, RAK GAS MB45 Limited, HAMRA Oil Holdings Limited, AKL Timber Processing, Vizara Plantation.

<p>Multi-stakeholder group (Requirement #1.4)</p> <p><i>Fully met</i></p>	<p>The Secretariat’s assessment is that Requirement 1.4 remains ‘fully met’, as in the previous Validation. Most stakeholders consulted broadly considered that the objective of balanced multi-stakeholder oversight of EITI implementation had been fulfilled, particularly driven by a vibrant civil society. The Secretariat’s view is that the objective of meaningful multistakeholder oversight of all aspects of EITI implementation has been achieved.</p> <p>The MSG appears to have continued to provide effective oversight of all aspects of EITI implementation in the 2018-2021 period. The MSG continues to include self-appointed representatives from each stakeholder group with no suggestion of interference or coercion in the renewal of industry and civil society MSG membership in April 2021. Despite the lack of formalised constituency nominations procedures, the MSG member selection process continues to be coordinated by CONGOMA/NRJN for civil society and the Chamber of Mines and Energy (CMEM) for industry, as in the period under review in the previous Validation.</p> <p>In December 2019, the MSG amended its ToR (accessible here, with revisions here) to expand industry MSG membership to the forestry and petroleum sectors, bolstering the industry’s representation on the MSG. There is no evidence of any stakeholder being disenfranchised during the April 2021 nominations to the MSG, although the lengthy process for industry nominations appears to effectively lead to the nomination of all candidates given the low level of volunteers for MSG membership. The MSG’s ‘Outcomes and impact’ template for this Validation mentions a policy on gender balance in nominations to the MSG with provisions for either a full member or an alternate MSG member to be female. However, these provisions for gender parity do not appear to be adhered to in practice (see composition of current MSG here).</p> <p>The MSG’s ToR has not substantially changed since the period reviewed by the previous Validation and appears to have broadly been respected in practice. The MSG’s three sub-committees (on financial risks and audit, communication and engagement, and beneficial ownership) appear to effectively support the MSG’s work. The practice of the MSG’s internal governance and procedures appears to have been in line with the MSG’s governance documents. Despite some stakeholders’ concerns over capacity constraints of certain MSG members, there is evidence that the MSG has gained strength in the 2018-2021 period, including in its follow-up on corruption allegations in mining licensing in 2021. Many stakeholders considered that this was due primarily to leadership from civil society on the MSG, with some considering that the government and industry constituencies on the MSG could have been more proactive in following up on the allegations. Further work could be done to ensure more broad consultations with members outside the MSG when preparing key EITI documents, such as the work plan and the annual review of outcomes and impact.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, the government is encouraged to use the EITI as a platform to drive reforms in extractive industry governance, including in leading on the follow-up on EITI recommendations related to reforms of government systems. • In accordance with Requirement 1.2, Malawi must ensure that companies are fully, actively and effectively engaged in all aspects of the EITI process, including by ensuring regular 	

consultations and coordination with the broader constituency of extractive companies operating in Malawi, consistent provision of data for EITI reporting and active participation in EITI outreach and dissemination activities.

- To strengthen implementation, Malawi is encouraged to ensure that there continues to be an enabling environment for civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The MSG is encouraged to regularly monitor and discuss any legal, regulatory, administrative or practical reform that may place constraints on civil society's participation in the EITI process.
- To strengthen implementation, Malawi is encouraged to ensure that all constituencies on the MSG adopt and publish clear procedures for the nomination and replacement of their MSG representatives. All representatives on the MSG, particularly from the government and industry constituencies, are encouraged to strengthen the mechanisms for the regular consultations of their broader respective constituencies, including to canvass their input to the work plan and the annual review of outcomes and impact.

4. Transparency

This component assesses EITI Requirements 2 to 6, which are the requirements of the EITI Standard related to disclosure.

Overview of the extractive sector (Requirements 3.1, 6.3)

Overview of progress in the module

Malawi has used its EITI reporting to provide an overview of the mining, petroleum, transportation and forestry sectors. There are few systematic disclosures related to the extractive activities in Malawi and there is significant scope for Malawi EITI to work with relevant government entities and extractive companies to improve the level of routine disclosures, particularly related to significant ongoing exploration activities. Nonetheless, Malawi has sustained the level of its disclosures related to Requirement 3.1 since the previous Validation.

The contribution of the extractive sector to the economy is disclosed mainly through EITI reporting with references to relevant sources of information. There appear to be gaps in Malawi's public disclosures related to the extractive industries' relative contribution to total government revenues and total employment. Malawi's EITI reporting highlights the lack of credible third-party estimates of informal extractive activities, but notes planned reforms to enhance regulations of artisanal and small-scale mining.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Exploration (Requirement #3.1)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 3.1 remains fully met, as in the previous Validation. Stakeholders consulted did not express views on whether the objective of public access to an overview of the extractive sector had been fulfilled. The Secretariat's view is that this objective has been achieved through EITI disclosures, although not yet through systematic disclosures by government and companies. An overview of the extractive sector is included in the 2018-2020 EITI Report, which also includes a brief discussion of significant exploration activities. The report provides cursory references to some of the key companies operating in the extractives industries in Malawi, and a brief description of some of the key projects in the exploration phase, given that current extractive production is primarily dominated by quarrying.</p>
<p>Contribution of the extractive sector to the economy (Requirement #6.3)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 6.3 is mostly met. There appears to have been back-sliding since the period reviewed in the previous Validation, when Requirement 6.3 was assessed as 'satisfactory progress'. Most stakeholders consulted did not express views on progress towards the objective of public understanding of the extractive industries' contribution to the national economy. However, some CSOs considered that the objective had been achieved given the lack of reliable data on the contribution of informal extractive activities to the economy and the negligible government revenues collected from oil and gas. The Secretariat's view is that the</p>

	<p>objective has not yet been fulfilled given the lack of information on the contribution of the extractive industries to total government revenues and total employment.</p> <p>Systematic disclosures of information on the extractive industries' contribution to the economy are limited in Malawi. Malawi's 2018-2020 EITI Report provides information on the size of the mining sector in absolute and relative terms for 2018-2019, alongside projections for 2019-2020. Stakeholder consultations highlighted the importance of artisanal and small-scale mining (ASM) in Malawi and noted the ongoing development of specific policies regulating ASM activities. The 2018-2020 EITI Report provides only 2002 employment data for ASM as well as rough production estimates for gemstones. The report highlights the difficulties in obtaining updated statistics on ASM, while providing recommendations for further legal, regulatory and monitoring improvements. Some CSOs consulted considered that there were no credible third-party estimates of informal extractive activities in Malawi.</p> <p>The report provides the value of total government revenues for mining, oil and gas, transportation, and forestry sectors in 2018-2019 and 2019-2020 in absolute terms. However, it does not provide information about the relative share of government revenues from the extractive industries. Exports from the mining sector are reported in absolute terms and as a percentage of total exports. The report provides information on employment in the mining sector, but not in oil and gas, for both of the fiscal years under review. However, the report does not provide employment information disaggregated by gender, company and occupational level. Data on extractive industry employment is not provided as a share of total employment. The gaps related to employment in the oil and gas sector appear to be of marginal significance, given the small number of companies in the sector that have since ceased operations.</p> <p>EITI reporting and stakeholder consultations confirm that the oil and gas sector was still at the exploration stage during the reporting years and therefore its contribution to GDP, exports and employment was not considered significant in 2018-2020. Information on the key regions where production is concentrated is disclosed through EITI reporting and available on the Malawi Mining Cadastre Map Portal.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, Malawi is encouraged to strengthen government and companies' systematic disclosures that provide an overview of the extractive industries, including significant ongoing or recent exploration activities. • In accordance with Requirement 6.3, Malawi should ensure that information about the extractive industries' contribution to total government revenues and total employment is provided in absolute and relative terms. To strengthen implementation, the MSG may wish to consider ways of improving systematic disclosures related to the contribution of the extractive sector to the economy and is encouraged to disclose credible estimates of the contribution of informal extractive activities to the economy as well as extractive industry employment data disaggregated by gender, company and occupation. 	

