

# THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY MALAWI

## ARTICLE 9

### Public Procurement and Management of Public Finances

#### MALAWI (FOURTEENTH MEETING)

Measures taken to promote, in accordance with the fundamental principles of the legal systems, the independence of the supreme audit institution;

- Establishment by statute of the National Audit Office (Cap 37:01 Public Audit Act).
- Appointment of the Auditor General (Public Audit Act, 2018) – A competitive process where interviews are done, top three successful candidates are presented to the President for appointment and later confirmed by Parliament.
- Section 5 (4) of the Public Audit Act provides for independence of Auditor General.
- There is security of tenure of the Auditor General.

Measures taken to promote, in accordance with the fundamental principles of the legal systems, the independence of the supreme audit institution;

- *National Audit Office (NAO) is undertaking a reform to amend the constitution (under section 184) to ensure that it is consistent with the Public Audit Act (PAA). While the Constitution requires the AG to submit the report to Minister of Finance, who in turn should table it in Parliament, the Public Audit Act on the contrary mandates the AG to submit the report directly to Parliament. In the meantime, however, to abridge the inconsistency, AG submits a copy to Parliament as he is submitting his report to the minister of Finance.*
- *NAO has started implementing section 17 of the Public Audit Amendment Act starting with the 2023/24 Financial Year budget. According to the section, the AG submits his budget and business plan to Public Accounts Committee of Parliament which in turn forward the same with recommendation to the Minister of Finance. Upon finalising the process with the Minister of Finance, PAC provides feedback to the AG on his budget and business plan. This has greatly improved NAO' financial independence.*
- *Parliament has amended the Public Audit Act to allow the Auditor General to recruit, promote and discipline his staff besides the power to determine remuneration packages for his staff. Previously, the NAO did not have the autonomy to recruit its own staff thereby greatly affecting the capacity of the office in terms of the caliber and number of staff. The NAO only made recommendations to the civil service commission to recruit, and the recruitment process was very bureaucratic.*

- *Furthermore, Parliament has just passed a report by the Public Appointments Committee allowing the AG to recruit his own staff. The Department of Human Resources Management and Development, as directed by Parliament, is currently developing a guide on how this process will be carried out.*
- *As part of its stakeholder engagement strategy, NAO, with support from the World Bank, is working on a project aimed at encouraging Citizen participation in the audit process. Through the Project NAO and CSOs intend to strike a relationship that will ensure more public participation in advocating for greater independence of the NAO apart from pressing for implementation of audit recommendations by relevant authorities.*

Measures taken to promote transparency and accountability in the management of public finances, including through a system of accounting and auditing standards and related oversight;

- *Introduction of Integrated Finance Management Internal System*
- *Public Finance Management Act amendment to make for comprehensive control measures*
- *Publicizing of Audit reports*

Measures taken to promote examining, periodically or as necessary, the applicable financial and accounting frameworks and procedures, in order to determine their effectiveness in the fight against corruption;

- *Periodic issuance and review of Treasury instructions*
- *Procurement reviews and Audits done by the ACB under section 10 of the Corrupt Practices Act )*

Measures taken to ensure that the audited entities respond to the findings of the audit reports, implement the recommendations of the supreme audit institutions and take appropriate corrective action, including criminal prosecution, to ensure the proper management of public affairs and public property;

- *NAO is developing a Dashboard for following up on audit recommendations. This will be handy for follow up and ensuring that audit recommendations are implemented by MDAs.*
- *There is media coverage on Public Accounts Committee hearings on the Auditor General's report. This ensures that citizens follow the proceedings and resolutions thereon and hence, can follow up with relevant authorities when necessary.*

- *In addition to the above avenues, NAO, with support from the World Bank, is working on a project of ensuring Citizen Engagement in the audit process. Through the Project NAO and CSOs intend to strike a relationship that will ensure more engagement with the public. The CSOs will not only assist with dissemination of the audit findings and recommendation but also provide an avenue for citizens to take part in the audit process among the many areas of collaborations that will ensue. NAO reports to relevant law enforcement agencies for proper action*
- *Relevant Law Enforcement Agencies investigate and prosecute cases of public mismanagement*
- *NAO is part of the National Law Enforcement Coordination Strategy*
- *NAO is part of the National Task Force for Life Style Audits.*

