



Protocol on Finance and Investment Baseline Study: Malawi Country Report

August 2011



Making financial markets work for the poor



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A report reflecting the state of progress of implementation of the Protocol on Finance and Investment in SADC

Imprint

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LIST OF ABBREVIATIONS

AATM	Agreement for Assistance on Tax Matters
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering /Combating the Financing of Terrorism
ATAF	African Tax Administration Forum
BoP	Balance of Payments
CCBG	Committee of Central Bank Governors
CISNA	Committee of Insurance, Securities and Non-banking Financial Authorities
COMESA	Common Market for Eastern and Southern Africa
COSSE	Committee of SADC Stock Exchanges
DBSA	Development Bank of Southern Africa
DFRC	Development Finance Resource Centre
DTAA	Double Taxation Avoidance Agreement
ECOWAS	Economic Community of West African Communities
ESAAMLG	Eastern and Southern African Anti Money Laundering Group
EU	European Union
FATF	Financial Action Task Force
FDI	Foreign Direct Investment
FIP	Protocol on Finance and Investment
FSAP	Financial Sector Assessment Programme
FSTAP	Financial Sector Technical Assistance Project
GDP	Gross Domestic Product
HIPC	Heavily Indebted Poor Countries
IAIS	International Association of Insurance Supervisors
IMF	International Monetary Fund
IPA	Investment Promotion Agency
IOPS	International Organisation of Pensions Supervisors
IOSCO	International Organisation of Securities Commissioners
JSE	Johannesburg Stock Exchange
MGDS	Malawi Growth and Development Strategy
MIPA	Malawi Investment Promotion Agency
MoJ	Ministers of Justice and Attorney Generals
MoU	Memorandum of Understanding
MRA	Malawi Revenue Authority
MSE	Malawi Stock Exchange
NAMFISA	Namibian Financial Institutions Supervisory Authority

NCP	National Contact Point
NSO	National Statistics Office
OECD	Organisation of Economic Cooperation and Development
PPDF	Project Preparatory Development Fund
PPP	Public Private Partnerships
RBM	Reserve Bank of Malawi
RISDP	Regional Indicative Strategic Development Plan
RTGS	Real Time Gross Settlement
SADC	Southern African Development Community
USD	United States Dollar
VAT	Value-added Tax
WFE	World Federation of Exchanges

1. CONTEXT

Malawi is a landlocked, densely populated country in Southern Africa where nominal annual income currently stands at around US\$ 322 per capita according to the International Monetary Fund (IMF, 2011). The population is highly rural; agricultural production is predominantly subsistence and rain fed. Unlike many of its neighbours, Malawi has not benefited from significant mineral endowments¹, and its export corridors to the ports in Mozambique have yet to be fully repaired from the damage done by the country's civil war.² Malawi has a multiparty system that was introduced in 1994. The current president, President Bingu wa Mutharika has prioritised agriculture and food security, education, transport, energy generation, rural development, irrigation and water development, youth development and anti-corruption. These priorities are captured in the Malawi Growth and Development Strategy (MGDS), which covers the period 2006-2011.³

Malawi signed the original Southern African Development Community (SADC) Treaty and Declaration in 1992, and Malawi is committed to SADC's regional economic integration agenda. It was one of the member states to ratify the Protocol on Finance and Investment (FIP), thus contributing to the two thirds majority required to bring it into effect for all member states. However, Malawi is also a member of the Common Market for Eastern and Southern Africa (COMESA). Many have raised concerns that this may lead to conflicting commitments as further regional integration occurs moving forward.⁴

The period since 2004 has been characterized by uninterrupted solid growth following a period of stagnation from 1989-2003, where Malawi suffered from a number of exogenous shocks and a transition period to smallholder-led growth. The strong stabilisation policies implemented since 2004 and the debt relief from the Heavily Indebted Poor Countries (HIPC) initiative brought about a rapid turnaround in government finances, better management of public spending, and created the fiscal space needed to generate the momentum for the resumption of growth. As such, real GDP (gross domestic product) growth has averaged about 7% in the last five years, with a peak of 9.7% in 2008, compared to an average of about 2% prior to 2005. This growth was supported by several bumper tobacco harvests, good weather and availability of fertiliser and seeds through the government's farm input subsidy program.⁵

Despite prudent fiscal and macroeconomic management and encouraging growth, Malawi continues to face numerous supply-side constraints such as persistent energy constraints and foreign exchange availability, and the economy remains vulnerable to terms of trade, weather and other exogenous shocks. Agriculture continues to account for around 80% of all exports

¹ The role of the mineral sector changed in 2009 with the commissioning of the Kayalekera Uranium mine, which is expected to generate more than USD 150 million annually. A 2009 study by the World Bank estimated that minerals could become a rich source of FDI for Malawi, provide up to 25% of export earnings and account for some 5% to 6% of the projected GDP (World Bank, 2011)

² World Bank, 2009.

³ World Bank, 2011a.

⁴ This was a concern echoed by some of the representatives from Malawi interviewed for this report.

⁵ World Bank, 2011a.

and tobacco remains by far Malawi's biggest earner. However, recent developments in the tobacco sector are worrying, and as Malawi's main export crop, this may not augur well for overall economic performance in the coming years. The 2011 tobacco season may turn out to be one of the worst in the country's history, with low prices and high rejection rates on the auction floors. As at 31st May 2011, sales were down 56.5% year on year, with prices also down by 51%.⁶ This is likely to severely exacerbate the existing scarcity of foreign exchange in the economy.

It is the view of this consultant, as well as many observers both inside and outside Malawi, that these shortages are at least in part attributable to the Government's insistence on a pegged exchange rate that is inconsistent with economic fundamentals. This is perhaps best evidenced by a black market premium for the scarce foreign exchange of around 30%.

2. STATUS OF FIP IMPLEMENTATION

2.1. STATUS OF FIP RATIFICATION

Malawi signed the Protocol on Finance and Investment (FIP) on 17 August 2007. The country deposited the instrument of ratification on 27 June 2008.

2.2. FIP STRUCTURES

There appears to be little in the way of coordination of FIP implementation at country level in Malawi. The SADC National Contact Point (NCP) is housed in the Ministry of Development Planning and Cooperation, but this Ministry does not seem to be playing a coordinating role. Many of the Annex Subcommittee representatives highlighted this issue, and some were of the opinion that the Ministry of Finance should take the lead in this process. These stakeholders pointed to a lack of communication between Malawi's subcommittee members and the upper echelons of the Ministry of Finance on issues related to the FIP, which is somewhat surprising given the presence of the Minister of Finance on the Council of Ministers. Despite this lack of ownership of FIP implementation from the Ministry of Finance, it appears Malawi is making relatively good progress towards the FIP commitments. Thus it seems reasonable to conclude that the diligent work of the subcommittee representatives is bearing success. Often it seems like the FIP has been used to push agendas of reform on the national level, even if the pace of regional harmonisation has not always moved as fast as the subcommittee members would have liked.

Malawi currently chairs the Committee of Insurance, Securities and Non-banking Financial Authorities (CISNA, Annex 10) subcommittee. There is also evidence Malawi is taking a lead on the Capital Markets Technical Committee which operates under CISNA. Malawi is chair of the Indirect Taxes working group, which falls under Annex 3 (Taxation Matters). It appears Malawi is playing a particularly active role on the Legal and Operational Frameworks subcommittee (Annex 5), as the representative has led a number of taskforces which have looked at specific areas of interest to the subcommittee.

