

ACTIVITIES DELIVERED AND OUTCOMES



## ANNUAL PROGRESS REPORT

# 2016



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## **I. ABBREVIATIONS AND ACCRONYMS**

ACB	Anti-Corruption Bureau
CSO	Civil Society Organization
DoF	Department of Forestry
DoM	Department of Mines
EITI	Extractive Industries Transparency Initiative
FIA	Financial Intelligence Authority
IA	Independent Administrator (Reconciler)
MRA	Malawi Revenue Authority
MGGSP	Mining Growth and Governance Support Project
MWEITI	Malawi Extractive Industries Transparency Initiative
MSG	Multi Stakeholder Group
NAO	National Audit Office
PEPA	Petroleum Exploration and Production Act

## 2. INTRODUCTION

This annual progress report communicates the efforts that Malawi has undertaken during 2016 to attain compliant status with EITI Requirements. The Report also includes the progress that has been made in achieving the objectives that are set out in the MWEITI Workplan.

Malawi was admitted as an EITI candidate country in October 2015. Government and its development partners are currently funding the implementation of various activities that are essential for Malawi to become EITI compliant.

The activities that have been outlined in this annual report have enabled Malawi to acquire good experience in the implementation of the EITI process towards achieving EITI compliance. Therefore, the report gives a good snapshot of some of the efforts and inputs that have been made towards MWEITI achieving the EITI Compliant Status.

### **3. GENERAL ASSESSMENT OF YEAR'S PERFORMANCE**

The MWEITI MSG has ensured that Malawi makes meaningful progress towards attaining EITI Compliant Status. After achieving EITI Candidacy in 2015, a plan of activities for 2016 was agreed upon and implemented. These activities ranged from setting the MWEITI national secretariat office to procuring the Independent Administrator (Reconciler) for the production of Malawi's first EITI Report.

Malawi has made this progress through the support of its development partners namely, GIZ, DFID and World Bank who have supported the following activities:

- Establishment of a national secretariat office;
- Development of the Beneficial Ownership Disclosure (BOD) Roadmap;
- Development of an Open Data Policy;
- Capacity building programs for the MSG and Secretariat;
- Conducted study tours to other EITI countries;

#### 4. ASSESSMENT OF PERFORMANCE AGAINST TARGETS AND ACTIVITIES SET OUT IN THE MWEITI WORKPLAN

Activities in the Workplan	Target	Progress made (Report)
<b>Objective 1: EITI-compliant status achieved.</b>		
Official launch of MWEITI.	EITI launched.	The MSG had shifted the dates of the launch to September 2016. Due to other pressing constraints, however, the event has been re-shifted to 27 July, 2017 to coincide with the launch of Malawi's first EITI Report. All necessary arrangements are in place for the event.
Coordination and pledging round with international partners, including World Bank, AfDB, EU, BMZ/GIZ, Royal Norwegian Embassy, private foundations.	Donor support earmarked and committed.	DFID funding was secured through GIZ support. The contract is coming to an end in June 2017; however, arrangements are in place to extend the contract to December 2017. World Bank has been assisting with funding occasionally through the MGGSP. Nevertheless, funding remains a challenge. Some activities earmarked for implementation in 2016 were shifted to 2017 to take into account the financial and human resources availability. Plans are being developed to enhance pledging round with international partners. The World Bank requires a long-term Strategic Plan in order to secure funding for the Initiative. The current financing modality with GIZ is causing administrative and implementation challenges for the Initiative due to some funding delays.
Legal and practical obstacles to implementation: research and identify any legal, regulatory or other practical obstacles that may hinder or prevent the implementation of the EITI process and reporting.	Legal and practical obstacles conducted.	This activity had been scheduled for implementation in 2016. Due to unavailability of resources, however, it was not conducted. This is one of the activities that have been rescheduled for implementation in 2017.
Scope of EITI implementation: research and identify which natural resources, revenue/payment streams, companies and state authorities	Scope of EITI implementation defined.	The second scoping study was conducted by the IA (Reconciler) in November 2016 in addition to the study that was commissioned by the MWEITI MSG in 2015. The two Reports are available.