Legal environment and fiscal regime (Requirements 2.1, 2.4, 6.4)

Overview of progress in the module

Evidence suggests that Malawi has sustained its disclosures of the legal framework and fiscal regime for the extractive industries since the previous Validation. While laws and regulations relevant to the extractive industries are systematically disclosed on government websites, Malawi's EITI disclosures have provided an overview of the legal and fiscal environment, including responsibilities of key government entities and an overview of current reforms. There is significant scope for expanding systematic disclosures of information on the legal and regulatory framework, including significant reforms, on relevant government portals.

Malawi has used its EITI reporting to clarify the rules, but not yet the practice, of public disclosure of the full text of contracts in the extractive industries. The government's policy in favour of contract disclosure is clearly defined and most extractive contracts appear to be disclosed on third-party websites (ResourceContracts.org), although the mechanism for consistently publishing all contracts on this website is unclear. However, Malawi EITI has not yet publicly clarified the policy or practice related to the public disclosure of the full text of extractive licenses. The MSG does not appear to have yet publicly reviewed the public accessibility of all extractive contracts and licenses, including annexes, amendments and riders, with clear guidance on how to access each published document. There appear to have been several license awards since 1 January 2021, although none of these appear to have yet been published, and it remains unclear whether any extractive contracts were amended since the start of 2021. Thus, the Secretariat's assessment is that Requirement 2.4 is mostly met.

There is limited evidence that the EITI reporting was used to provide an annual diagnostic of the regulatory framework, management and monitoring efforts related to the environmental impact of extractive industries as well as actual practices. However, stakeholder consultations revealed significant public interest in the environmental impacts of the extractive industries, indicating scope for EITI implementation to add value through disclosures on the management of the environmental aspects of extractive activities.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Legal framework and fiscal regime (Requirement #2.1)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 2.1 remains fully met, as in the previous Validation. Stakeholders consulted broadly considered that the objective of public understanding of all aspects of the regulatory framework for the extractive industries had been fulfilled. Through EITI reporting, Malawi has disclosed a summary description of the legal framework governing its extractive industries, including an overview of the roles of government agencies, levels of fiscal devolution, the tax regime applicable to the industries and a description of ongoing and planned reforms relevant to the sector in the period under review. Stakeholder consultations highlighted several recent and ongoing legal and regulatory reforms, including revisions to petroleum legislation, which implied that</p>

	there was scope to strengthen government entities' systematic disclosures of this information.
<p>Contracts (Requirement #2.4)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that the criteria of Phase 1 of the Validation framework for Requirement 2.4 are mostly met. Some government officials consulted considered that the objective of public accessibility of all licenses and contracts underpinning extractive activities had not yet been fulfilled given capacity constraints that had hindered the full publication of all contracts and licenses to date. Several CSOs considered that the objective had not been achieved given concerns over gaps in the comprehensiveness of contract and license disclosures. The Secretariat's view is that the objective has been mostly fulfilled given gaps in the review of disclosure practices and the lack of disclosure of contracts and licenses awarded or amended since the start of 2021.</p> <p>Malawi has used its EITI reporting to clarify the government's policy on contract and license disclosure in the mining, petroleum and forestry sectors, and oil, gas and mining contracts appear to be disclosed on a third-party site (ResourceContracts.org). Malawi's 2016-18 national action plan for the Open Government Partnership (OGP) included commitments to disclose all extractive contracts, although the level of follow-up on these commitments remains unclear. However, some CSOs considered that there was no mechanism for systematically publishing all extractive contracts and expressed scepticism about whether all mining contracts had yet been published online. Several CSOs noted that mining, oil and gas contracts had been published ahead of the previous Validation, but that no new contracts had been published since then.</p> <p>While Malawi EITI has made progress in the public disclosure of the full text of contracts, the progress in disclosure of the full text of licenses has not yet been commensurate with the level of transparency on contracts. The policy and practice related to the publication of the full text of extractive licenses are covered by the government's general contract disclosure policy, which covers all extractive rights documents. Several CSOs consulted noted that mining exploration and production licenses were meant to be publicly accessible but that this was not the case in practice, with the example of the non-publication of the successor license to Nyala Mining Ltd awarded in 2019 cited as an example. There is no evidence that Malawi EITI has compiled and published a comprehensive list of all active mining, oil and gas licenses and contracts (including annexes, amendments and riders), indicating which have been published, with links to each published document. The MSG has prepared a list of licenses and contracts that have been publicly disclosed, but has not yet published a comprehensive list of active licenses and contracts, clearly identifying the specific licenses and contracts that have not yet been publicly disclosed. Stakeholder consultations indicated that the MSG has reviewed the oil and gas contracts as well as the mining contracts considered the largest in the sector but had not yet reviewed all active contracts and licenses to assess their public availability. In its comments on the draft assessment, the MWEITI MSG notes that the EITI Reports and the Mining Cadastre include information on licenses. However, it is unclear from MWEITI and other public sources whether any new licenses and contracts have been awarded or amended since 1 January 2021 (given that the mining cadastre is not searchable by date of award), or whether the full text of such contracts and licenses are publicly disclosed. Government officials consulted confirmed that around 50 new exploration licenses and ten new production licenses had been</p>

	awarded since the start of 2021, although the full list of rights awarded since the start of 2021 does not appear publicly accessible, and the full text of these documents has not yet been published. The MSG's comments on the draft assessment noted ongoing negotiations to conclude a number of Mining Development Agreements (MDAs) and expressed the government's commitment to publish the full text of such agreements once concluded, but do not comment on the public accessibility of the full text of mining licenses.
Environmental impact (Requirement #6.4) <i>Not assessed</i>	Requirement 6.4 is an encouraged aspect of the EITI Standard and is therefore not assessed in Validation unless there is evidence that the country has exceeded the requirement. The 2018-2020 Malawi EITI Report provides limited information on the environmental impact of extractive industries, except for highlighting challenges related to the ASM sub-sector. Stakeholder consultations demonstrated public interest in the topic, including strengthening systematic disclosure of relevant data.
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, Malawi is encouraged to expand the level of systematic disclosures on government and company portals describing the legal framework and fiscal regime governing the extractive industries in the country, including any ongoing or planned reforms. • In accordance with Requirement 2.4, Malawi is required to disclose any contracts and licenses that are granted, entered into or amended from 1 January 2021. Malawi is encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals. It is a requirement to publicly document the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include a description of whether legislation or government policy addresses the issue of disclosure of both contracts and licenses, including whether it requires or prohibits disclosure of contracts and licenses. This should also include an overview of which contracts and licenses are publicly available. Malawi should publish a list of all active contracts and licenses, indicating which are publicly available and which are not. Where disclosure practice deviates from legislative or government policy requirements concerning the disclosure of contracts and licenses, an explanation for the deviation should be published. • To strengthen implementation, Malawi is encouraged to consider disclosing relevant information on the management and monitoring of the environmental impact of the extractive industries. The MSG may wish to discuss the opportunity to systematically disclose environmental impact assessments (EIAs). 	

Licenses and property rights (Requirements 2.2, 2.3)

Overview of progress in the module

With most oil, gas and large-scale mining in Malawi at the prospection and exploration stages, there is significant public interest in the extractives licensing process. In late 2020, civil society groups such as the Natural Resources Justice Network led [public advocacy](#) around allegations of corruption in the renewal of a granite mining license to Ilomba Mining Company, which led to the launch of an investigation by the government's Anti-Corruption Bureau in early 2021.