⁶ Kandodo, 2011.

2.2.1. ANNEX 1: COOPERATION ON INVESTMENT

One of the core aims of this Annex is to encourage member states to create favourable investment conditions so as to increase levels of investment across the region (Article 2). Data on flows of FDI is held by the Reserve Bank of Malawi (RBM) as part of the country's capital controls, but despite numerous requests it was not forthcoming. The Malawi Investment Promotion Agency (MIPA) only holds data on pledges to invest in the country.⁷ Without such data it is hard to draw any concrete conclusions on the levels of, and recent trends in, investment in Malawi. The World Bank estimates the FDI inflows into Malawi were US\$170 million in 2008, falling to US\$60 million in 2009, representing a fall of 65% year on year.⁸

Another broad objective of the FIP is to create transparent policies, practices, regulations and procedures that are followed, and complied with, by all member states. Investment protection is a central tenet of this approach (Article 5), and Malawi scores relatively well in the 'Investor Protection Index' that constitutes part of the annual Doing Business survey. In the 2011 survey, Malawi ranked 74 out of 183 economies in the indicator for Protecting Investors. It scores relatively highly in the 'Investor Protection Index' with a score of 5.3 out of 10. This compares favourably with the Sub-Saharan Africa average of 4.4 and the OECD (Organisation of Economic Cooperation and Development (OECD) average of 6.0.⁹ Malawi's Constitution protects investment (Section 20 of the Constitution), irrespective of ownership (Section 29, thus meeting its obligations under Article 6 of this Annex to the FIP). It further guarantees the right to compensation if there is an arbitrary expropriation of property. Such sentiment was said to be replicated throughout Malawi's investment laws and similar provisions are also included in Investment Promotion and Protection Agreements in order to reassure foreign investors further. Any disputes are settled by legal due process (Article 27).

Malawi has also signed up to adhere to international conventions and practices (Article 21). It has signed up to the Multilateral Investment Guarantee Agency (MIGA) Convention in 1988. MIGA seeks to promote FDI by providing political risk insurance to the private sector. Malawi is also a signatory to the International Centre for Settlement of Investment Disputes (ICSID) Convention of 1965, which is today considered the leading international arbitration institution devoted to investor-state dispute settlement. However, Malawi is not yet a signatory to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.¹⁰

Repatriation of investment and returns (Article 9) is another commitment for member states under the FIP. The Exchange Controls department of the RBM require that all inward investment be registered, and provided these rules are followed foreign investors are free to remit dividends and full investment capital on repatriation. However, whilst this may be the

⁷ In 2010 MIPA registered new pledges worth US\$115.5 million, representing a 7.4% year on year. Investments from the SADC region constituted 17% of this amount. In terms of sectoral composition, 33% was in manufacturing, 29% in services and 21% in agriculture (Ministry of Development Planning and Cooperation, 2011).

⁸ World Bank, 2011b.

⁹ International Finance Corporation and World Bank, 2010.

¹⁰ Links to corroborate Malawi's membership, or lack thereof, of these organisations can be found in the references list.

case in theory, in practice there are frequent foreign exchange shortages in the country and repatriation may be a more complex process. The issue of transparency (Article 8) is seemingly well dealt with in Malawi. The MIPA website provides information on investment processes and procedures in Malawi, as well as links to relevant policies and legislation (MIPA, 2011). The SADC Investment Portal, though not yet operational, should provide an additional means of transmitting this information to potential investors. MIPA is active and reports to the Ministry of Industry and Trade. However, as a parastatal, MIPA has a separate budget allocation.¹¹

In terms of the regional level, there was no representative from MIPA at the first SADC Investment Promotion Agencies' (IPA) Forum due to illness. However, a representative from the Ministry of Industry and Trade attended. The Ministry of Industry and Trade noted that the former desk officer had resigned and little in the way of handover had taken place. A lack of human resources meant the representatives could not always attend the subcommittee meetings, but efforts were made to send a local Trade and Investment Attaché where possible who could report back. There were complaints about a lack of communication from Ministry of Finance, and that no emails had been received recently regarding subcommittee activities. It seems there has been little, if any, harmonization of investment promotion policies (Article 19), with no standard regional framework as of yet. Member states seem to agree with harmonisation in principle, but it remains to be seen how this process develops going forward.

2.2.2. ANNEX 2: MACROECONOMIC CONVERGENCE

Under Article 2 of Annex 2 of the FIP, member states commit to convergence on stability-oriented economic policies. In relation to three specified indicators of Annex 2, Malawi has had a relatively **low and stable inflation rate** over the last three years. It has declined from 8.7% in 2008, to 8.4% in 2009 and then again to **7.4% in 2010**, which is below the Regional Indicative Strategic Development Plan (RISDP) target of 9.5%. As of March 2011, inflation was running at 7.2%.¹² These rates of inflation are lower than the 9.5% target proposed in the Matrix of Commitments. Malawi's **budget deficit to GDP ratio** increased from 7.8% in 2008, to 8.2% in 2009. However, according to the RBM, Malawi actually ran a **fiscal surplus in 2010 of 4%**¹³. The International Monetary Fund (IMF) figures, though varying slightly from those provided by the RBM also provide support for this surplus in 2010.¹⁴ This puts it significantly ahead of the target outlined in the Matrix of Commitments of a deficit not exceeding 5%.¹⁵

¹¹ MIPA has officially now merged with the Malawi Export Promotion Council to form the Malawi Investment and Trade Centre. However, they are still essentially operating as autonomous entities.

¹² RBM, 2011.

¹³ It is important to note that these figures are for the calendar year. Government of Malawi actually operates on a July to June fiscal year.

¹⁴ IMF, 2011.

¹⁵ One important caveat must be added to this data: 'budget deficit' as defined by Article 1 specifically includes grants. In 2010, these amounted to around 30% of total government revenues. Recent political developments in the country (DFID has frozen all new aid commitments in response to the expulsion of Malawi's High Commissioner to Malawi and other donors may follow suit) highlight the potential for substantial reductions in grants received.

Public and publicly guaranteed external debt in Malawi was US\$833 in 2008 and US\$899 in 2009, representing 19% of GDP for both years¹⁶, well below the RISDP target of below 60% of GDP.

Malawian national issues related to macroeconomic performance are dealt with by the Macroeconomic Management Committee. This committee meets monthly and its membership consists of the Ministry of Finance, Ministry of Development Planning and Cooperation, RBM and National Statistical Office (NSO). Whilst the three indicators discussed above are important factors in this overall macroeconomic management, the view of the RBM officials was that these stability-oriented policies are pursued in the national interest and not out of some desire to meet targets outlined in the FIP.

With regard to the SADC Macroeconomic Statistical Database (Articles 5 and 8), RBM officials confirmed that Malawi submits information for this through the Committee of Central Bank Governors (CCBG) on a quarterly basis. The Annex calls for a Peer Review Panel (Article 7) to establish a collective surveillance procedure to monitor macroeconomic convergence. Malawi welcomed this and RBM officials described how they were party to the development and discussion of a draft strategy and framework for such a mechanism was agreed upon by member states at a stakeholder's validation meeting in November 2010.

The meeting at NSO provided some background on the importance of consistency in techniques used to produce national accounts across member states. Minimum standards for GDP comparison have been agreed to (using SNA 1993), however it was suggested that various member states are at different levels of implementation in terms of these standards. Similarly, minimum standards for balance of payments (BoP) have also been agreed too, with all member states supposed to migrate towards the BoP5 manual. Malawi is still in the process of completing this migration, and is receiving technical assistance from the IMF. A need for capacity building was indicated, despite existing assistance from the IMF (on Balance of Payments) and Norway (on National Accounts).