should be included in the EITI Report.		
Preparatory reporting template drafted for IA (Reconciler).	Preparatory reporting template produced.	The preparatory reporting template was drafted and used at a workshop that was held on 18 <sup>th</sup> November, 2016 where companies were trained in EITI reporting. The second workshop held on 10 <sup>th</sup> January, 2017 was conducted together with the IA where companies were trained further in EITI reporting and the template was finalized.
ToRs for IA (Reconciler) approved by MSG, including decision of materiality threshold.	ToRs for IA (Reconciler) developed.	The ToRs for the IA (Reconciler) were adopted at an 8 <sup>th</sup> Extra-ordinary Meeting of the MSG held at the Ministry of Finance, Economic Planning and Development on 3 <sup>rd</sup> June, 2016 where a threshold of K 1, 000, 000.00 was discussed, approved and adopted, with agreement to revise the figure should there be need to do so.
IA is contracted. Procurement started in a timely manner (6-9 months).	IA (Reconciler) contracted.	On 30 <sup>th</sup> July, 2016 the agreement with the IA was concluded.
MSG committee on contextual information makes sure that resource persons from relevant government agencies provide information.	Contextual information collected.	The activity began in November 2016 and was finalized early 2017. Face-to-face meetings were conducted with relevant government agencies to ensure that contextual information was supplied.
IA (Reconciler) to collect information from government and companies for reconciliation, and drafting of Report.	Report produced.	The activity was scheduled for implementation in 2017.
MSG endorses the first Report.	First EITI Report endorsed.	The activity was earmarked for implementation in 2017.
MSG publishes the first EITI Report.	First EITI Report published	The activity was scheduled for implementation in 2017.
Identify, investigate and address the cause of discrepancies in reconciliation and consider recommendations for improvement for the IA (Reconciler).	Finding consolidated and submitted to government.	The activity was scheduled for implementation in 2017.
<b>Objective 2: The MSG forms and strengthens partnerships between government/administration, companies and public for attracting quality investments.</b>		
Inform policy and legal reforms in accordance with Africa Mining	Harmonized policy and legal framework	Not yet pursued. However, in 2016 a stakeholder training workshop was

Vision (AMV), e.g. Mines and Minerals Act, Taxation Act.	for investors.	organized on Africa Mining Vision through the Department of Mines where the MWEITI Secretariat was invited.
Checklist for license and contract awarding government agencies concerning the due diligence of investors.	Due diligence checklist developed.	Not yet pursued.
Popularize the Beneficial Ownership Disclosure (BOD) Roadmap, including the definitions of Beneficial ownership and Politically Exposed Persons (PEPSs) among stakeholders.	Beneficial Ownership information published.	The Beneficial Ownership Disclosure (BOD) Roadmap was developed in a participatory process through four (4) workshops that were organised in December 2016 and involved Media, CSOs, Companies and Government. The Roadmap has been presented at various workshops involving the aforementioned stakeholders.
Contract and licenses are publicly disclosed on the MWEITI website in accordance with requirement 3.12.	Contracts and licenses are disclosed on line.	Implementation of this activity was shifted to 2017.
MSG visit to mine sites to strengthen partnerships and technical knowledge and competence of members.	Visit to mine sites in Malawi is conducted.	This activity had been scheduled to take place on 30 <sup>th</sup> September 2016, however, due to financial challenges; the activity has been rescheduled to take place in the fourth quarter of 2017.
<b>Objective 3: Increased revenue base and socio-economic impacts from extractive industries.</b>		
Report on fiscal regime and socio-economic impacts with gender disaggregated data (sector-wide situation and risk analysis) along the decision/value chain in the extractive sector.	Decision/value chain in the extractive sector in terms of revenue management and benefits for the people is assessed.	This activity had been earmarked for implementation in 2016. However, implementation has been shifted to later in 2017 or early 2018 to secure funds for its execution.
Conduct community meetings to discuss revenue and non-revenue issues affecting communities in mining areas e.g. members of district assemblies or local administrators.	Institutionalized dialogue of national government, companies and local communities is assessed and improved	These activities await identification of funds and have been rescheduled to start later in 2017 or early 2018 when the Communications Strategy will be implemented in full.
<b>Objective 4: Strengthened trust among stakeholders of natural resource management</b>		
Measure the effect of MWEITI on level of trust in the extractive sector, representative, qualitative, quantitative and scientifically robust survey sets baseline	Baseline and mid-term assessment of stakeholder trust conducted.	This activity had been allocated for implementation in 2015. It had been rescheduled for implementation in 2016. However, funds have not been identified yet and it has been rescheduled for