Malawi has used its EITI reporting to clarify the rules governing the government's award of extractive licenses, although this has not yet extended to the statutory procedures or practices related to transfers of mining, oil and gas licenses (or participating interests therein). The Malawi

EITI focus on the procedures for licensing in the mining, oil and gas sectors has not yet been matched by an equivalent focus on clarifying the practices of license awards and transfers in the periods under review in EITI reporting. Malawi's latest EITI Report includes a short statement that there were no deviations in license awards and transfers in the 2018-20 period, albeit with no explanation of the basis for this assessment. Given the significant public interest in non-trivial deviations in licensing activities in the mining sector, and the significantly diverging views of stakeholders consulted over whether the objective of transparency in licensing practices had yet been fulfilled, the Secretariat's assessment is that Requirement 2.2 is mostly met, which represents back-sliding compared to the period reviewed by the previous Validation.

Malawi has made progress on the corrective actions related to license registers since the previous Validation. The 2018-20 EITI Report provides comprehensive information on oil and gas licenses while the full text of oil and gas contracts published online provides the coordinates of oil and gas licenses, addressing the key corrective action from Validation. However, the dates of application for mining, oil and gas licenses do not appear to be published online. The Secretariat understands that dates of application of all licenses remain available upon request from the Ministry of Mining, as highlighted in the previous Validation.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Contract and license allocations (Requirement #2.2)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 2.2 is mostly met, which represents backsliding compared to the previous Validation. Opinions were split over whether the objective of transparency in extractive licensing practices had been achieved, with several stakeholders consulted arguing strongly that it had not. The Secretariat's view is that the objective has not yet been fulfilled, given stakeholder concerns over deviations from statutory license allocation procedures in practice that contradict the findings of Malawi's EITI reporting.</p> <p>The 5th MWEITI Report provides an overview of all new extractive licenses issued in the period under review. Malawi's EITI reporting provides an overview of the statutory procedures followed by the Department of Mines in awarding minerals and petroleum licenses, including technical and financial criteria assessed. There is no discussion in EITI Reporting, or through systematic disclosure, of non-trivial deviations between policy and practice in mining licensing in the period under review, aside from the 5th MWEITI Report's statement that there were no such deviations in the period under review, without a description of the basis for this assessment.</p> <p>Most stakeholders consulted highlighted the alleged corruption around the renewal of the Ilomba mining license in the year after the period covered by the latest EITI Report, which led to a formal corruption investigation following an outcry by civil society. This was cited by several stakeholders consulted as an alleged example of significant non-trivial deviations in mining licensing practices. In addition, the EITI Report does not provide an overview of license transfers in the period under review, nor the statutory procedures for transfers of oil and gas contracts and licenses, or participating interests therein. Stakeholder consultations indicate that at</p>

	least two license transfers had taken place in this period. In its comments on the draft assessment and Annex 2 to them, the MWEITI MSG confirms that there are clear procedures for contract and license allocations, but does not comment on the contract and license transfers in the period under review.
Register of licenses (Requirement #2.3) <i>Fully met</i>	<p>The Secretariat's assessment is that Requirement 2.3 is fully met. Since the last Validation, Malawi EITI has addressed the key corrective action from the previous Validation by disclosing all license information listed in Requirement 2.3.b aside from disclosure of dates of application. Stakeholder consultations revealed broad consensus that the objective of public accessibility of comprehensive information on property rights related to extractive rights had been fulfilled. The previous Validation had not considered the lack of online publication of dates of application for extractive licenses to constitute a gap given that these were considered available upon request in person. Government officials consulted confirmed that dates of application for all licenses were available from the Ministry of Mining and explained that upgrades to the Ministry's cadastral portal were underway to ensure disclosure of this additional data for all licenses and to extend the cadastral portal to oil and gas. Thus, the Secretariat's assessment is that Requirement 2.3 is fully met, given stakeholder views on progress towards the objective and stakeholder confirmation that dates of application for all extractive licenses are available upon request.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 2.2, Malawi should ensure that a description of the statutory procedure for transferring extractive licenses is publicly disclosed, including the technical and financial criteria assessed. Malawi should ensure that any material deviations from the applicable legal and regulatory framework governing license transfers and awards are publicly described for all mining, oil and gas license awards and transfers in the period under review by EITI reporting. Malawi EITI may wish to include additional information on the allocation of licenses as part of the EITI disclosures. • To strengthen implementation, Malawi is encouraged to upgrade its publicly available online cadastre system with comprehensive information regarding all active mining, oil and gas licenses, including dates of application. 	

Beneficial ownership (Requirement 2.5)

Overview of progress in the module

Adherence to Requirement 2.5 on beneficial ownership is assessed in Validation as of 1 January 2022 as per the [framework agreed by the Board in June 2019](#). The assessment consists of a technical assessment and an assessment of effectiveness.

Technical assessment

The technical assessment is included in the Transparency template, in the tab on Requirement 2.5. It demonstrates that Malawi is in the process of establishing a legal framework for the collection of beneficial ownership data from companies in all economic sectors, although the draft legislation is only expected to be enacted in 2022. Thus, the legal and regulatory basis for the government to collect beneficial ownership data from companies holding and applying for extractive licenses is not yet in place. Malawi has used its EITI disclosures to codify the

government's policy in favour of beneficial disclosure in all sectors, while the terms of "beneficial owner" and "politically-exposed person" (PEP) are clearly defined. Malawi EITI has established a 5% threshold for disclosures and has used its latest (2018-20) EITI Report to attempt to collect beneficial ownership data from companies participating in EITI reporting. However, this attempt appears to have been unsuccessful given the lack of publication of any beneficial ownership data to date. Enactment of beneficial ownership legislation in 2022, through amendments to the Companies Act, expected to cover all sectors of the economy will enable the Registrar General to collect beneficial ownership data from all companies and to disclose this through the Malawi Business Registration System (MBRS). However, stakeholder consultations indicated that disclosure requirements for PEPs were not yet included in the draft legislation, which was highlighted as an issue to address in finalising the legislation in 2022. Malawi does not currently maintain a publicly accessible company register providing information on legal ownership of companies, but its latest EITI Report disclosed shareholder information on a minority (seven) of extractive companies. Malawi EITI has published a list of companies holding extractive licenses in the country that are subsidiaries of companies publicly listed on foreign stock exchanges, although the overview does not appear to cover all license-holders that are subsidiaries of listed companies and does not provide specific references (links) to statutory filings to their respective stock exchanges.

Assessment of effectiveness

Malawi has made progress in addressing some aspects of Requirement 2.5, although the lack of a robust legal and regulatory framework for collecting and disclosing beneficial ownership information has hindered the government and MSG's capacity to address many of the aspects of beneficial ownership disclosures required by the EITI Standard.

In 2017, Malawi underwent a mutual evaluation of its AML and CFT measures and their effectiveness by the Eastern and Southern Africa Anti-Money Laundering Group ([ESAAMLG](#)), with annual post-evaluation progress reports in 2017, 2018 and 2019. The ESAAMLG mutual evaluations highlighted deviations between statutory provisions requiring reporting of beneficial ownership data to the financial intermediaries and actual practice, noting that adherence to these requirements is stronger in the commercial banking sector than in other sectors. They also noted the lack of a regulatory framework enabling the government to collect beneficial ownership data from all legal entities. Finally, they also noted the lack of a comprehensive money-laundering risk assessment to date.

Another key challenge for Malawi's beneficial ownership transparency efforts is the lack of provisions in the draft beneficial ownership legislation requiring disclosure of PEP ownership or control of companies. While the draft reforms are yet to be finalised, several stakeholders consulted highlighted this as a key gap at present, which they expected would need to be addressed to ensure a robust regulatory framework for beneficial ownership transparency. Government officials consulted also considered that there would be a 12-24 month time lag between enactment of the beneficial ownership legislation and the first round of beneficial ownership disclosures through the MBRS.