2.2.3. ANNEX 3: COOPERATION IN TAXATION AND RELATED MATTERS

The Malawi Revenue Authority (MRA) is heavily involved in this Annex Subcommittee, with the MRA's Deputy Commissioner General as the current chair of its Indirect Taxes Working Group. However, the Ministry of Finance was unable to meet to discuss taxation issues despite numerous requests.¹⁷ The MRA also highlighted a lack of FIP coordination in Malawi, and felt that the Ministry of Finance should be playing a more prominent role. The MRA seems eager for further progress at regional level with regard to taxation. At the most basic level of co-operation, this Annex commits member states to contribute to a SADC Tax Database (Article 2) which is publicly accessible within the region. Whilst some information is available on this website, it is disjointed and incomplete. The MRA acknowledged that it had not been sending updates, citing an example of when there were changes in taxation in the annual budget, and

¹⁶ World Bank, 2011c.

¹⁷ In mitigation, the period within which this study was undertaken coincided with the final preparation for Malawi's budget (the fiscal year runs from July to June).

that this was not communicated back to SADC officially. They highlighted problems associated with staff turnover and the lack of a desk officer to keep the SADC Tax Database updated.

In terms of other co-operation as outlined under the FIP, the MRA highlighted the Agreement for Assistance on Tax Matters (AATM) that has come out of Article 5 of this Annex as the most important. This was primarily because it does not affect sovereignty and all member states are said to support it. The AATM is a multilateral agreement for information exchange, mutual assistance and recovery of tax debt. Unfortunately, despite having been finalised and approved by the Ministers of Finance in 2009, the Ministers of Justice and Attorney Generals (MoJ)¹⁸ have not yet approved it. Some Memorandums of Understanding (MoUs) with other SADC member states have been signed for information exchange (for instance, with Mozambique and Tanzania), but these have mostly focused on customs issues. The MRA complained that some other member states often use confidentiality as an excuse for not providing assistance, and therefore is eager for the AATM to be signed as soon as possible in order to formalize these processes of information exchange amongst SADC member states.

The MRA welcomed the approval of the SADC Model Tax Agreement for the Avoidance of Double Taxation (DTAA) and Commentary. It was used in the design of an agreement with the Seychelles that has been initialled and is currently waiting to be formally signed, and is also being used to update already existing DTAA's with South Africa, Mauritius, Botswana and Zimbabwe. However, it was emphasized that any model law must be flexible enough to adapt to specific country contexts, especially on issues such as royalties and dividends. Further, Malawi does not rely exclusively on the SADC Model DTAA and also looks to other international documents provided by the United Nations and others.

The MRA expressed disappointment at the lack of progress amongst member states under Article 4, which relates to tax incentives. Neither a set of regional guidelines nor a regional cost benefit analysis tool have been developed as of yet. The latter means that member states often use crude approaches to analyse the effects of incentives. The core problem here revolves around the issue of political sovereignty, but the MRA is of the strongly held view that a regional set of guidelines is key to preventing a 'race to the bottom' amongst member states on incentive provision. However, they were not optimistic of progress in the short term and thought it might take two years for anything to be accomplished. Similarly, it appears there has been little progress in establishing a SADC mechanism for the settlement of tax disputes (Article 7).¹⁹

On the issue of indirect taxes (Article 6), attempts have been made to draft guidelines on Value Added Tax (VAT) at regional level. Several workshops have been helping on the matter, the most recent being in Malawi in February 2011. A draft has been submitted to the SADC tax expert for their input. One issue relates to the definition of 'harmonisation' – advice from an international consultant was that member states do not need to have identical rates, although the MRA did observe that rates appear to be converging within SADC to around 14-15%. They

¹⁸ The AATM was actually prepared and approved by Ministers of Finance before the FIP had been formally ratified, and was thus not even considered by the MoJ. It is hoped that these hurdles will be overcome in the coming months.

¹⁹ Despite this, the MRA said they had not really heard of any such cases in Malawi. Further, these issues are provided for under DTAA's.

pointed out that VAT in SADC was not raising as much revenue, partly due to too many exemptions and zero-rated items but also due to poor enforcement mechanisms. If VAT (and various items subject to excise tax) is to replace customs duties as the FIP proposes, this will have to change.

On the issue of capacity (Article 3), Malawi is already sending people on very useful courses at the African Tax Administration Forum (ATAF), and ATAF is coordinating these activities with SADC Secretariat to avoid duplication.

2.2.4. ANNEX 4: COOPERATION AND COORDINATION OF EXCHANGE CONTROL POLICIES

Under Articles 2 and 3 of this Annex of the FIP, member states commit to move towards full exchange control liberalisation in order to achieve full currency convertibility within SADC. The Malawi Kwacha has not achieved full currency convertibility, and this can be attributed to the fact that exchange controls continue to exist.

In principle, Malawi imposes no controls on current account transactions, having accepted IMF Article VIII status in 1995.²⁰ However, Malawi in fact has imposed *de facto* exchange controls on current account transactions in recent years.²¹ These have resulted from a policy to maintain a fixed exchange rate at a level that does not match economic fundamentals, leaving the IMF to accuse the Government of Malawi of breaching its Article VIII obligations (IMF, 2010). Restrictions remain on Malawi's capital account. The RBM described their regime as 'fairly liberal', but acknowledged restrictions remained on foreign loans, foreign direct investment and portfolio investment flows. They maintained the need for approvals to be granted was mainly used as a measurement tool.

Malawi remains cautious about further liberalisation. Despite pressure from the IMF, the currency remains fixed at a rate that is inconsistent with economic fundamentals leading to a significant black market premium. RBM remarks the observance of the negative consequences of capital account liberalisation can have negative consequences, citing events during the Asian financial crisis in the 1990s and the Global Financial Crisis of the late 2000s. The RBM pointed out that even South Africa is taking a similar viewpoint.

Under Article 3, member states also commit to the signing of multilateral agreements to provide for the conversion and repatriation of State Parties' banknotes. Malawi is waiting for bilateral agreements to be signed with Mozambique and Zambia. However, these are to facilitate small-scale trade in border areas. There are no plans to roll them out on a larger scale. In relation to information exchange (mentioned in Articles 2 and 3) Malawi launched a Foreign Exchange Statistical Database System in 2008. It was designed to capture information on exports, imports and trading movements in Foreign Currency Denominated Accounts. It appeared little information was being shared with other member states, but this system should provide Malawi with the capacity to provide information going forward.

²⁰ This commits a country to permit free exchange of their national currency for the purposes of current account transactions.

²¹ Jeffries, 2011.

Regarding the performance of the subcommittee, Malawi's representative from the RBM indicated that it is not functioning well. It only met once in 2010, and due to the politically sensitive nature of exchange controls, he was of the view that the meetings were in fact a bit pointless until the political will exists to move towards greater liberalisation.