before starting with MWEITI - Same survey conducted after first EITI Report.		implementation later in 2017 or early 2018.
Form a Committee on Communication and Engagement.	Committee formed.	A committee on Communications and Stakeholder Engagement was formed at an Extra-ordinary Meeting of the MSG in September, 2016 and has been instrumental in organizing various engagement activities involving various stakeholders.
Form a Media Taskforce.	Media Taskforce formed.	In addition to establishing the MSG Committee on Communications and Stakeholder Engagement, a Media Taskforce was formed in December, 2016 to enhance impact of EITI communication, and was endorsed by the Committee on behalf of the MSG.
Develop a fully costed Communication and Engagement Strategy and Workplan for endorsement by MSG.	Fully costed Communication and Engagement Strategy and Workplan developed.	This activity has been implemented in 2017 and will be reported in 2017 Annual Progress Report.
Ensure that Communication and Engagement Strategy and Workplan is implemented and e.g. MWEITI website is developed and updated in a timely manner to provide relevant information, customised (content, format, channel) for target groups; conduct outreach and capacity building activities with targeted stakeholders; involvement and mobilization capacities of stakeholders beyond the MSG members.	Communication and engagement strategy and Workplan implemented.	Implementation was shifted to 2017.
Develop a fully costed Strategic Plan	Fully costed Strategic Plan developed	This activity has been conducted in 2017 and will be reported in 2017 Annual Progress Report.

## 5. ASSESSMENT OF PERFORMANCE AGAINST EITI REQUIREMENTS

Requirements	Progress
<p><b>EITI REQUIREMENT 1</b> <b><i>Oversight by the Multi-Stakeholder Group</i></b></p>	<p>In 2016, the MSG discussed and approved the following crucial activities among others:</p> <ol style="list-style-type: none"> <li>1. Procurement of the IA (Reconciler)</li> <li>2. Preparation of the Annual Workplan which was due on 1<sup>st</sup> January 2017</li> <li>3. Preparation of the Open Data Policy which was due on 1<sup>st</sup> January 2017</li> <li>4. Preparation of the Beneficial Ownership Disclosure (BOD) Roadmap which was due on 1<sup>st</sup> January 2017</li> <li>5. Procured the Independent Administrator (Reconciler)</li> </ol> <p>Oversight of MSG was exercised accordingly in terms of participation and approval processes.</p>
<p><b>EITI REQUIREMENT 2</b> <b><i>Legal and institutional framework</i></b>, including allocation of contracts and licenses. EITI requires disclosures of information related to the rules for how the extractive sector is managed, enabling stakeholders to understand the laws and procedures for the award of exploration and production rights, the legal, regulatory and contractual framework that apply to the extractive sector, and the institutional responsibilities of the state in managing the sector.</p>	<p>This activity has not been implemented. It had been scheduled for implementation in 2016. Due to financial constraints, this activity has been rescheduled to be implemented later in 2017.</p> <p>However, two scoping studies have been implemented since 2015 which have enabled the MSG to understand some challenges which would affect EITI Reporting including legal issues and framework available.</p>
<p><b>EITI REQUIREMENT 3</b> <b><i>Exploration and production.</i></b></p> <p>The EITI requires disclosures of information related to exploration and production, enabling stakeholders to understand the potential of the sector.</p>	<p>The two scoping studies which have been conducted have painted a picture for stakeholders to understand the potential of the extractive sector. Weaknesses have been identified in the regulatory framework. There is need to strengthen the Petroleum Exploration and Production Act of 1983 and the Mines and Minerals Act of 1981 as recommended by the EITI Report.</p> <p>A Petroleum Policy is being developed, which is a step towards amending PEPA. The new Mines and Minerals Bill was developed and is yet to be tabled in parliament.</p>
<p><b>EITI REQUIREMENT 4</b> <b><i>Revenue collection.</i></b></p> <p>Comprehensive reconciliation of company payments and government revenues from the</p>	<p>The two scoping studies provide a picture of the revenue collection system. However, there are recommendations for improving the revenue collection system. Changes to this system are</p>