Finally, the lack of a publicly available source of legal ownership information on all companies holding and applying for extractive licenses creates challenges in the scoping of entities to which data collection requests will be addressed. While the government holds information on legal ownership information, the lack of public accessibility of this data hinders public oversight of beneficial ownership data collection efforts. Malawi EITI has yet to undertake and publish a comprehensive assessment of the comprehensiveness and reliability of beneficial ownership disclosures to date, nor to identify any extractive companies that it considers "high risk". The lack

of this type of public diagnostic has hindered Malawi EITI's ability to take stock of progress and issue recommendations for strengthening the effectiveness of the government's beneficial ownership reforms.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Beneficial ownership (Requirement #2.5)</p> <p><i>Partly met</i></p>	<p>The Secretariat's assessment is that Requirement 2.5 is partly met. None of the stakeholders consulted considered that the objective of public understanding of who ultimately owns and controls the companies operating in the country's extractive industries had yet been fulfilled, although opinions varied about the level of progress achieved to date. Several government officials and the IA considered that Malawi was on the right path towards beneficial ownership transparency given that the draft beneficial ownership legislation that would cover all sectors was under development. However, several CSOs consulted considered that there were still significant efforts required to ensure beneficial ownership transparency, noting for instance that shareholder information for all extractive companies was not yet publicly accessible.</p> <p>Malawi has used its EITI reporting to formalise the government's policy on beneficial ownership disclosures, expanding the scope of the government's pro-disclosure policy to companies operating in all sectors of the economy in Malawi, although it has not yet established a legal and regulatory framework for beneficial ownership disclosures. The MSG's submission for this Validation noted that progress on beneficial ownership disclosures had been slowed by resource constraints. Nonetheless, a definition of "beneficial owner" and "politically-exposed person" has been agreed.</p> <p>While beneficial ownership data has not yet been requested from all companies holding or applying for extractive licenses, Malawi has used its EITI disclosures to seek to collect data on the beneficial owners of companies included in the scope of EITI reporting. However, weaknesses in companies' EITI reporting means that no beneficial ownership data has been publicly disclosed to date. While the MSG has agreed on quality assurances for ownership disclosures through the EITI, the assurances for mandatory reporting under the proposed legal reforms were still being finalised in 2022. Malawi has published a cursory review of the comprehensiveness of beneficial ownership disclosures by EITI reporting companies, but not of beneficial ownership data collection from other extractive companies beyond the scope of EITI reporting.</p> <p>Stakeholder consultations highlighted plans to establish a public beneficial ownership register as part of the Malawi Business Registration System maintained by the Registrar General, part of the Ministry of Justice. The Registrar General had started collecting some ownership data manually but was awaiting enactment of the beneficial ownership legislation to collect beneficial ownership data including name, occupation, residential address, and share of ownership or control. However, government officials noted that the draft legislation did not include disclosure requirements for politically</p>

	<p>exposed persons, although it was expected to set a 5% disclosure threshold in line with the threshold agreed by Malawi EITI.</p> <p>Malawi has publicly identified the stock exchange where some of the publicly listed extractive companies operating in the country are listed, although this does not appear to include all publicly listed companies, nor include guidance for accessing companies' disclosures to their respective stock exchange regulators. Malawi does not maintain a publicly accessible company register providing information on legal owners, although Malawi has used its latest (2018-20) EITI Report to disclose the shareholders of seven of the 17 material companies included in the scope of reporting.</p> <p>In its comments on the draft assessment, the MWEITI MSG argues for an upgrade of a score, but notes that ensuring full beneficial ownership disclosure through EITI reporting was challenging due to the absence of enabling legislation. The comments highlight the importance of the development of the beneficial ownership regulations that are expected to be published soon. Given that several aspects of the initial criteria of Requirement 2.5 have not yet been addressed, including the establishment of an enabling legal framework and the request of beneficial ownership data from all companies holding or applying for extractive licenses, the Secretariat's view is that the objective of the full set of criteria in Requirement 2.5 (which are assessed in Validations from January 2022 onwards) is not met.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> In accordance with Requirement 2.5, Malawi is required to disclose the beneficial owners of all companies holding or applying for extractive licenses. To ensure public disclosure of this information going forward, Malawi should ensure there is a legal and regulatory framework in place to collect and publicly disclose beneficial ownership information on all companies holding or applying for extractive licenses. Malawi should require all companies holding or applying for oil, gas and mining licenses and contracts to disclose both their legal and beneficial owners. An assessment of the comprehensiveness and reliability of this information should be undertaken by the MSG. Malawi should ensure the public disclosure, for wholly-owned subsidiaries of publicly listed companies, of the name of the relevant stock exchange and a link to the stock exchange filings where they are listed. 	

State participation (Requirements 2.6, 4.2, 4.5, 6.2)

Overview of progress in the module

The 2018-2020 EITI Report does not provide a definition of "state-owned enterprise", however, it explains that the government holds minority shares in two mining companies and no shares in oil and gas companies (pp.32, 43). Terms attached to the respective equity stakes are provided for each company. The Secretariat's assessment is that state participation in the extractive industries did not give rise to material payments in 2018-2020 and, therefore, Requirements 2.6, 4.2, 4.5 and 6.2 are not applicable.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
State participation (Requirement #2.6) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 2.6 remains not applicable in Malawi in the period under review. There is no evidence of any SOEs in line with the definition in Requirement 2.6 in Malawi in the period under review. The level of progress in addressing this requirement has been maintained since the previous Validation, though the MSG is advised to re-confirm its non-applicability annually, through the EITI reporting process.
Sale of the state's in-kind revenues (Requirement #4.2) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 4.2 remains not applicable in Malawi in the period under review. There is no evidence of any in-kind revenues in line with the definition in Requirement 4.2 in Malawi in the period under review. The level of progress in addressing this requirement has been maintained since the previous Validation, though the MSG is advised to re-confirm its non-applicability annually, through the EITI reporting process.
Transactions related to state-owned enterprises (Requirement #4.5) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 4.5 remains not applicable in Malawi in the period under review. There is no evidence of any SOEs in line with the definition in Requirement 2.6 in Malawi in the period under review. The level of progress in addressing this requirement has been maintained since the previous Validation, though the MSG is advised to re-confirm its non-applicability annually, through the EITI reporting process.
Quasi-fiscal expenditures (Requirement #6.2) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 6.2 remains not applicable in Malawi in the period under review. There is no evidence of any SOEs in line with the definition in Requirement 2.6 in Malawi in the period under review. The level of progress in addressing this requirement has been maintained since the previous Validation, though the MSG is advised to re-confirm its non-applicability annually, through the EITI reporting process.
New corrective actions and recommendations	
<ul style="list-style-type: none"> To strengthen implementation, Malawi is encouraged to consider as part of its annual EITI reporting whether state participation in the extractive industries gives rise to material revenue payments, to account for any changes in state participation in future. Where state participation is assessed as giving rise to material government revenues, Malawi would be required to ensure that all aspects of Requirement 2.6 are comprehensively addressed. 	

Production and exports (Requirements 3.2, 3.3)

Overview of progress in the module

Malawi is a small producer of mineral commodities such as coal, gold, gemstones and construction materials such as limestone, dimension stone and rock, but has not discovered any commercial oil and gas reserves to date. There are only limited systematic disclosures of production and export data on government websites in Malawi, with the exception of gold export