2.2.5. ANNEX 5: HARMONISATION OF LEGAL AND OPERATIONAL FRAMEWORKS

Malawi enacted a new Reserve Bank of Malawi (Amendment) Act in December 2010 which domesticated many of the principles of the SADC Model Central Bank Law.²² Evidence was provided of a submission to the subcommittee on Malawi's implementation status. The Annex Subcommittee member emphasized how the document had been very useful in drafting the new Act. In particular, he emphasized how it had enabled to RBM to negotiate with government for full operational independence. However, some provisions were excluded: regarding the appointment of the Governor and their Deputies, the Model Law recommends that these appointments should be approved by Parliament, whereas Malawi continues with Presidential appointment. Further, Malawi also elected to avoid a narrow focus on price stability as outlined in the Model Law. This highlights that whilst the SADC Model Central Bank Law has been welcomed in Malawi, it reserves the right to modify it where it is deemed appropriate.

The SADC Model Central Bank guidelines regarding relationships to banking and other financial institutions were also used in the development of new financial sector laws which were passed in 2010 and 2011 (e.g. Insurance, Securities, Banking, Financial Services and Pensions Acts).

2.2.6. ANNEX 6: COOPERATION IN PAYMENT, SETTLEMENT AND CLEARING SYSTEMS

Malawi has embraced the objectives as set out in this Annex of the FIP, namely strengthening national capacity for payment, clearing and settlement systems and also a migration toward regional systems. In 1996, Malawi began work on National Payment Systems Project in an effort to improve upon the manual systems in place previously. In collaboration with the South Africa Reserve Bank, a vision and strategy was formulated in Malawi in 2001.

A central tenet of this was Malawi becoming only the third country in the SADC region to launch a Real Time Gross Settlement (RTGS) system in 2002 (after South Africa and Mauritius). This was a commitment all member states agreed to under Article 3 of this Annex. Initially there were nine participants, but now there are 14; 11 banks, two discount houses and

²² Article 2 of the Annex requires member states to harmonize the legal frameworks governing Central Banks, advocating the creation of a Model Central Bank Law. This Model Law was completed in 2009 and provides "key principles that will promote the adoption of general principles which will facilitate the operational independence of SADC central banks, create clear standards of accountability and transparency in the legal and operational frameworks of SADC central banks, and facilitate the harmonisation of legal and operational frameworks of central banks."

²² However, it is important to note that there is an important caveat to this, with an acknowledgement that 'where appropriate' the Model Law may be modified to meet the needs of a particular country

the RBM. It has also made great strides with regard to clearing. Previously it took 21 days for a cheque to clear, and due to the work of the RBM this had decreased to seven days in 2005. Since then, automated cheque clearing has been introduced, utilising imaging and truncation. This is open to all clearing banks, and has led to automatic clearance through truncation (although settlement must still be done by RTGS).

There is no proper legal framework currently governing payment and settlement issues in Malawi, and the RBM is currently operating through agreements with participants. There is a National Payment Systems Council which oversees the operation of the system and meets quarterly. In the absence of a SADC Model Payment Systems Law, Malawi has moved forward on its own accord. A draft Payment Systems Law has been prepared and commented upon by the IMF and others, and the RBM drew on experiences from other SADC member states in its design (including South Africa, Botswana and Namibia). It is hoped that this law will be finalised by the end of 2011.

With regard to mitigating payment system risk, Malawi has a comprehensive Risk Mitigation Strategy, seeking to mitigate liquidity, credit, legal and operational risks. An audit is carried out every six months, and all departments within the Reserve Bank of Malawi are required to submit quarterly reports on risks.

In terms of regional integration, Malawi is working towards making its national RTGS system compatible with other member states. Almost all member states now have an RTGS system, but most use SWIFT as a message carrier. Whilst Malawi uses this for international payments, a local network is used for domestic payments currently. Recognising the need for compatibility, Malawi plans to migrate to SWIFT for all payments by 2012. In terms of clearing, the RBM emphasized the need for some sort of common standards (in future, these could be set by a SADC Central Bank). As an alternative, the RBM suggested the creation of regional clearing centres.

The RBM officials highlighted a lack of National FIP coordination within Malawi, and also complained of a lack of interaction with other FIP Subcommittees outside of the CCBG. Encouragingly, other Malawian representatives from the various CCBG subcommittees do seem to be sharing information even if it is on a relatively ad hoc basis. The subcommittee itself meets two times a year, and two RBM officials attend every meeting where possible. There are also sometimes extra workshops where experts from the European Union (EU) and Economic Community of West African States (ECOWAS) share their experiences.

2.2.7. ANNEX 8: COOPERATION AND COORDINATION IN THE AREA OF BANKING REGULATORY AND SUPERVISORY MATTERS

Following a World Bank Financial Sector Assessment Programme (FSAP) of Malawi in 2008, it can be concluded that Malawi was fully or largely compliant with 17 of the 25 Basel Core Principles and materially or fully non-compliant with seven.²³ In the wake of this, the RBM resolved to improve upon certain aspects of Malawi's regime of regulation and supervision for banks. Given the slow pace of development of a regional legal and regulatory framework,

²³ World Bank, 2008. The know-your-customer principle was not assessed in the survey.

Malawi has moved by itself and a new Banking Act was passed in 2010. This was based on observed best practices in the region (Mauritius, Zambia, Ghana and Uganda were all studied) and the Basel Core Principles. Further, the private sector was consulted extensively and domestic commercial banks approved the final draft.

Malawi acknowledges that it may not be fully compliant with all 25 principles currently, but is confident that it is moving in the right direction in all aspects. It is implementing new procedures regarding principles 23-25 with technical assistance from the IMF and is optimistic by the end of 2011 to be fully compliant with these three principles. In particular, it recognises the need for more work to be done regarding market risk. Malawi conducts annual self-assessments which it submits to SADC, and they welcomed these as a tool should another World Bank FSAP be undertaken in the future. The recently launched World Bank Financial Sector Technical Assistance Project (FSTAP), to be implemented over the period 2011-2016, has a component focusing on improved financial sector regulation and supervision. This component will assist the RBM to strengthen the national financial sector regulation and supervision framework for banking.²⁴

In a regional context, frustration was expressed at the slow pace of development of a regional banking act. As Malawi has recently introduced a new Banking Act which sought to draw on similar acts in the region, the RBM expressed its hope that once such a regional document is available Malawi should not need to make any major alterations to its laws in order to be consistent with it.

Two other issues not specifically included under Annex 8 of the FIP but included in the Matrix of Commitments were also discussed. These are with respect to the proposed Annex 13 (Development of Capital and Financial Markets) and Annex 14 (Anti-Money Laundering) which have been drafted for addition to the FIP although this process has not been concluded. Regarding the use of international best practice for accounting and auditing standards (which comes under Annex 13 of the FIP), the RBM was confident that Malawi is in full compliance. The other issue included in the Matrix of Commitments related to Anti-Money Laundering (AML), which falls under Annex 14. Malawi is not a member of the Financial Action Task Force (FATF), but this is perhaps not surprising given the only African member state is South Africa (FATF, 2011). However, it is a member of the Eastern and Southern African Anti Money Laundering Group (ESAAMLG), which is an Associate Member of the FATF.

The ESAAMLG Council of Ministers approved the mutual evaluation report for the Republic of Malawi in August 2008. The report was prepared by the World Bank under FSAP. Before its approval by the Council of Ministers the report was discussed and adopted by the ESAAMLG Task Force of Senior Officials at its meetings in August 2008. The report records the high level of commitment of the Government of Malawi in establishing a strong AML/Combating the Financing of Terrorism (CFT) framework by enacting the Money Laundering Proceeds of Serious Crime and Terrorist Financing Act in 2006 (the Act) and setting up an operational financial intelligence unit in July 2007 to lead the implementation process. The Act adopts the key AML/CFT requirements by imposing AML/CFT measures on all financial institutions and designated non-financial businesses and professions defined by the international standards.