Measures taken to involve the supreme audit institutions and the internal audit units in the country reviews under the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, in particular in relation to the review of the implementation of chapter II, on preventive measures, including in the country visits, where applicable;

- *NAO was part of the review process including the country visit. NAO has also been invited to attend the 14<sup>th</sup> IRG in June 2023.*

Measures taken to promote integrity and honesty through the application of codes of conduct in the supreme audit institutions and in particular measures for aligning these codes of conduct with the Code of Ethics promulgated by the International Organization of Supreme Audit Institutions;

- *NAO requires all its staff to belong or get registered with relevant professional bodies. Membership to an approved professional body is in line with professional standards as through such fora, staff are kept up-to-date with professional developments. Professional bodies keep its members in line with the professional code of ethics. In times where the member breaches the code of ethics, the consequences follow.*
- *NAO strives to have and hire staff that are not only qualified and competent but also professionally ethical in view of the nature of its mandate.*
- *NAO's Continuous Professional Development programs ensure that its staff are exposed to ethical requirements of the profession from time to time.*
- *As a member of the INTOSAI community, NAO's compliance with ethical standards is subject to annual reviews by the AFROSAI-E.*
- *For individual audit engagements, engagement team members are required to complete a Code of Ethics working paper which documents the Code of Ethics adherences or lack of it for each of them. Among other issues, members are required to make the following declarations:*

- *I fully understand the requirements of INTOSAI Code of ethics applicable to me on this audit. Thus, I understand the requirements in the INTOSAI Code of Ethics that:*
    - *I should exercise due care and perform the audit in a professional manner and to the best of my abilities.*
    - *I should perform the audit with honesty, integrity, impartiality and political neutrality.*
    - *The confidentiality of information obtained during the audit process and that I should not disclose such information to third parties.*
  - *Myself, or my any members of my immediate family do not have a financial interest in the client*
  - *I do not have any business relationships with the audited entity or any of its directors, officers and employees*
  - *I am not, and have not been in the last two financial years, an officer, employee or director of the audited entity*
  - *I have not received any benefits or gifts in the past from persons employed by or associated with the auditee.*
  - *I do not have any immediate or close family member(s) that currently hold(s) a financial reporting and oversight role at the audited entity or held such a position during the financial year under audit.*
  - *I do not have any other relationship with any director officer and employee of the entity under audit that may impair my independence.*
  - *My independence was not impaired by the attitude of management and / or staff of the auditee through intimidation.*
- *Disciplinary action is taken upon those who fail to comply with the ethical requirements*

Measures to increase trust in supreme audit institutions, anti-corruption bodies and governmental and public institutions as a whole;

- *There is a Constitutional requirement for all public bodies to be transparent*
- *Putting in place Client Service Charters*
- *There is a requirement under the ATI Act that obliges public bodies to provide information demanded by the public*
- *National Anti-Corruption Strategy II which is a Malawi's blueprint on the fight against Corruption.*

Measures taken to build and strengthen relations between national legislatures and supreme audit institutions, and to encourage national legislatures to be aware of the findings of supreme audit institutions so that they may be taken into account when exercising parliamentary functions;

- *NAO reports to Parliament by law*

Measures taken to strengthen the national, regional and international coordination and cooperation among the bodies involved in the prevention of and fight against corruption;

- *National Anti-Corruption Strategy II*
- *MOUs between ACB and other Law Enforcement Agencies bodies*
- *National coordination strategy on Money Laundering*
- *Participation in regional forums (AU, SADC, UNODC, Commonwealth, ESAMLG, etc)*

Measures taken to improve the exchange of information between anti-corruption bodies, supreme audit institutions and other governmental bodies operating in the field of combating corruption, including for consultative purposes;