figures on the Reserve Bank of Malawi website. Malawi has used its EITI reporting to disclose data on volumes and values of production and exports of all extractive commodities produced and exported by the country. However, the production and export data has been disclosed in aggregate by commodity to date, not by region, company or project. There is scope to improve the granularity of disclosures to meet public interest in this detailed information, and for Malawi EITI to work with relevant government entities such as the Ministry of Mining, the central bank and customs service to strengthen the government's systematic disclosures of production and export data.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Production (Requirement #3.2)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 3.2 is fully met. The previous Validation assessed this requirement as 'beyond'. According to the current Validation model, all aspects of the requirement, including 'expected', 'encouraged' and 'recommended' aspects, need to be addressed and the broader objective of the requirement needs to be fulfilled through systematic disclosures in government and company systems for the country to achieve an assessment of 'exceeded'.</p> <p>Most stakeholders consulted considered that the objective of public understanding of extractive commodity production had been fulfilled, although some CSOs consulted expressed concern over the level of disaggregation of certain production disclosures in Malawi's EITI reporting, which they asked to be broken down by individual project. The Secretariat's view is that the objective has been fulfilled given the availability of production data on all extractive commodities produced in Malawi, even if these are not yet disaggregated or systematically disclosed as encouraged by Requirement 3.2. Malawi has used its EITI reporting as a diagnostic tool for the Department of Mines production figures by comparing these with data (production volumes and values) disclosed by companies reporting in EITI. However, the extractive production data has not yet been published disaggregated by region, company or project, and does not include sources and the methods for calculating production volumes and values.</p>
<p>Exports (Requirement #3.3)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 3.3 remains fully met, as in the previous Validation. Most stakeholders consulted considered that the objective of ensuring public understanding of extractive commodity exports had been fulfilled. Several stakeholders from different constituencies highlighted the central bank's establishment of an Export Development Fund to seek to formalise exports of artisanal-mined gold, which some government officials attributed in part to findings of past EITI Reports that identified weaknesses in oversight of gold export. Malawi's EITI reporting has disclosed volumes and values of exports of extractive commodities (coal, dimension stones, rock aggregate, gemstones, rock/soil samples), it has not disaggregated this data by region, company or project, nor included sources and methods for calculating export volumes and values. While only the values, not the volumes, of the Reserve Bank of Malawi's (RBM) annual</p>

	gold exports are disclosed in EITI reporting, these are accessible on the RBM's website.
New corrective actions and recommendations	
<ul style="list-style-type: none"> • To strengthen implementation, Malawi may wish to ensure that extractive commodity production data is publicly disclosed disaggregated by region, company and project, and includes sources and the methods for calculating production volumes and values. Malawi is encouraged to strengthen systematic disclosures of extractive commodity production data by government and companies. • To strengthen implementation, Malawi may wish to ensure that extractive commodity export data is publicly disclosed disaggregated by region, company and project, and includes sources and the methods for calculating export volumes and values. Malawi is encouraged to strengthen systematic disclosures of extractive commodity export data by government and companies. 	

Revenue collection (Requirements 4.1, 4.3, 4.4, 4.7, 4.8, 4.9)

Overview of progress in the module

Malawi's mining sector includes around 347 mining license-holders (as of 2019-20), although the majority are exploration licenses with production dominated by ASM and a few larger mines. However, the Kayelekera uranium mine has been under maintenance while the planned larger projects appear delayed by the COVID-19 pandemic. There are three oil and gas companies in the oil and gas sector at the exploration stage. Malawi has used its EITI reporting to cover the twelve largest mining companies, two companies in oil and gas and four in forestry. Total government revenues from the three sectors (mining, forestry, oil and gas) reached MKW 11.784bn (USD 14.5m) in 2018-19 and MKW 12.295bn (USD 15.1m) in 2019-20.

Although Malawi EITI adopted the "flexible" approach to EITI reporting approved by the Board in 2020, it interpreted this as including more relevant timelier information in a report covering two fiscal years (2018-2020), while still maintaining conventional EITI reconciliation. Malawi has established an effective EITI reporting system, although the high rate of non-reporting by material companies is a significant concern to stakeholders consulted from all constituencies. The government agencies have disclosed the total revenues from the extractive industries, but have not yet done so disaggregated by revenue stream. Malawi has used its EITI reporting to map auditing practices by material companies, but it has not yet taken steps to improve the accessibility of extractive companies' audited financial statements. Similar weaknesses in companies' adherence to agreed-upon quality assurances for EITI reporting have weakened the documented reliability of financial data disclosed in EITI Reports. There is scope for Malawi to use its EITI implementation as a diagnostic tool of government and companies' audit and assurance rules and practices, in order to help strengthen government and company systems.

A number of EITI Requirements do not apply to Malawi in the period under review, as per the previous Validation. These include barter-type infrastructure provisions, given that Nyala Mining Ltd.'s agreement appeared to include contractually mandated social expenditures. Equally, the state does not receive any revenues from the transportation of mineral commodities, given that the railway operated by Brazilian mining company Vale between its mine and port in Mozambique (through northern Malawi) is considered an infrastructure concession rather than a form of transportation revenue.

Malawi EITI's financial data continues to be published disaggregated by government entity, revenue stream and company, but not yet by project. Reforms to Malawi's Taxation Law in 2016 introduced ring-fencing of taxation by individual projects (presumably only for producing mining projects given the lack of income tax payments by exploration companies). Malawi EITI has not disaggregated the disclosure of non-tax payments and revenues yet, which are levied at a project level. As such, there is scope for Malawi EITI to play a greater role in contributing to the implementation of reforms such as the ring-fencing of tax levies per project in the mining sector. Likewise, leveraging such reforms could be an opportunity to further improve the timeliness of reporting, which has been in line with Board-approved timelines but could be further shortened.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Comprehensive disclosure of taxes and revenues (Requirement #4.1)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.1 is mostly met. There were different opinions among stakeholders consulted over whether the objective of comprehensive disclosures of company payments and government revenues from oil, gas and mining had been achieved. While government and industry stakeholders consulted broadly considered the objective to have been fulfilled, they conceded that there had been weaknesses in company participation in EITI reporting. Several civil society representatives consulted did not consider the broader objective to have been met given gaps in company reporting and general concerns over the comprehensiveness of government disclosures, even if no specific examples of gaps in government disclosures were provided.</p> <p>The 2018-2020 EITI Report was produced based on a "flexible" EITI reporting approach, although the MSG reconciled payments from the largest companies by size of payments to government with government revenues. Stakeholder consultations confirmed that the MSG had adopted the "flexible" EITI reporting to include more recent information on the extractive industries and provide an analysis of the COVID-19 impact on the economy, but that it had maintained the conventional approach to reconciliation, nonetheless. Stakeholders consulted from all constituencies confirmed that the decision to maintain reconciliation was deliberate given the perceived added value, in an environment where trust in unilateral disclosures had been relatively low. The EITI Report describes the MSG's approach to selecting material revenue streams and companies for reconciliation, and lists material entities' names and describes the material revenue streams. Although the MSG appears to have added non-material companies to the scope of reconciliation, there is sufficient information in the EITI Report to demonstrate that all companies making material payments to government were included in the scope of reporting. Stakeholder consultations noted that the additional non-material companies had been included in the scope of reporting given that they were involved in transactions covered by EITI Requirements other than the reconciliation of company payments and government revenues.</p> <p>Although the EITI Report and scoping study only provide the government's unilateral disclosures of total revenues per receiving government entity, not</p>

	<p>by revenue stream, which hinders the ability to calculate the reconciliation coverage per revenue stream, it appears that all revenue streams listed in Requirement 4.1.c have been considered and only excluded based on quantitative materiality grounds. All material government entities were reported, and the EITI Report lists the names of the eight out of 11 material companies that did not report (including six in mining, and two in oil and gas), as well as the materiality of each non-reporting company's payments to government.² The high number of non-reporting material companies is a concern however and implies that the reconciliation coverage was significantly lower than the 89% of total government revenues in mining and 100% of revenues in oil and gas that were meant to be covered by the reconciliation. Indeed, non-reporting companies included larger mining license-holders such as cement producer Lafarge Holcim. The lack of reporting by oil and gas companies is a minor concern, given the low value of payments to government from the sector. Several stakeholders consulted highlighted the context for the production of the latest EITI Report, which had taken place during the COVID-19 pandemic when several companies had ceased operations. However, other stakeholders highlighted with concern the lack of reporting by mining license-holders that had been the source of public debate in recent years, including Nyala Mining Limited and Ilomba Granite Mining. Stakeholder consultations noted that the IA and national secretariat had followed up with non-reporting companies, but that they had simply failed to report despite pledging to do so. However, stakeholders consulted confirmed that discrepancies in the reconciliation of payments from companies that did report were not considered significant and did not affect the comprehensiveness or reliability of reconciled data, given the provision of government disclosures of revenues. The EITI Report provides a partial overview of the status of audits of material extractive companies' financial statements covering the period under review but does not provide guidance on accessing these financial statements.</p>
<p>Infrastructure provisions and barter arrangements (Requirement #4.3)</p> <p><i>Not applicable</i></p>	<p>The Secretariat's assessment is that Requirement 4.3 is not applicable in the period under review. Several stakeholders from all constituencies confirmed that the expenditures required of Nyala Mines Ltd in accordance with its license should be categorised as social expenditures rather than barter-type infrastructure provisions. Thus, several stakeholders from all constituencies considered that the objective of transparency in barter-type agreements was not applicable to Malawi in the period under review.</p> <p>While the 2018-20 EITI Report refers to an agreement between the government and Nyala Mines Ltd that it categorises as containing barter-type infrastructure provisions, the description of this agreement does not indicate any transactions of physical goods or services in exchange for license awards or the physical delivery of extractive commodities, but rather a series of contractually mandated social expenditures (<i>see Requirement 6.1</i>). Thus, the Secretariat does not find any evidence of barter-type infrastructure provisions active in Malawi in the period under review. Several stakeholders consulted noted that Nyala Mines' license had expired recently and that none of the social expenditures mandated by the license agreement had been implemented in practice.</p>