²⁴ World Bank, 2011d.

The report also identifies some areas of deficiencies in the AML/CFT regime of Malawi. It makes comprehensive recommendations on the actions that Malawi needs to take in the short and medium terms to strengthen its AML/CFT system to fully meet the international standards.²⁵

2.2.8. ANNEX 9: COOPERATION IN RESPECT OF DEVELOPMENT FINANCE INSTITUTIONS

Malawi currently does not have a Development Finance Institution which is a member of the Development Finance Resource Centre (DFRC). In 2006, Government of Malawi decided to wind up the operation of the Malawi Development Corporation. The 2010/11 budget allocated 1.5 billion Malawi Kwacha (approximately US\$10 million) for the creation of a new Development Finance Institution; namely, the Malawi Development Bank.²⁶ However, as of the time of writing, little progress has been made in creating this bank.

Public Private Partnerships (PPPs) referred to in Article 4 of Annex 1 of the FIP is now an area where the DFRC is working on increased regional cooperation. As of yet there have been no PPPs established in Malawi. There is a PPP Unit housed in the Privatisation Commission, and work is on-going to develop a PPP Policy and a PPP Bill. The PPP Policy is currently awaiting full cabinet approval, hoped to be granted by August 2011, whilst the PPP Bill is with Ministry of Justice and the Cabinet Office. It is expected that the PPP Bill will be passed before the end of 2011. This law should help bring predictability and provide reassurance for potential investors.

Three potential projects for PPPs have been isolated and the PPP Unit is optimistic about progress in the near term. One is at bankable stage, with transaction advisors already employed for the US\$12 million World Bank Regional Communications Infrastructure Program-Malawi Project. This will involve a PPP for regional connectivity to link Malawi with coastal landing platforms of submarine cables in either Tanzania or Mozambique. Another is at pre-feasibility stage, which is seeking to create a PPP for the irrigation of 42,000 hectares of land in the Shire Valley. There is also a proposal from VALE (a Brazilian mining firm) to operate a PPP for a rail link from the Moatize Coal Mine in Mozambique to the port of Nacala.²⁷ A wider study is also underway to present a list of other potential PPP projects. It is hoped this will lead to a list of 20-25 projects for which proper feasibility studies can be conducted, mainly in the energy and transportation sectors.

A key constraint noted by the PPP Unit was the lack of funding to conduct comprehensive feasibility studies. They were most interested to find out more information on the SADC Project Preparatory Development Fund (PPDF) hosted by DBSA (Development Bank of Southern Africa).

²⁵ ESAAMLG, 2011.

²⁶ Kandodo, 2010.

²⁷ Whilst Nacala is also in Mozambique, it is a much shorter route to cut through the south of Malawi en route to the port.

2.2.9. ANNEX 10: COOPERATION ON NON-BANKING FINANCIAL INSTITUTIONS AND SERVICES

All regulatory matters regarding non-banking financial institutions and services are dealt with by the RBM. RBM currently chairs the CISNA committee and is very positive about the strides that have been taken to date, and equally importantly ideas in the pipeline for greater co-operation going forward.

Annex 10 of the FIP commits member state regulators to adopt and develop regulatory structures in line with the objectives and principles recommended by international bodies (Articles 6 and 7). Malawi is a member of the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS) and the International Organisation of Pension Supervisors (IOSCO)²⁸. The international standards laid out by these bodies provide regulators with the core principles for effective supervision of the markets they refer too, and Malawi is committed to maintaining full compliance. In the wake of the World Bank FSA) in 2008, parliament passed and introduced a raft (9 as of June 2011) of financial sector laws. Of relevance to this Annex, new laws were passed regarding Securities, Insurance, Pensions, Microfinance and Financial Cooperatives. In terms of the legal framework, Malawi has conducted self-assessments and is confident that it is now fully compliant. However, they emphasized that despite this new legal framework, more needs to be done in terms of building skills, human resources and financial resources in the regulatory bodies housed in the RBM. This will take time, but Malawi hopes that within 2-3 years it will have most of the requirements in place.

On the issue of information sharing (Articles 3, 4 and 5), Malawi praised the recent multilateral MoU for all CISNA members which enabled a well-functioning system of information exchange among member states. This has superseded bilateral agreements Malawi had with South Africa and Mauritius. Member states present market development reports at CISNA meetings and those who are working in relatively new areas happily share their experiences. For instance, currently, Medical Aid Schemes are not regulated by most CISNA authorities, but NAMFISA (Namibian Financial Institutions Supervisory Authority) in Namibia has begun to try and bring this into the wider regulatory framework and others such as Botswana and Mauritius are moving in the same direction. Malawi was fairly dismissive of the current CISNA website as a mechanism for information exchange; instead, it praised the openness amongst member states that are happy to engage on an ad hoc basis as and when the need occurs. This suggests that where good personal relationships exist amongst subcommittee members and an informal flow of information can be equally effective as an institutionalised information database.

The issue of capacity building (Article 10) was an area where there appeared to be little progress at SADC level, with seemingly no SADC-sponsored capacity building being provided as of yet. Instead, this deficit in SADC sponsorship has meant that member states have had to rely on international donors such as the World Bank to help in this regard. Consumer awareness (Article 12) is an area where there has been limited cooperation and coordination

²⁸ For links to substantiate this, please see the references section.

as of yet, though perhaps this can be attributed to the fact that only three member states (South Africa, Mauritius and Zimbabwe) have any substantial experience in this matter. Information is shared at CISNA meetings, as many countries are starting to increase activity levels in this area. At the last CISNA meeting it was agreed that a team should be formed to monitor progress in this area in order to draw out key issues and ensure member states move forward together. Malawi has recently launched a new unit for consumer education, which became operational from January 2011. It will try to learn from experiences in other member states as it formulates and rolls out its activities over the coming months and years.

2.2.10. ANNEX 11: COOPERATION ON SADC STOCK EXCHANGES

The Malawi Stock Exchange (MSE) was set up in 1996, but did not become a fully autonomous entity until 2000. It is fully owned by the RBM, but maintains operational independence. It currently consists of fifteen listed firms. Thirteen of these are purely local, and two have cross-listings.²⁹ As of December 2010, total market capitalisation was 207.3 billion Malawi Kwacha (US\$1,375.00 million)³⁰, giving a market capitalisation to GDP ratio of 36.95%.³¹ Foreign ownership is currently around 20%. There are four stock brokers, and only cash equities are traded currently.

Article 2 of this Annex commits member states' stock exchanges to multilateral co-operation and assistance to one another across a range of areas, with the long term aim of increased harmonisation of exchanges amongst member states. The Committee of SADC Stock Exchanges (COSSE) subcommittee, in light of this desire for harmonisation, has agreed for all countries to benchmark themselves against the Johannesburg Stock Exchange (JSE). Through its membership of the World Federation of Exchanges, the JSE thus provides a useful insight into international best practices and the IOSCO principles. This process has been running for seven years, with periodic review of progress amongst member states every two years. The key has been to try and mimic the qualitative aspects of the JSE, whilst still allowing for differing quantitative rules and regulations in member states to take into account different levels of financial development.