- *Law Enforcement Agencies' National Coordination Strategy*
- *Memorandum Of Understanding between various anti-corruption bodies on combating financial crimes*
- *National Anti-Corruption Strategy II*
- *National Committee on AML/CFT*

Measures taken to promote transparency including by publishing findings of both the anti-corruption bodies and the supreme audit institutions;

- *Publicizing annual reports by Anti-Corruption Bureau*
- *Publication of Audit reports by National Audit Office*
- *Publication of investigations results and arrests*
- *Publication of reports such as Monitoring of National programs*

Measures taken to enhance the capacity of supreme audit institutions and develop the skills of their members and staff in preventing and combating corruption, including through training, education and knowledge exchange;

- *NAO strives to have and hire staff that are capable and competent. Since 2015, NAO stepped up the entry requirements. Entry into NAO public service requires one to have at least the first degree or a professional qualification such as ICAM, ACCA or CIMA. Getting academically and professionally apt staff is a catalyst towards getting quality work and an essential professional requirement.*
- *NAO encourages continuous staff development to its staff. Staff members are encouraged to enroll with tertiary learning institutions to obtain both academic and professional qualifications.*

- *NAO has robust collaborations with international professional bodies like INTOSAI and AFROSAI-E one of whose key responsibilities is to train staff of the member SAIs*
- *NAO uses its collaborations with the Anti-Corruption Bureau to familiarize its staff on matters of integrity vis-a-vis corruption*
- *NAO ensures strict adherence of its code of ethics among its staff through training and discipline in case of non-compliance*

Measures taken to enhance transparency, accountability and good governance in the management of supreme audit institutions, including with regard to their organization, functioning and decision-making processes;

- *NAO subscribes to the dictates of the International Standards of Supreme Audit Institutions (ISSAIs) which require Supreme Audit Institutions to lead by example on matters of transparency, accountability and good governance in administration of public institutions and resources*
- *The Public Audit Act requires the National Audit Office to be subjected to annual audits by Private audit firms. The PAA mandates Public Accounts Committee of Parliament to hire these private auditors*
- *Like all MDAs, the NAO is subject to annual performance reviews by the Office of the President and Cabinet*
- *NAO is implementing reforms aimed at improving transparency, accountability and good governance in the management of the institution and its clients*
- *Access to Information Act*
- *Public Finance Management Act (Audit committee)*
- *National Anti-Corruption Strategy II*

measures taken to enable supreme audit institutions to perform their roles in preventing and combating corruption when responding to or recovering from national crises and emergencies, especially with regard to their functions in upholding policies and procedures for the management of public finances and public procurement.

- *The Public Audit Act mandates NAO to provide advice on critical rules and regulations, and can conduct real-time audits on procurements and whether funds are being used for the right purposes amidst the crisis.*
- *Using its mandate NAO can audit also the implementation of new regulations and programs thereby contribute to effective government actions during the crisis.*
- *On account of its mandate, the NAO may also be called upon to conduct periodic audit on the usage of public funds during the crisis; for instance, during the peak of the Covid19 pandemic in 2020 & 2021, government entered into an agreement with the World bank requiring NAO to audit and report on its relief funds on quarterly basis.*

- *Forensic/ Investigative audits may be conducted where there is suspected fraud or funds mismanagement*
- *In the aftermath of a crisis, the NAO is mandated by the PAA to provide assurance on the use of funds and assess the economy, efficiency and effectiveness of the national responses through its audits*

**2. Please provide examples of the implementation of those measures, including related court or other cases and available statistics.**

Reports prepared by the supreme audit institutions, national legislatures of body or bodies that prevent corruption;

External reports on the operation of the supreme audit institutions.

- *As at the date of filing this form the Anti-Corruption Bureau is prosecuting almost 10 grand corruption cases centering on breaches of several laws including*
- *All the National Audit Reports can be found on [www.nao.gov.mw/index.php/en/documents/audit-report](http://www.nao.gov.mw/index.php/en/documents/audit-report)*