
SUMMARY

1. Malawi is a landlocked LDC, with significant infrastructure bottlenecks in the areas of transportation and energy supply that have added to the cost of trading. Over the review period (2016 to mid-2024), Malawi's economy was initially on an accelerating trend, with real GDP growth rising from 2.3% in 2016 to 5.4% in 2019. It dropped to its lowest level in 2020 (0.9%) with the onset of the COVID-19 pandemic and growth has since fluctuated. Since its last Review, Malawi has experienced several other strong external shocks, including cholera outbreaks, natural disasters, and global price increases in food, fertilizer, and energy. Malawi relies heavily on imports and has significant supply-side constraints. It has a narrow export basket, dominated by agricultural commodities. Agriculture contributed about 24% of GDP and about 90% of total merchandise exports. The most important export item, tobacco, saw its export value decline until 2022 before it picked up slightly in 2023. The EU-27 remains the main destination for Malawi's exports.

2. The long-standing trade deficit, reflecting a continued increase in imports and stagnation in exports, further tightened Malawi's foreign exchange reserves, which were able to cover only 0.8 months of imports by the end of 2023. This shortage has been one of the major constraints on the economy and has not been resolved by recent adjustments to fiscal, monetary, and exchange rate policies aimed at achieving fiscal sustainability, price stability, and an improved trade balance. The Government recognizes that Malawi's public debt is "unsustainable". Exacerbated by increased import prices, Malawi's inflation rate reached 40% by the end of 2023. The recent requirements for exporters to surrender 30% of their export earnings to the Government through the Central Bank have added to the cost of formal trade and motivated export smuggling.

3. Trade and trade policy play a key role in Malawi's macroeconomic policies and economic development plans. Malawi 2063, the country's overall development plan aims to, inter alia, achieve agriculture commercialization, industrialization, and export-oriented growth. It is supported by the National Export Strategy II (2021-26) and pre-existing national trade and industrial policies. In 2020, Malawi opened a permanent mission in Geneva, which enabled the country to participate more actively in WTO activities. It accepted the Trade Facilitation Agreement in July 2017; it has implemented 63% of its Category A commitments, 10.1% of its Category B commitments, and 3.36% of its Category C commitments. Malawi is not a participant in any of the WTO joint initiatives, and it has not accepted the Agreement on Fisheries Subsidies (as of mid-2024). It is part of the Informal Working Group on Trade and Gender. Malawi's record of notifications to the WTO has improved, particularly in the areas of SPS and TBT. Notifications are pending in agriculture, import licensing, quantitative restrictions, subsidies, and state trading enterprises. Some RTAs and recent intellectual property rights laws have not yet been notified.

4. Malawi is a member of the SADC and COMESA and ratified the African Continental Free Trade Agreement (AfCFTA) in 2021. New developments over the review period have included Malawi's implementation of COMESA's simplified trade regime, the entry into force of the SADC's Protocol on Trade in Services in 2022, and the acceptance of Malawi's tariff offer to the AfCFTA Council of Ministers in October 2023 enabling Malawi to trade under preferential conditions with the other parties that have implemented their approved tariff offers. As an LDC, Malawi is eligible for unilateral preferences granted by trading partners. The Government released a national AGOA response strategy in 2018 to maximize opportunities to access the US market.

5. Malawi encourages foreign investments over USD 50,000 in priority sectors (agriculture, tourism, mining, infrastructure, energy, services, and manufacturing). The Investment and Export Promotion Act, enacted in 2024, inter alia, governs FDI approval processes; it replaces several laws and strengthens the legal status and mandate of the Malawi Investment and Trade Centre (MITC). A Special Economic Zones Act was also enacted in 2024; through provisions enabling the establishment of special economic zones, it aims to encourage industrialization, boost exports, and promote investment. De jure FDI restrictions remain in mining and fishing. While changes to land laws have introduced more restrictive provisions on land ownership by non-citizens, the MITC has been given new responsibilities to facilitate allocation of land to investors. Malawi ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2021. Reforms to improve the business environment have included the automation of various government services.