Such thinking has informed national level policy-making regarding the MSE. Two new acts were introduced in 2010 – the Financial Services Act and the Securities Act – both of which should bring Malawi closer to international best practices. Malawi scores fairly well in the 'Regulation of Securities Exchange Index' of the Global Competitiveness Report, ranking 70 out of 139 countries globally.³² A framework for dual and cross listings have as of yet not been formally codified in Malawi, but the RBM have been flexible in allowing such practices to date. It was noted that current investment laws in some member states inhibit further dual and cross

²⁹ Press Corporation is also listed on the London Stock Exchange. Old Mutual Group is listed across numerous exchanges, including Johannesburg, London, Namibia and Harare.

³⁰ This excludes the non-Malawi registered shares of Old Mutual Plc.

³¹ MSE, 2011. However, using GDP figures from the RBM reports, it seems that this ratio should be more like 25%.

³² World Economic Forum, 2011

listings in SADC, and certain Malawian interviewees stated that formalised regional guidelines would help in this regard.

The MSE conducts annual self-assessments for surveillance and self-regulation on an annual basis, and would welcome some form of formalised peer review mechanism through COSSE. Information exchange between member states has worked relatively well, with the COSSE subcommittee meeting three times annually and all member states sharing their quarterly reports.

The general perception is that COSSE has been functioning well as a subcommittee. It meets regularly (four times in 2009 and three times in 2010), and there is a technical committee which meets on an ad hoc basis to try and drive specific initiatives. The MSE is of the opinion that a skills deficit is not a problem in most COSSE member states but that the real problem lies in financial resources. Only South Africa is a member of the World Federation of Exchanges (WFE) due to the high costs – subscription is US\$100,000 annually.³³ The JSE has provided the COSSE Secretariat at no cost to other member states. However, real investment is required in infrastructure if the desire to develop a regional trading platform is to become reality – after a three year project to examine its feasibility, COSSE has gone to the SADC Secretariat in an effort to solicit donor funds for such a project. This will require US\$2.5-3 million for the ‘regional hub’ (probably housed at the JSE), and US\$1.5-1.9m for each ‘node’ in other member states. The scarce financial resources available to many SADC stock exchanges are evidenced by the fact that many of the member states are forced to heavily subsidise them in order to guarantee their continued existence.³⁴ Exchanges are volume driven, as evidenced by recent mergers among ‘Western’ exchanges, and so member states must work together to reduce unit marginal costs on trades if they are to become self-sustaining going forward.³⁵ Malawi is in favour of this ‘hub and spoke’ approach and acknowledged it would potentially make sense to be housed in South Africa. However, they were also keen to emphasize that, along with other member states, they did not want to simply be subsumed into the JSE – in essence, MSE argued that this must be a regional project.

3. CONCLUSIONS AND RECOMMENDATIONS

3.1. CONCLUSIONS

Overall, Malawi seems to be progressing relatively well with regards to implementing the FIP. Despite the lack of coordination of this process at national level and complaints that the Ministry of Finance is not participating actively in the process, the majority of stakeholders presented a positive picture in terms of activities at the national level. Numerous financial sector reforms have been passed by Parliament over the last two years indicating that there is

³³ Mauritius has recently signed up for Associate Membership, but even this costs US\$50,000.

³⁴ According to the MSE, the Zambian government subsidizes 50% of the Lusaka Stock Exchange costs. In Malawi the figure is around 25%.

³⁵ Opinion of MSE representative interviewed

political commitment to the process of improving the legal and regulatory environment governing financial services.

Obligations set out under the FIP Annexes have been pursued aggressively in a number of technical areas (especially with regard to Annexes 5, 6, 8, and 10). The subcommittee members here have clearly taken the FIP as an additional tool to guide reforms at national level and have demonstrated significant progress to date ensuring Malawi implements the various articles of the respective FIP Annexes. However, a frequent caveat from subcommittee members was that whilst Malawi was happy to implement these FIP obligations, the core motivating factor was that it was in the national interest to enhance the sophistication of Malawi's wider financial system. Members were not opposed to regional integration in these matters, but improving Malawi's national systems seemed to be the overarching driving force behind reforms. This perhaps explains the lack of progress in implementing certain obligations set out in the FIP. With regard to Annex 4 on exchange controls, Malawi is clearly reluctant to liberalise its capital account and is currently imposing *de facto* controls on the current account through its exchange rate policy. Despite calls from development partners, academia and the private sector, the Government has held firm and refuses to devalue the exchange rate up to today. In light of this, and similar examples, one can perhaps conclude that the Government of Malawi will always put what it perceives to be the national interest first, irrespective of what it has committed to under the FIP.

At the regional level, the general impression from interviews is that most Annex Subcommittees were working relatively well. Perhaps the only exceptions from Malawi's point of view would be for the issues of Investment and Exchange Controls. A particularly positive point from the regional level was the way that the Annex 5 Subcommittee on Legal and Operational Frameworks seems to be working well with the 'line subcommittees' in attempting to develop new frameworks and guidelines once they have been approved by the subcommittee. They often do joint presentations to the CCBG, indicating a high degree of cooperation and coordination.

Despite the general positive views on the functioning of the subcommittees, many expressed a degree of frustration at the slow pace of developing regional guidelines and frameworks. The point is often made that Malawi moves forward of its own volition in the absence of any regional guidelines. Whilst Malawi tries to model itself on international best practice when reforming, there appears to be an underlying fear that regional guidelines developed on the various subcommittees in the coming months and years might require Malawi to adjust its newly passed legislation – a common point made by subcommittee members was that they hoped any regional frameworks and guidelines would at most require subtle tweaks to existing laws. The individuals who participate in CISNA acknowledged the difficulties associated with creating overarching regional guidelines, and has thus decided to start working on issues related to capital markets on a case by case level where agreement can be reached. So far, a technical committee has developed common requirements for all member states on four issues. This use of technical committees (other subcommittees have task forces for specific issues) seemed to work well for some subcommittees and is perhaps a model for all to follow in achieving regional integration in areas where agreements are easier to make.

Where there has been progress at regional level, Malawi has tended to welcome it. Some stakeholders argued that regional documents helped convince politicians to accept international best practices with regard to the issues covered in the protocol. One particularly pertinent example was provided with regard to Annex 5, where a SADC Central Bank Model Law was finalised in 2009. Officials from the RBM argued that this proved very useful in persuading the government to include provisions for the RBM's operational independence in the new Reserve Bank Act of 2010. Malawi is eager for work on regional guidelines and frameworks to be expedited across the Annexes to the FIP.

3.2. RECOMMENDATIONS

In light of these conclusions, the following recommendations are made to improve implementation of the FIP and national and regional level going forward:

General and coordination issues:

- Increased leadership from the Ministry of Finance in the overall FIP process, specifically, the creation of a National Coordinating process for FIP implementation in Malawi to be headed by the Ministry of Finance.
 - This would help increase accountability for Subcommittee members and provide for a channel between the Subcommittees and high-level representatives of the Ministry.
 - It would also increase information across government about the activities being undertaken by the various FIP Annex Subcommittees, in order to ensure that the Malawian stake in the SADC region integration agenda is well understood by all subcommittee representatives
- Scarcity of foreign exchange may be a determinant in the RBM's reluctance to pursue further liberalisation of the current account and capital account. Even though increasing foreign exchange reserves is not directly linked to FIP, it is clear that this area should be prioritised to give the RBM the space to engage in a more proactive liberalisation agenda.
- Increased resources for regulators on bank and non-bank financial services.
 - Whilst Malawi has recently completed numerous legal reforms covering the financial sector, it was noted that actually implementing these effectively will require enhanced resources.
 - This is an area where external support could be valuable. It is important that any such support complements existing help from other development partners so as to avoid duplication.
 - There may also be the potential to provide technical support to facilitate Malawi's plans to move to the SWIFT message carrier for its RTGS.