² The material companies that did not participate in EITI reporting for 2018-20 include: Mota Engil Ltd, Lafarge Cement Company Ltd, Strabag International Limited, Cement Products (MW) Ltd, Nyala Mining Limited, Ilomba Granite Mining, RAK GAS MB45 Limited, HAMRA Oil Holdings Limited, AKL Timber Processing, Vizara Plantation.

<p>Transportation revenues (Requirement #4.4)</p> <p><i>Not applicable</i></p>	<p>The Secretariat's assessment is that Requirement 4.4 is not applicable in the period under review. Stakeholders consulted did not express any views on whether the government collected any revenues from the transportation of mineral commodities. The Secretariat's view is that the objective of ensuring transparency in government revenues from the transit of oil, gas and minerals is not applicable in Malawi in the period under review given that the government does not collect any such revenues at present. This is the same situation as assessed in the previous Validation.</p> <p>The 2018-20 EITI Report confirms that all minerals produced in Malawi are transported by trucks owned and operated by the mining companies, which implies that transport revenues accruing to the government are not material. However, the report also describes a concession agreement concluded by the government with Vale in 2011, which allowed the Brazilian mining company to build a 136.5km railway through Malawi to link the company's Mozambique mine near Moatize to the deep-water port of Nacala in Mozambique. The railway, which started operations in 2016, is described as a concession held by Vale, which implies that the company would make railway concession fee payments to the government rather than paying the government for the transportation of mineral commodities.</p>
<p>Level of disaggregation (Requirement #4.7)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.7 is mostly met. While most stakeholders consulted did not express particular views, the IA considered that there were still gaps with the objective of disaggregation in public disclosures of company payments and government revenues from oil, gas and mining. The Secretariat's view is that EITI reporting could be used as a means of tracking implementation of national laws requiring the ring-fencing of tax revenues per project, but that the objective of enabling the public to assess the extent to which the government can monitor its revenues as defined by the mining legal and fiscal framework has not yet been fulfilled.</p> <p>The 2018-20 EITI Report describes the legal reforms to the Taxation Act in 2016 with amendments to the mining fiscal regime that ring-fence tax liabilities per mining project. However, these provisions have not been implemented to date given continued reflection on how to apply them retroactively to pre-existing license-holders. However, the EITI Report does not address the project-level disaggregation of non-tax revenues specific to the mining, oil and gas sectors such as license fees and royalty. Stakeholder consultations confirmed that non-tax revenues levied on the extractive industries were at a project level. Malawi EITI's disclosures of financial data on company payments and government revenues are disaggregated by government entity, revenue stream and company, they are not yet disaggregated by project for non-tax revenue streams that are levied on a project (license) level. The latest EITI Report only recommends that the MSG undertakes a study of project-level reporting, rather than providing any detailed overview or concrete recommendations related to project-level disclosures.</p>
<p>Data timeliness (Requirement #4.8)</p> <p><i>Fully met</i></p>	<p>The Secretariat's assessment is that Requirement 4.8 is fully met. Several stakeholders highlighted the coverage of two fiscal years in the latest MWEITI Report as a means of ensuring the timeliness of EITI reporting. However, others considered that EITI data would be more useful if published on a timelier basis. The Secretariat's view is that Malawi has met the Board-approved timelines for its EITI disclosures and that the objective of</p>

	<p>sufficiently timely publication of data to be relevant to inform public debate and policymaking has been fulfilled.</p> <p>Despite an extension request granted in July 2021, Malawi has published EITI Reports within the Board-approved timelines, with its 4th (2017-18) MWITI Report published in December 2019 and its 5th (2018-20) MWEITI Report published in December 2021. The MSG has consistently documented its approval of the reporting period and method of accounting for Malawi EITI financial data.</p>
<p>Data quality and assurance (Requirement #4.9)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 4.9 is mostly met. Opinions of stakeholders consulted were split over whether the objective of ensuring the reliability of disclosures of company payments and government revenues from oil, gas and mining had been fulfilled. Several civil society stakeholders expressed scepticism over the reliability of EITI data given the lack of trust in government systems. Government officials consulted considered that the objective had been fulfilled given the lack of material discrepancies in reconciliation and the lack of adverse National Audit Office (NAO, the Supreme Audit Institution) opinion on public accounts in recent years.</p> <p>The Secretariat's view is that gaps in adherence to agreed quality assurances for EITI disclosures and the lack of sufficient review of government audit and assurance practices indicate that the broader objective for the EITI to contribute to strengthening routine government and company audit and assurance systems and practices has not yet been fulfilled.</p> <p>Malawi's Auditor General publishes annual reports on public accounts, although audited financial statements of extractive companies do not appear publicly accessible. Malawi has used its most recent (2018-20) EITI reporting to provide a review of government and extractive company audit procedures but has only provided a review of company audit practices in the period under review, not of government audit practices. Malawi EITI has opted for a "flexible" EITI reporting approach for the 5th (2018-20) MWEITI Report, although this implied maintaining the conventional EITI reconciliation combined with more forward-looking information on the impact of the COVID-19 pandemic.</p> <p>The report describes the quality assurances agreed for EITI reporting and the level of adherence with the required documentation, with information on the materiality of payments from non-complying companies. This indicates that four of the 16 material companies provided the required quality assurances for their EITI reporting, while all material government entities provided these assurances. However, the high number of companies (12 of 16 material companies) that did not comply with the agreed quality assurances is a concern. The EITI Report is transparent about weaknesses in adherence to quality assurances for EITI reporting and provides recommendations for strengthening adherence. The updated version of the 2018-20 EITI Report includes a statement on the comprehensiveness and reliability of financial data disclosed by extractive companies that participated in EITI reporting, but not on the overall comprehensiveness and reliability of financial data on all company payments and government revenues. Therefore, the findings of the reconciliation do not seem to have led to any broader conclusions regarding the completeness and reliability of data on total revenues from the extractive industries. The report does not</p>