6. The Malawi National Single Window is at the final design stage. Once fully operational, it will enable traders to apply, pay for, and obtain import and export permits and licences online. All imports, except those by authorized economic operators, are subject to documentary or physical inspection. With respect to customs valuation, Malawi has been requested to clarify if it is still using the Brussels definition of value (i.e. a notional value that the goods would fetch on the open market). Reference prices continue to be used in the absence of satisfactory evidence of freight cost. In 2023, a One-Stop Border Post Control Act entered into force, enabling Malawi to enter into one-stop border-post-related agreements with neighbours. As of 2024, a one-stop border post was operational with Zambia.

7. Customs duties and other taxes on imports collected at the border are an important source of government revenue, accounting for nearly 30% in FY2022/23. Malawi's tariff structure comprises seven rates (zero, 5%, 7.5%, 10%, 15%, 20%, and 25%). More generally, it is being modelled progressively along the tariff categories of capital and raw materials (0%), semi-finished goods (10%), and finished goods (25%). At the time of the previous Review, six tariff lines related to tobacco products attracted rates of 200%; these have been reduced to 25%. Malawi has 12 lines where the applied MFN tariff exceeds the bound rates; these relate to certain ambulances, hearses, and prison vans. Although a full comparison with the tariff applied at the previous Review cannot be made due to changes in HS nomenclature, the simple average applied MFN rate is largely unchanged at 12.7%, with higher average rates applying to agricultural products (WTO definition) (17.7%) than non-agricultural products (11.9%). However, if the import surcharge introduced in 2019 is included in tariff calculations, the average MFN tariff would be higher. Malawi does not apply tariff quotas and all tariff lines are ad valorem.

8. Various tax incentives, involving exemptions to customs duties, VAT, excise taxes, and corporate income tax, are offered, inter alia, to attract and direct investment into specific sectors and support domestic industry. According to a recent analysis, revenue loss accounted for between 43% and 50% of tax collection over the period FY2018-19 to FY2020-21.

9. A new law, the Control of Goods Act, 2018, governs most import and export prohibitions, restrictions, and licensing requirements. Under this law, the Minister may also regulate the import and export of goods, including the protection of domestic industry from serious injury imposed by import surges. Provisions on anti-dumping under the Customs and Excise Act remain unchanged and have not been used.

10. Export taxes continue to be levied on wood products at 50% to encourage local value addition. Malawi operates export processing zones (EPZs) under which 90% of manufactured goods must be exported. Thirteen companies are operating within EPZs. New regulations were issued in 2020 to streamline the EPZ certificate application process and introduce a legal framework for dispute resolution in cases where an EPZ certificate is revoked. The Export Development Fund, established in 2012, continues to provide financial services to support businesses that are either export- or import-substitution oriented. It focuses on agriculture and agro-processing, manufacturing, mining, infrastructure development, and tourism.

11. A new Metrology Act entered into force in 2016. The activities of the Malawi Bureau of Standards (MBS) continue to be partly financed by a quality development cess levied on imported products and import quality monitoring fees. The MBS is responsible for the testing and certification, for quality assurance purposes, of goods subject to technical regulations in Malawi. In 2021, the MBS cut its certification fees by half with a view to boosting SME performance. It does not recognize certificates and test reports from certification bodies accredited overseas, hence all imports subject to technical regulations are tested within the country.

12. Malawi has SPS-related implementation challenges particularly due to capacity constraints and porous borders. It generally lacks facilities and laboratory equipment to test and certify products for import and export. A new Plant Protection Act came into force in August 2020, and Malawi is in the process of developing or adopting new laws for the control of diseases of animals, meat and meat products, and milk and milk products.

13. A Competition and Fair Trading Act was enacted in 2024, replacing previous legislation. Reforms include giving the Competition and Fair Trading Authority the power to issue administrative orders to address anti-competitive and unfair trading conducts, including legal provisions regulating

abuse of buyer power; incorporating provisions on merger assessment; and introducing a leniency programme to encourage businesses to self-report anti-competitive conduct.