- There is a clear need for financial support in relation to the planned regional trading platform for SADC Stock Exchanges. Substantial investment in infrastructure is required if this vision is to become a reality.
- Subcommittees to focus on developing regional frameworks and guidelines on an issue by issue basis whilst overarching guidelines are being developed.
- Interviewees expressed the opinion that overlapping membership to SADC and COMESA could result in challenges in the future. A study into potential risks and difficulties would be instructive to pre-empt these challenges.
 - Particularly, dual membership to two regional economic communities will mean linkage into two regional RTGS. This issue needs to be resolved in order to ensure that extra resources are not wasted at domestic or regional level.

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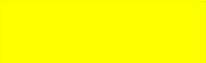
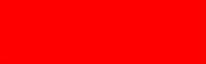
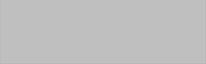
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4. APPENDICES

4.1. APPENDIX 1: INTERVIEW LIST

Subcommittee	Organisation	Name
Investment	Ministry of Industry and Trade	Mr Wesley Mwamadi
Tax	Malawi Revenue Authority	Mr Crispin Kulemeka
Macroeconomic Convergence	Reserve Bank of Malawi	Mr Levie Sato
Macroeconomic Convergence	Reserve Bank of Malawi	Dr Mark Lungu
Exchange Controls	Reserve Bank of Malawi	Mr Joseph Milner
Legal and Operational Frameworks	Reserve Bank of Malawi	Mr Samuel Malitoni
Payment Systems	Reserve Bank of Malawi	Mr Fraser Mdwazika
Payment Systems	Reserve Bank of Malawi	Mr Osky Sichinga
Payment Systems	Reserve Bank of Malawi	Mr George Chioza
Payment Systems	Reserve Bank of Malawi	Mr Mushane Mwangonde
Banking Supervision	Reserve Bank of Malawi	Mr Fund Mzama
Banking Supervision	Reserve Bank of Malawi	Mr Ketamyoto Mulwafu
Banking Supervision	Reserve Bank of Malawi	Mr Titus Chima
DFI	Privatisation Commission	Mr Charlie Msusa
DFI	Privatisation Commission	Dr Cezley Sampson
CISNA	Reserve Bank of Malawi	Mr Patrick Mhango
CISNA	Reserve Bank of Malawi	Mr Duncan Mphande
CISNA	Reserve Bank of Malawi	Mr Hastings Mzonza
CISNA	Reserve Bank of Malawi	Mr Ngwira
COSSE	Malawi Stock Exchange	Mr Symon Msefula
COSSE	Malawi Stock Exchange	Mr John Kamanga

4.2. APPENDIX 2: MATRIX OF COMMITMENTS

Colour	Status
Achieved	
Partially achieved	
Not achieved	
Not assessed	
Not applicable	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
None	None	FIP instrument ratified by all member states.		SADC Secretariat	
None	None	National FIP coordinating structures in place to facilitate better FIP implementation.		SADC Secretariat	
Annex 1: Cooperation in Investment	5,6,8,9,27	Existence of domestic investment law that: Protects investors, allow repatriation of profits, allows access to courts		Malawi Investment Promotion Agency/Ministry of Industry and Trade	All three present = green

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 1: Cooperation in Investment	21	Signatory to international conventions: New York Convention		http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYC_convention_status.html	Member = green
	21	Signatory to international conventions: ICSID		http://icsid.worldbank.org/ICSID/FrontServlet?requestType=ICSIDDataRH&reqFrom=Main&actionVal=ViewContractingStates&range=A~B~C~D~E	Member = green
	21	Acceded to international conventions: MIGA		http://www.miga.org/about/index_sv.cfm?stid=1695	Member = green
	8	Investment policies, information etc. easily accessible to investors		Malawi Investment Promotion Agency/Ministry of Industry and Trade	
	23	MS has an active IPA		Malawi Investment Promotion Agency/Ministry of Industry and Trade	
	2	Member ranked above (or equal) to OECD average rating of the Strength of Investor Protection Index	5.3	http://www.imf.org/external/pubs/ft/scr/2010/cr10143.pdf	Better than or equal to OECD average = green; worse = red