	<p>use its recommendations to cover suggestions related to strengthening government and company audit and assurance practices and financial disclosures. All information in Malawi's EITI reporting appears clearly sourced, with mechanisms established for the confidentiality of information pre-reconciliation and documentation of the MSG's approval of the ToR for the IA and reporting templates.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 4.1, Malawi should ensure public disclosures of all material payments by oil, gas and mining companies to governments and all material revenues received by governments from oil, gas and mining companies ("revenues") to a wide audience in a publicly accessible, comprehensive and comprehensible manner. Unless there are significant practical barriers, the government is required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of EITI implementation, including revenues that fall below agreed materiality thresholds. Where this data is not available, Malawi EITI should draw on any relevant data and estimates from other sources in order to provide a comprehensive account of the total government revenues. All oil, gas and mining companies making material payments to the government are required to comprehensively disclose these payments in accordance with the agreed scope. A company should only be exempted from disclosure if it can be demonstrated that its payments are not material. To strengthen implementation, Malawi may wish to consider ways of institutionalising the EITI through legislative reforms to provide a robust basis for ensuring the comprehensive disclosure of all material extractive company payments to government. Companies are expected to publicly disclose their audited financial statements or the main items (i.e., balance sheet, profit/loss statement, cash flows) where financial statements are not available. • To strengthen implementation, Malawi is encouraged to consider, on an annual basis, whether there are any agreements, or sets of agreements involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. To achieve this, Malawi EITI needs to gain a full understanding of the terms of the relevant agreements and contracts, the parties involved, the resources pledged by the state, the value of the balancing benefit stream (e.g., infrastructure works), and the materiality of these agreements relative to conventional contracts. Where Malawi EITI concludes that these agreements are material, it is required to ensure that EITI implementation addresses these agreements and disclosures provide a level of detail and disaggregation commensurate with the other payments and revenue streams, in accordance with Requirement 4.3. • To strengthen implementation, Malawi is encouraged to consider whether revenues from the transportation of oil, gas and minerals collected by the government or material state-owned enterprises are material. Where material, such transportation revenues received are expected to be disclosed in accordance with Requirement 4.4. • In accordance with Requirement 4.7, Malawi should ensure that financial data disclosed through the EITI is disaggregated by project, where such government revenues are levied at a project level in practice, particularly if legal tax ring-fencing provisions have yet to be implemented. If multiple agreements are substantially interconnected, Malawi must clearly identify and document which instances are considered a single project. To strengthen implementation, Malawi is encouraged to use its EITI reporting as a diagnostic of government reforms to implement tax ring-fencing provisions of the mining fiscal regime in the 2016 Taxation Act. • To strengthen implementation, Malawi is encouraged to explore ways, including by enhancing systematic disclosures of financial EITI data by government and companies, to further improve the timeliness of EITI disclosures to meet public demand for government revenue data that can help inform public debate and policymaking. 	

- In accordance with Requirement 4.9, Malawi should ensure that an assessment is publicly disclosed of whether the payments and revenues disclosed through annual EITI reporting are subject to credible, independent audit, applying international auditing standards. The expectation is that government and company disclosures as per Requirement 4 are subject to credible, independent audit, applying international auditing standards. The expectation is that disclosures as per Requirement 4 will include an explanation of the underlying audit and assurance procedures that the data has been subject to, with public access to the supporting documentation and recommendations for strengthening underlying government and company audit and assurance procedures and practices. To strengthen implementation, Malawi is encouraged to use its annual EITI reporting to make recommendations for strengthening government and company audit and assurance practices, and their financial disclosures.

Revenue management (Requirements 5.1, 5.3)

Overview of progress in the module

The overwhelming majority of government extractive revenues are recorded in the national budget, being collected by the Ministry of Finance, the MRA and the Department of Mines. The sole exception appears to be contributions to the Petroleum Training Fund, a topic that appears to elicit significant stakeholder interest, particularly from civil society. While Malawi has made progress in disclosing annual contributions of the PTF by material companies, it has not disclosed information on the management of these funds, where available, with reference to a financial report. There is scope for Malawi EITI to use its EITI process to address this type of topic of public interest.

There is equally an opportunity for Malawi EITI to expand the scope of its EITI disclosures to more timely information on assumptions underpinning budget-making processes. Malawi has already used its EITI reporting to describe the budget and audit cycles, and more recently the 2018-2020 EITI Report disclosed more forward-looking information on the impact of the COVID-19 pandemic on the extractive industries covering information more recent than July 2020. Yet there appears to be significant stakeholder interest in public debate around issues of revenue sustainability to which the EITI could equally contribute in Malawi.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
<p>Distribution of extractive industry revenues (Requirement #5.1)</p> <p><i>Mostly met</i></p>	<p>The Secretariat's assessment is that Requirement 5.1 is mostly met. Opinions of stakeholders consulted were split over whether the objective of traceability of extractive revenues to the national budget and ensuring the same level of transparency and accountability for extractive revenues that are not recorded in the national budget had been fulfilled. Several government officials considered that all government revenues were recorded in the national budget, although several CSOs consulted raised significant concerns over the management of the Petroleum Training Fund and the lack of transparency in the management of these funds.</p>

	<p>Malawi has used its EITI reporting to trace extractive industry revenues collected by government to the national budget. The latest (2018-2020) EITI Report provides confirmation that the majority of government extractive revenues are transferred to the single Treasury account and recorded in the national budget, with the exception of oil and gas companies' contributions to the Petroleum Training Fund. In its comments on the draft assessment, the MWETI MSG indicated that the updated version of the 2018-2020 EITI Report includes some information on the Forest Development Management Fund, Petroleum Development Fund and Railways Transport Fund. However, the EITI Report does not provide the value of funds in the Petroleum Training Fund in 2018-20, nor provide any detailed explanation of the management of revenues in this fund, with reference to relevant financial reports. The lack of information on the value of contributions to the Petroleum Training Fund is a similar gap to that identified in the previous Validation. Stakeholder consultations confirmed the lack of publicly accessible financial reports related to the management of the fund. Several CSOs criticised this lack of transparency in the management of these contributions and considered that this represented a form of extractive revenues that were not recorded in the national budget. Malawi has not yet used its EITI reporting to describe the national revenue classification system, which would facilitate cross-referencing of EITI financial data with budget documents.</p>
<p>Revenue management and expenditures (Requirement #5.3)</p> <p><i>Not assessed</i></p>	<p>The Secretariat's assessment is that Requirement 5.3 remains not assessed in Malawi in the period under review, given that Malawi has made progress on some, but not yet all, of the encouraged aspects of Requirement 5.3. Several stakeholders called for more EITI disclosures on expenditures funded by extractive revenues, with several CSOs considering that the objective of strengthening public oversight of the use of extractives revenues to fund public expenditures had not yet been fulfilled. Stakeholders consulted from other constituencies did not express views on progress towards this objective. The Secretariat's view is that Malawi has made some progress in mapping the public availability of information on the budget and audit procedures but has not yet used its EITI reporting to disclose additional information to clarify the assumptions underlying the budget process.</p> <p>The 2018-20 EITI Report provides information on the budget and audit process, including links to relevant audit reports. However, the EITI Report does not clarify whether or not there are any extractives revenues earmarked for specific programmes or geographic regions in Malawi, although the MSG's template submission for this Validation indicates that there are none at present. However, the report does not appear to provide timely information from the government that would enhance public information and debate around issues of revenue sustainability.</p>
<p>New corrective actions and recommendations</p>	
<ul style="list-style-type: none"> • In accordance with Requirement 5.1, Malawi should indicate which extractive industry revenues, whether cash or in-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., Petroleum Training Fund. • To strengthen implementation, Malawi is encouraged to use its EITI reporting as a means of ensuring timely government disclosures that would further public understanding and debate around issues of revenue sustainability and resource dependence, including the assumptions underpinning forthcoming years in the budget cycle and relating to projected production, 	

commodity prices and revenue forecasts arising from the extractive industries and the proportion of future fiscal revenues expected to come from the extractive sector.

Subnational contribution (Requirements 4.6, 5.2, 6.1)

Overview of progress in the module

There continue to be no payments or transfers of revenues from extractive companies in Malawi in the period under review, as per the previous Validation. However, there is significant public interest in social expenditures by mining companies, which represent the sole direct contribution to communities at the local level. Malawi has used its EITI reporting to make progress on disclosing social expenditures by mining and forestry companies, albeit with the same weaknesses in reporting as for all other payments (see *Requirement 4.1*) and without sufficient distinction between mandatory and voluntary expenditures. There is scope for Malawi to use its EITI implementation to track implementation of Community Development Agreements (CDAs) required with the new Mines and Minerals Law, which will include social expenditure requirements that the EITI would categorise as mandatory and required to be publicly disclosed (given the legal requirement for a CDA). The disclosure of CDA-related payments, together with publication of the CDAs themselves, could help maintain and strengthen mining companies' social license to operate.