14. Malawi has price controls on agriculture commodities (the Ministry of Agriculture sets minimum farm gate prices for 23 agricultural commodities); fuel (Malawi Energy Regulatory Authority (MERA) uses an automatic fuel pricing mechanism); electricity (MERA sets or approves tariffs set by the Electricity Supply Corporation of Malawi (ESCOM)); telecommunications (Malawi Communications Regulatory Authority (MACRA) sets interconnection charges and approves telecom and subscription TV tariff changes); and water (tariffs are regulated by the five water boards and the Minister of Water and Sanitation).

15. Malawi has 28 SOEs in key sectors including agriculture, communications, energy, financial services, transport, and water. It has a 51% share in Malawi Airlines, a 67% stake in Indebank Malawi Ltd, and a 40% stake in Salima Sugar. Several new SOEs were established over the review period: Electricity Generation Company (Malawi) Ltd, National Economic Empowerment Fund Ltd, and Malawi Gaming and Lotteries Authority. Various steps have been taken to increase oversight of SOEs. The Government has given new impetus to encouraging private investment in government services/projects through the enactment of the Public Private Partnership Act, 2022, which replaces the previous Law.

16. The Public Procurement Act, 2003 was revoked and replaced by the Public Procurement and Disposal of Public Assets Act, 2017. A new authority, the Public Procurement and Disposal of Assets Authority (PPDAA) was established to regulate public procurement and the disposal of public assets. The new Act provides for a decentralized procurement process with procurements being undertaken by individual procuring and disposing entities (IPDEs). The Act sets out criteria for using different procurement methods. Use of any procurement method other than the open tender or request for proposals requires the approval of the Director-General of the PPDAA. While the Act provides that IPDEs should give a preference of 60% to black Malawians and 40% to other Malawians in all national competitive bidding, this is not currently being enforced. Instead, as a temporary measure, a 20% preference is provided to all bidders whose businesses are owned by black Malawians. Preferences for MSMEs were introduced in 2020. Under the Buy Malawi Strategy, all public procuring entities are advised to buy at least 60% of other goods and services from Malawi-based suppliers of goods and providers of services. Two online procurement platforms are being developed under the Malawi National Electronic Procurement System for high- and low-value procurements.

17. Since 2016, Malawi has enacted new laws on copyright, trademarks, and plant breeders' rights. The Copyright Act takes into account the Marrakesh Treaty and the ARIPO Kampala Protocol on Voluntary Registration of Copyright. It incorporates new provisions to address changes in technology and has brought in the Copyright Fund and introduced the blank media levy. The Trademarks Act extends registration coverage to include service marks, includes provisions on registration of geographical indications and collective marks, increases protection of well-known marks, domesticates the ARIPO Banjul Protocol, and introduces stricter (criminal) penalties for infringements. The Plant Breeders' Rights Act provides for the creation of a Registrar of plant breeders' rights. Protection is for a period of 20 years, except for trees and grapevines, which is for 25 years. The Act also provides for applications for compulsory licensing. A Plant Breeders' Rights Fund has been established. Malawi joined the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks in 2019 and the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or Otherwise Print Disabled in 2017. An Intellectual Property Rights Policy was released in 2019 as a framework to support creativity and innovation, and drive industrialization and structural transformation of the economy. IP enforcement appears to be inadequate, partly due to lack of capacity.

18. Agriculture accounts for a quarter of the economy's gross value added and provides subsistence living to 85% of its households. Natural disasters and pests, pressure on land from fast population growth, and heavy reliance on imported agricultural inputs and on rain-fed agriculture all constrain Malawi's agriculture development. Malawi's export basket is composed of a few agricultural products, such as tobacco, ground nuts, and tea. Its agriculture policy aims to diversify agriculture away from its traditional export products, such as tobacco, to non-traditional, high-value products such as cannabis. Export of maize is prohibited from time to time with a view to maintaining food security, although this tends to drive down domestic prices and lead to smuggling. Input subsidies, price support, and strategic reserves are used to promote agriculture development. Over the review

period, Malawi enhanced its input subsidy programme to reach more farmers; this practice, however, led to questions on fiscal sustainability and administrative problems.

19. Agricultural expansion and a large demand for biomass for cooking and heating are exerting pressure on forestry and worsening deforestation. The Government is trying to stop deforestation by planting trees, promoting other energy sources such as LPG and briquets, and imposing export restrictions. Malawi's fish catch comes mainly from Lake Malawi, and fishing is mostly artisanal and small scale. The Government has been implementing plans to, inter alia, conserve freshwater biodiversity and improve the financial inclusion of marginalized rural women. Foreigners may engage only in sport fishing.