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 1: Cooperation in Investment	19	MS's national policies and regulations comply with the Regional Investment Policy Framework and/or the minimum principles for investment regimes in the region.	Not Assessed (not measured in 2011)	Malawi Investment Promotion Agency/Ministry of Industry and Trade	
	19	Regional Investment Policy Framework is drafted and agreed to by MS	No standard framework yet exists in the region.	Investment subcommittee	
	23	Evidence of events and activities run by IPA Forum and attended by MS IPAs	The SADC IPA forum has been established, however the most recent event was poorly attended by CEOs of IPAs operating in MS	Investment subcommittee	
Annex 2: Macroeconomic Convergence	2,3,4	Inflation rate low and stable (< 9%)	7.4%	Reserve Bank of Malawi	Within range = green; out of range = red
	2,3,4	Public and publicly guarantee debt to GDP < 60%	19%	Reserve Bank of Malawi	Within range = green; out of range = red
	2,3,4	Budget deficit to GDP ratio at widely accepted prudent levels (< 5%)	Surplus of 4%	Reserve Bank of Malawi	Within range = green; out of range = red
	5,8	Cooperation/Information Sharing: submission of data to SMSD		Reserve Bank of Malawi	
	7	Cooperation/Information Sharing: participation in peer review panel	N/A	Reserve Bank of Malawi	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 2: Macroeconomic Convergence	7	The Peer Review Mechanism is approved for establishment and operational	Discussions towards establishment of the mechanism are on-going. Framework and guidelines have not yet been adopted. Generally, MS are supportive of the Peer Review Mechanism, but have specific concerns which need to be addressed at subcommittee level.	Macroeconomic Convergence subcommittee	
Annex 3: Cooperation in Taxation Matters	5.3	Number of DTAs signed with other SADC member states	4	Malawi Revenue Authority	< = 6 red, 7 - 10 orange, 11 - 14 green
	2	Up to date and publicly available tax database (national)		Malawi Revenue Authority	
	2	Up to date information submitted to SADC Tax Database (when fully operational)	N/A	Malawi Revenue Authority	
	6..6	Signatory to the Mutual Agreement for Information Exchange with member states (AATM)	N/A	Malawi Revenue Authority	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	6	Harmonised to the regional guidelines for the administration of Indirect Taxes	N/A	Malawi Revenue Authority	
Annex 3: Cooperation in Taxation Matters	4	Harmonised to the regional tax incentives guidelines	N/A	Malawi Revenue Authority	
	3	Tax officials participate in capacity building activities		Malawi Revenue Authority	
	5	Existence of Model Double Taxation Avoidance Agreement	Model DTAA and Commentary approved and adopted by all member states.	Tax subcommittee	
	4	Guidelines for the appropriate treatment of tax incentives drafted and approved for adoption by MS.	Drafting of guideline documents still in progress.	Tax subcommittee	
	4	A Fiscal Model for cost benefit analysis developed and approved by Ministers of Finance. Fiscal Model must comply with items articulated in Art. 4 section 5.	Cost Benefit Analysis model not yet developed.	Tax subcommittee	
	6	SADC Agreement for Assistance in Tax Matters (AATM) approved and signed by all member states (multi-lateral agreement).	Finalised in 2008, waiting for approval by Ministers of Justice/Attorneys General awaiting clearance and signature by Summit.	Tax subcommittee	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	6	Guideline for the administration of indirect tax in the region is approved for adoption by member states.	Still under review by the Indirect Taxation working group.	Tax subcommittee	
	7	Mechanism for the Settlement of Tax Disputes developed and approved by Ministers of Finance.	Has not been developed or approved for implementation	Tax subcommittee	
Annex 4: Cooperation on Exchange Control	2a	Liberalised Current Account		Reserve Bank of Malawi	
	2a	Liberalised Capital (Financial) Account		Reserve Bank of Malawi	
	2c,3.1.c	Full Currency Convertibility		Reserve Bank of Malawi	
	2d, 3d	Collect and publicise data on foreign exchange transactions (e.g. automated cross border reporting system)		Reserve Bank of Malawi	
	2a	Roadmap for exchange control liberalisation in current and capital (and financial) account transactions is drafted and approved	The roadmap has been drafted by the subcommittee. All countries except the DRC have signed and approved the roadmap, and so it has not been implemented as yet.	Exchange Control Subcommittee	
Annex 5: Harmonisation of Legal and Operational	3b	Autonomy/independence of Central Bank		Reserve Bank of Malawi	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Frameworks	2	Compliant with SADC Central Bank Model Law (when/if made binding)	N/A	Reserve Bank of Malawi	
	4.2	Adoption of price stability as mandate		Reserve Bank of Malawi	
	3c	Ability of Central Bank to set own budget		Reserve Bank of Malawi	
Annex 5: Harmonisation of Legal and Operational Frameworks	2e	Extent to which central bank can lend to government	Yes - for temporary short falls in government revenue	Reserve Bank of Malawi	
	3	Existence of Model Central Bank Law	The Model Central Bank Law has been drafted and approved by all SADC member states	Legal and Operational Frameworks subcommittee	
	2	Roadmap for the establishment of a Common Central Bank developed and approved.	Legal & Operational Committee has recently been tasked with the development of a roadmap for the establishment of a single Central Bank. No progress yet on this matter.	Legal and Operational Frameworks subcommittee	
Annex 6: Cooperation on Payments Systems	3a	Payments systems in place domestically		Reserve Bank of Malawi	
	3c, 3e, 4.1.c	Risk mitigation strategy implemented		Reserve Bank of Malawi	
	4.1.d	Existence of national payments system law		Reserve Bank of Malawi	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	2	National payment system law aligned to regional model law	N/A	Reserve Bank of Malawi	
	2, 3d	MS linked to SADC regional payments systems (when operational)	N/A	Reserve Bank of Malawi	
	2	Model Payment System Law developed and approved	Law is being drafted for approval at regional level	Payments System subcommittee	
Annex 6: Cooperation on Payments Systems	3	Model Payment System Strategy is developed.	This is not in place yet. However, the strategy is being developed for the CMA countries to be piloted in this sub-regional bloc. The intention that this will allow a 'tried and tested' strategy to be rolled out to the rest of the region	Payments System subcommittee	
Annex 7: Cooperation in the area of ICT	3, 4	Legal framework for data privacy in place	Not Assessed (not measured in 2011)	Each Central Bank & IT Forum	To enable cross border business based on ICT taking in account that all business are supported by ICT platform
	3	Standard regarding ICT systems interpretability in place	Not Assessed (not measured in 2011)	IT Forum	Promote cross border business specifically for Payment Systems

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	3.5	IT Governance framework adopted for the region.	Not Assessed (not measured in 2011)	Each Central Bank & IT Forum	
	3	ICT communication Infrastructure to connect member states in place	Not Assessed (not measured in 2011)	IT Forum	
Annex 8: Cooperation in Banking and Regulatory Supervision	2	Compliant with the 25 BASEL core principles	Working on principles 23-25	Reserve Bank of Malawi	Less than 20 = red; 21 to 25 orange; 25 green
	2	Self-assessment audit happening on annual basis		Reserve Bank of Malawi	
	Annex 14	Membership of ESAAMLG & completion of a mutual evaluation		Reserve Bank of Malawi	
	Annex 13	Compliant with international standards for auditing and accounting - IFRS		Reserve Bank of Malawi	
	2, 4	Regional agreement on framework for central bank supervision.	Harmonisation of banking supervision and regulatory principles in progress.	Banking Regulation and Supervision subcommittee	
Annex 9: Cooperation on Development Finance Institutions	3, 9	Participate in regional development projects through cooperation in pooling of funds, project identification, project management.	N/A	Malawi does not currently have an appropriate DFI	
	3f, 7	Attending capacity building activities organised by DFRC (secondment, work placement, training)	N/A	Malawi does not currently have an appropriate DFI	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	Annex 1	PPP: Establishment of PPP Policy Framework, Legal Framework, Institution Framework	Not Assessed	Ministry of Industry and Trade or relevant ministry	
	2	The DFI network and DFRC are established and active.	Yes.	SADC Secretariat	
Annex 9: Cooperation on Development Finance Institutions	11	Regional Insurance Guarantee system in place and approved.	The Regional Insurance Guarantee scheme has not been agreed upon or implemented.	DFI Network	
	3	Number of regional development projects in progress (where regional refers to projects with benefits to more than one country, or with more than one country collaborating on a project)	Only evidence of regional projects is DBSA projects, which are not necessarily attributable to the DFI network. No collaboration between DFIs on regional development projects.	DFI Network	
Annex 10: Cooperation on Non-Banking Financial Institutions and Services	7	Membership of IOSCO (harmonising to international standards)		http://www.iosco.org/lists/display_members.cfm?memID=1&orderBy=None	
	7	Membership of IOPS (harmonising to international standards)		http://www.iopsweb.org/document/14/0,3343,en_35030657_35030370_35152654_1_1_1_1,00.html	
	7	Membership of IAIS (harmonising to international standards)		http://www.iaisweb.org/IAIS-members-31	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	3, 4, 5	Committed to information sharing (Multi-lateral agreement signed by all CISNA members)		Reserve Bank of Malawi	N.B. except Seychelles who has not yet participated in CISNA
	10	Participating in capacity building activities		Reserve Bank of Malawi	
Annex 10: Cooperation on Non-Banking Financial Institutions and Services	9	Alignment to SADC regulatory framework for Non-Banking Financial Institutions (when drafted and approved)	N/A	Reserve Bank of Malawi	
	9	SADC regulatory framework for non-banking financial institutions established and approved for the region	SADC Framework is not yet developed. But progress has been made in that member states' NBFIs authorities have been tasked with drafting the various components of the framework.	CISNA	
Annex 11: Cooperation in SADC Stock Exchanges	2	Cooperation: Member of COSSE		Malawi Stock Exchange	
	2	Cooperation: Information Exchange		Malawi Stock Exchange	
	2.3	Participate in capacity building activities (either attend or host)		Malawi Stock Exchange	
		MS harmonised to SADC common principles.	Not Assessed (not measured in 2011)	Malawi Stock Exchange	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
	2.5	MS who are completing the minimum standards for surveillance and risk assessment.	Not Assessed (not measured in 2011)	Malawi Stock Exchange	
Annex 11: Cooperation in SADC Stock Exchanges	2.7	Extent of diversification of the registered market participants on MS stock exchange (% individuals, % trusts, % corporates)	Not Assessed (not measured in 2011)	Malawi Stock Exchange	