extractive industries.	expected when the new Mines and Minerals Bill is enacted.
<b>EITI REQUIREMENT 5</b> Extractive industries revenue allocations.	The two scoping studies also provide an understanding of the revenue allocation system. There are also recommendations for improving this system. Changes to this system are expected when the new Mines and Minerals Bill is enacted.
<b>EITI REQUIREMENT 6</b> Contribution and impact of extractive industries on social and economic spending	A baseline study on “Fiscal Regime and Socio-Economic Impacts with Genda Segregated Data (Sector-wide Situation and Risk Analysis)”, which was scheduled for implementation in 2016 had been shifted to later in 2017 or early 2018 in order to secure funds for its implementation.
<b>EITI REQUIREMENT 7</b> Communication and engagement - Outcomes and Impact of EITI Report	Since 2015, when Malawi was admitted as an EITI Candidate, MWEITI has implemented limited communications and stakeholder engagement activities.  Development of the Communications and Engagement Strategy was shifted to 2017.

## **6. OVERVIEW OF MSG'S RESPONSES TO THE RECOMMENDATIONS FROM THE RECONCILIATION REPORT**

The first reconciliation of company payments and government receipts for Malawi was scheduled for 2017. As such, this report contains no MSG responses to EITI Report recommendations.

## **7. SPECIFIC STRENGTHS OR WEAKNESSES IDENTIFIED IN THE EITI PROCESS**

### **STRENGTHS**

- a. MWEITI has effective governance structures that would foster transparency and accountability in the sector. These are a Multi-Stakeholder Group (MSG) comprising corporate entities, Government entities CSOs as well as a Secretariat housed within the Ministry of Finance, Economic Planning and Development. In addition, MWEITI has a champion being Minister responsible for Finance;
- b. MWEITI has linkages to international partners/networks which enables it to have a wider base for information sharing and references;
- c. There is a political will and support for the initiative, and;
- d. EITI has been included in the Open Government Partnership Initiative as component five (5).

### **WEAKNESSES**

- a. MWEITI has a weak financial base and heavily relies on unstable donor support. This entails that the EITI implementation process is donor dependent such that, if donors decided to withdraw their support due to any problem, the continuity of the initiative would be uncertain;
- b. MWEITI Secretariat is operating as a Project Unit under Revenue Policy Division in the Ministry of Finance, hence there are some office space challenges affecting administrative activities;
- c. MWEITI operates on the premises of donor driven policies some of which are not motivating to stakeholders. For instance, staff at the Secretariat are hired on the premises of donor conditions instead of project terms hence negatively affecting the implementation;
- d. MWEITI does not have a legislation establishing it and as such, there is propensity that some of its decisions could be challenged, and;

- e. The project has only one vehicle instead of about 3 vehicles and it took long before it was procured.

## **THREAT**

- a. Weak infrastructure to support the growth of the sector/. For instance, Malawi experiences erratic energy/power supply which can disrupt operations of the industries;
- b. Availability of legislation and code of conduct promoting official secrecy in the public service, and;
- c. The regulatory framework is weak and outdated and does not promote disclosure of Beneficial Ownership of corporate entities.

## **OPPORTUNITIES**

- a. Proliferation of state institutions promoting transparency and accountability, including fighting corruption such as ACB, Office of the Director of Public Officer's Declarations, FIA, and NAO;
- b. Availability of the Access to Information Law, and similar legislation to counter money laundering and financial crimes;
- c. Potential for investment is high, prospects for oil and gas, rare earth and other mineral deposits;
- d. Corporate entities have a strong buy-in of the initiative, and;
- e. There is a strong presence of the CSOs and the media to promote EITI implementation in Malawi.

## **8. TOTAL COST OF IMPLEMENTATION**

The total cost of EITI implementation in Malawi includes MWEITI Secretariat support, procurement of an Independent Administrator by GIZ, procurement of one vehicle and external support by the World Bank through MGGSP. The annual total cost was estimated at US\$ 205,431.

## 9. ADDITIONAL COMMENTS

Malawi has made significant progress in EITI implementation despite some human and financial resource challenges that the Initiative continues to face. Look out for the 2017 Annual Progress Report for details on activities which have been implemented in 2017 including the preparation and publication of Malawi's first EITI Report. To-date, the country has met the following conditionalities towards attaining EITI Compliant Status:

- a. Government issued an unequivocal public statement of its intention to implement the EITI;
- b. Government appointed the Minister of Finance, Economic Planning and Development as the Champion of the implementation of the EITI in Malawi;
- c. Government made a commitment to work with civil society and companies, and the MSG was established to oversee the implementation of the EITI;
- d. The MSG developed and is maintaining a current work plan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board;
- e. Prepared an Annual Work Plan, which was published on 1<sup>st</sup> January, 2017;
- f. Developed the Open Data Policy, which was published 1<sup>st</sup> January, 2017;
- g. Developed the Beneficial Ownership Disclosure (BOD) Roadmap, which was published on 1<sup>st</sup> January, 2017, and;
- h. Compiled Malawi's first EITI Report which was published on 22<sup>nd</sup> April, 2017.