Progress by requirement and corrective actions

The detailed assessment of progress in addressing each EITI Requirement or corrective action is available from the data collection templates referenced in the annex to this report.

EITI Requirement and assessment	Summary of progress in addressing the EITI Requirement
Subnational payments (Requirement #4.6) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 4.6 remains not applicable in Malawi in the period under review. As confirmed in stakeholder consultations, the 2018-20 EITI Report notes that none of the subnational governments in Malawi collects any direct or indirect revenues from extractive companies.
Subnational transfers (Requirement #5.2) <i>Not applicable</i>	The Secretariat's assessment is that Requirement 5.2 remains not applicable in Malawi in the period under review. As confirmed in stakeholder consultations, the 2018-20 EITI Report notes that there are no subnational transfers of extractive revenues in Malawian legislation.
Social and environmental expenditures (Requirement #6.1) <i>Mostly met</i>	The Secretariat's assessment is that Requirement 6.1 is mostly met. There were differing opinions among stakeholders consulted over whether the objective of enabling public understanding of extractive companies' social and environmental contributions had been fulfilled. While some government and industry stakeholders consulted considered that the transparency on social expenditures achieved through EITI reporting was sufficient, several CSOs consulted expressed concerns over what they considered insufficient transparency on social expenditures. Several CSOs questioned whether mining companies reported accurately on the cost of their social expenditure in their public disclosures, noting that the evidence of social

	<p>investments on the ground often did not match the claimed investment. While several stakeholders considered that extractive companies were not required to make any payments to government related to the environment at present, other stakeholders consulted called for a more comprehensive review of applicable laws and regulations before concluding that there were no such payments to government.</p> <p>Malawi has used its EITI reporting to disclose both mandatory and voluntary social expenditures, although it has not sufficiently clarified the legal and contractual basis for some mandatory social expenditures disclosed. While all of the information listed in Requirement 6.1.a is provided for the two companies' mandatory social expenditures disclosed in the 2018-20 EITI Report, the comprehensiveness of these disclosures is unclear. Some of these reported mandatory social expenditures include payments on behalf of employees more akin to social security contributions (such as pension contributions on behalf of employees) than social expenditures. Stakeholder consultations noted that the legal provisions requiring mining companies to conclude Community Development Agreements (CDAs) only came into force in 2019 with the amendments to the Mines and Minerals Act, but that these were only required of larger mining companies. The MSG does not yet appear to have categorised which mining companies are required to conclude such CDAs in practice, however, nor provide any commentary on whether such CDAs were effectively concluded in 2019.</p> <p>While stakeholders consulted agreed that all social expenditures codified in a CDA would be considered mandatory, they explained that these expenditures would not have been effective in the period under review (2018-20). Government officials noted that regular company reporting on the status of implementation of CDAs would be required from all relevant companies, although it was unclear from consultations whether the responsibility for monitoring adherence with the terms of CDAs would rest with the Ministry of Mining or with the Ministry of Local Governments. None of the stakeholders consulted raised concerns over the idea of publishing the full text of CDAs in future, although this had not yet been discussed or agreed to date. Stakeholder consultations also confirmed that the contractually mandated social expenditures required of Nyala Mining Ltd should be considered as forms of mandatory social expenditures rather than barter-type infrastructure provisions as categorised in the 2018-20 EITI Report. However, there was consensus among stakeholders consulted that none of these expenditures had been undertaken by Nyala Mining Ltd, which some stakeholders considered was a reason for the non-renewal of the company's mining license.</p> <p>With regards to environmental payments to government, the 2018-20 EITI Report does not refer to any such payments although the MSG's 'Transparency' template submission for this Validation noted that such requirements were not applicable to Malawi in the period under review. However, it is unclear whether Malawi EITI considered any revenues collected from extractive companies collected by government entities other than the MRA, DOM or TEVETA that may be related to the environment. Although Annex 8 of the 2018-20 EITI Report provide two extractive companies' disclosures of environmental payments, these appear to be environmental expenditures for the benefit of non-government beneficiaries (such as expenditures for tree planting) rather than forms of payments to government related to the environment. However, the 2018-20 EITI Report notes that provisions of the 2017 Environmental Management Bill no. 23</p>
--	--

	<p>related to the requirement for Environmental and Social Impact Assessments came into force in 2019, implying that payments to government related to these assessments became effective in 2019. It is unclear whether such environmental payments to government were material in the period under review, however. Thus, the comprehensiveness of Malawi EITI's review of environmental payments to government is unclear from the EITI Report and other MWEITI documents. The Secretariat's view is that there have been improvements in MWEITI disclosures related to social expenditures, in terms of the granularity of disclosures, although there remain concerns over the comprehensiveness of disclosures of both mandatory social expenditures and potential environmental payments to government, if they exist in practice.</p> <p>In its comments on the draft assessment, the MSG highlighted that the updated version of the 2018-2020 Malawi EITI Report includes data on social and environmental expenditures for the material companies included in the scope of reporting. However, the comments don't seem to elaborate on the classification of such payments as well as the comprehensiveness of the disclosed data.</p>
New corrective actions and recommendations	
<ul style="list-style-type: none"> • In accordance with Requirement 6.1.a, Malawi should ensure comprehensive public disclosure of material social expenditures by companies that are mandated by law or the contract with the government that governs the extractive investment, with the detailed information mandated by Requirement 6.1.a for all such disclosures. Given the public interest in the social impacts of extractive projects in Malawi, such disclosures on social expenditures would help build trust around the implementation of the Minerals and Mines Act and strengthen public oversight of the implementation of Community Development Agreements. In accordance with Requirement 6.1.b, Malawi should ensure comprehensive public disclosure of any extractive companies' material payments to government related to the environment collected by agencies other than the Ministry of Finance, the Malawi Revenue Authority and the Department of Mines. Where all three constituencies in Malawi EITI agree that discretionary social and environmental expenditures and transfers are material, the MSG is encouraged to develop a reporting process with a view to achieving transparency commensurate with the disclosure of other payments and revenues. Malawi EITI is encouraged to agree on a procedure to address data quality and assurance of this information in accordance with Requirement 4.9. 	

Background

Overview of the extractive industries

An overview of the extractive industries is accessible on the [country page](#) of the EITI website for Malawi.

History of EITI implementation

The history of implementation is accessible on the [country page](#) of the EITI website for Malawi.

Explanation of the Validation process

An overview of the Validation process is available on the EITI website.³ The [Validation Guide](#) provides detailed guidance on assessing EITI Requirements, while the more detailed [Validation procedure](#) includes a standardised procedure for undertaking Validation by the EITI International Secretariat.

The International Secretariat's country implementation support team include Edwin Warden and Gilbert Makore, while the Validation team was comprised of Olesia Tolochko, Ida Krog and Alex Gordy. The internal review for quality assurance was conducted by Gilbert Makore, Joanne Jones, and Bady Baldé.

Confidentiality

The detailed data collection and assessment templates are publicly accessible, on the internal Validation Committee page here.

The practice in attribution of stakeholder comments in EITI Validation reports is by constituency, without naming the stakeholder or its organisation. Where requested, the confidentiality of stakeholders' identities is respected, and comments are not attributed by constituency. This draft report is shared with stakeholders for consultation purposes and remains confidential as a working document until the Board takes a decision on the matter.

Timeline of Validation

The Validation of Malawi commenced on 1 January 2022. A public call for stakeholder views was issued on 15 November 2021. Stakeholder consultations were held virtually on 2-18 February 2022. The draft Validation report was finalised on 10 May 2022. On 6 June, the MSG requested an extension on the period for comments on the draft Validation report, which was granted to 27 June 2022. Following comments from the MSG received on 27 June 2022, the Validation report was finalised for consideration by the EITI Board.

³ See <https://eiti.org/validation>

Resources

- Validation data collection file – [Stakeholder engagement](#)
- Validation data collection file – [Transparency](#)
- Validation data collection file – [Outcomes and impact](#)