20. Malawi has not yet been able to utilize and profit from its mineral resources. Mining and quarrying accounted for a tiny share of GDP (0.7%), and it has a trade deficit in mineral products. The Mines and Minerals Act was repealed and replaced in 2019 and again in 2023. Before 2019, minerals were owned by the President on behalf of the people. As a result of the 2019 Act, mineral resources are vested in the Republic, and the Government may acquire free equity ownership in a mining project with a large-scale mining licence. The Government started using a mineral rights cadastre system in 2018. Licensing fees are the same for domestic and foreign applicants, except for the reserved mineral licence, where fees are more expensive for foreigners, and the artisanal mining permit, which is reserved for Malawians. Higher royalty rates are applied to unprocessed minerals.

21. Malawi has been relying on biofuels as its major source of energy supply and major component of energy consumption due to the lack of affordable and reliable alternatives. In 2019, a carbon tax was introduced on domestic pump purchases of diesel or petrol and the temporary importation of foreign-registered vehicles as well as those in transit. The National Oil Company of Malawi (NOCMA) and oil marketing companies import refined petroleum oils. About 26% of Malawi's population has access to electricity in 2024, much higher than the 15% in 2020, thanks to the Government's efforts to increase access to electricity through both grid and off-grid power connections. The unbundling of ESCOM and the opening up of power generation to private investors in 2017 have resulted in several independent power producers entering the sector. Over two thirds of electricity is generated from hydropower, which is facing difficulties caused by low water levels due to droughts and deforestation. The Government is trying to divert power generation away from hydropower.

22. Services account for more than half of GDP, and services trade has increased recently, although its trade value remains small compared that of with merchandise trade.

23. Given that many areas of the country have limited traditional banking infrastructure, the Government has taken steps to facilitate mobile money, mobile banking, e-money, and other electronic payment methods. The development of e-payment increased risks of financial crimes. Against this background, Malawi established its Financial Intelligence Authority to strengthen its anti-money laundering/combating the financing of terrorism networks and other forms of financial crimes. In FY2023, a "bank supernormal profits tax" of 10% was introduced, on top of the 30% corporate income tax, on banks with profits over MWK 10 billion. In September 2023, Malawi's insurance penetration rate was 1.24%.

24. Malawi is ranked 121 out of 134 economies in the Network Readiness Index 2023. Telecom services coverage has been expanding, partly through infrastructure sharing such as the co-location of equipment on cell sites. Malawi's mobile cellular subscriptions and mobile broadband subscriptions increased rapidly over the review period, and the 4G network was available to about 75% of the population in 2023, up from 15.8% in 2016. The mobile phone market remains concentrated, with two operators accounting for over 99% of the market. Interconnection charges are set by the Malawi Communications Regulatory Authority (MACRA), while telecom tariffs are market-determined. The Electronic Transactions and Cybersecurity Act entered into force in 2016, giving equal recognition to electronic and paper-based transactions. On broadcasting, content service remains small. Relevant legislation, however, does not sufficiently support foreign participation. For example, the Communications Act, 2016 lowered foreign investors' voting share or paid-up capital in content services from 40% to 20%. The current broadcasting policy, which is under review, does not contain provisions for local broadcasters to charge for their services.

25. Road is the dominant mode of transport, although the Government plans to shift from road to rail and inland water transport to reduce transport costs. Cabotage is not allowed for domestic land and water transports. Regarding civil aviation, the Civil Aviation Authority was established and became operational in October 2023. Ethiopian Airlines owns 49% of the shares in Malawi's national carrier, Malawi Airlines, and manages it. Tourism in Malawi is in the early stages of development; it was severely impacted by the COVID-19 pandemic, from which it has not yet recovered. Both foreign and domestic tour operators face the same registration and licensing requirements, and according to the authorities, foreign businesses may have easier access to incentives for tourism than do their domestic counterparts. Malawi plans to establish a Tourism Authority as the sectoral regulator.