### **Malawi is now looking forward for:**

- a. Preparation of the Annual Work Plan due 1<sup>st</sup> January 2018;
- b. Preparation of the Second EITI Report due 22<sup>nd</sup> April 2018, and ;
- c. Validation of the implementation of EITI in Malawi to be carried out from 1<sup>st</sup> September 2018 by the International EITI Secretariat.

## **10. DISCUSSION OF THE EITI REPORT BEYOND THE MSG**

This Report covers the 2016 period and this section falls outside the scope of this report. Look out for the 2017 Annual Progress Report for details on MSG's discussion on Malawi's first EITI Report.

## II. DETAILS OF THE MEMBERSHIP OF THE MSG DURING THE PERIOD

Seven (7) MSG meetings were held in 2016. These were held on the following dates:

MSG Meeting – 3<sup>rd</sup> June, 2016

MSG Meeting – 29<sup>th</sup> April, 2016

MSG Meeting – 29<sup>th</sup> July, 2016

MSG Meeting – 2<sup>nd</sup> September, 2016

MSG Meeting – 22<sup>nd</sup> September, 2016

MSG Meeting – 2<sup>nd</sup> December, 2016

MSG Meeting – 27<sup>th</sup> December, 2016

	<b>Member/ Alternate Member</b>	<b>Name</b>	<b>Institution</b>	<b>Attendance of Meetings</b>	<b>Changes to Membership in the Year</b>
1	Member Chair	Crispin C. Kulemeka	Ministry of Finance, Economic Planning and Development	3 of 7	No changes
2	Alternate	Grecium Kandio	Ministry of Finance, Economic Planning and Development	1 of 7	Grecium Kandio Replaced George Harawa
3	Member	Peter Chilumanga	Ministry of Natural Resources, Energy & Mining (Department of Mines)	4 of 7	No changes
4	Member	Charles Maseya	National Audit Office	1 of 7	No changes
5	Alternate	George Chikwana	National Audit Office	4 of 7	No changes
6	Member	Bartwell Chingoli	Reserve Bank of Malawi	3 of 7	Has been replaced by Rabecca Mwale
7	Alternate	Rabecca Mwale	Reserve Bank of Malawi	4 of 7	No changes
8	Member	Mr. Mesheck Munthali	Bwanje Cement Company Ltd	7 of 7	No changes
9	Alternate	Mrs. Dina Longwe	Bwanje Cement Company Ltd	5 of 7	No changes
10	Member	Neville Huxham	Globe Metals & Mining	0 of 7	No changes
11	Alternate	Chris Ngwena	Globe Metals & Mining	4 of 7	No changes
12	Member	Burton Kachinjika	Mkango Resources Ltd	5 of 7	No changes

13	Alternate	Chikondi Mcheka	Mkango Resources Ltd	6 of 7	No changes
14	Member	Alec Sharland	Paladin (Africa) Ltd	1 of 7	Alec Sharland replaced Alan Cumming
15	Alternate	Grain Malunga	Paladin (Africa) Ltd	6 of 7	No Change
16	Member	Peter Pangani	Action Aid	0 of 7	Peter Pangani replaced Martha Khonje
17	Member	Success Sikwese	Catholic Commission for Peace and Justice	7 of 7	No change
18	Alternate	Martin Chiphwanya	Catholic Commission for Peace and Justice	1 of 7	Replaced Chris Chisoni
19	Member	Reinford Mwangonde	Citizens for Justice	0 of 7	No changes
20	Alternate	Rachel Etter-Phoya	Citizens for Justice	6 of 7	No changes
21	Member	Kossam Munthali	Foundation for Community Support Services	4 of 7	No changes
22	Alternate	Jabess Nyirenda	Foundation for Community Support Services	0 of 7	No changes
23	Observer	Davie Khonje	Malawi Revenue Authority	6 of 7	No changes