

IMPLEMENTING AGREEMENT TO THE PARIS AGREEMENT

BETWEEN

THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF THE REPUBLIC OF MALAWI

The SWISS FEDERAL COUNCIL and the GOVERNMENT OF THE REPUBLIC OF MALAWI, thereafter referred to as “the Parties” and separately as a “Party”,

Having regard to the friendly relations between the Parties;

Desiring to further strengthen these relations and the fruitful cooperation between the Parties;

Reaffirming the Parties’ commitment to democracy, rule of law, human rights and fundamental rights in accordance with international law, including the Charter of the United Nations and the Universal Declaration of Human Rights;

Recalling the Paris Agreement, adopted on 12 December 2015, particularly its Articles 4, 6 and 13 and the relevant decisions under the Paris Agreement;

Recalling the United Nations Sustainable Development Goals;

Emphasizing the necessity to reach net-zero carbon emissions globally around 2050, pursuant to Article 4.1 of the Paris Agreement and the findings of the Intergovernmental Panel on Climate Change (IPCC) in its special report on the impacts of global warming of 1.5 degrees above pre-industrial levels and related global greenhouse gas emission pathways;

Recalling the importance of formulating and communicating to the Secretariat of the Paris Agreement mid-century, long term low greenhouse gas emission development strategies, pursuant to Article 4.19 of the Paris Agreement;

Noting that cooperation under Article 6 of the Paris Agreement allows for higher ambition in mitigation and adaptation action;

Reaffirming the commitment to ensuring transparency and preventing double counting, to protecting the environment, and to promoting sustainable development including the respect of human rights;

Recognizing that the current nationally determined contribution (NDC) of the Swiss Confederation under the Paris Agreement includes the use of internationally transferred mitigation outcomes;

Noting that Malawi is considering international transfer of emission reductions provided this is not an obstacle for the compliance with the nationally determined contribution;

Noting that each Party may take the role of Transferor or Receiver under this Agreement;

Taking into consideration the guidance on cooperative approaches referred to in Article 6, paragraph 2 of the Paris Agreement adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CM A) at its third session;

have agreed as follows:



ARTICLE 1 General definitions

For the purpose of this Agreement, the following definitions apply:

1. "Internationally Transferred Mitigation Outcome":
 - a. "Mitigation Outcome" is defined as one tonne of emission reductions or removals measured in metric tonnes of carbon dioxide equivalent (CO_{2eq}) applying methodologies and metrics pursuant to Article 4.13 of the Paris Agreement;
 - b. An "Internationally Transferred Mitigation Outcome", hereafter referred to as ITMO, is a Mitigation Outcome which has been authorized, transferred and recognized pursuant to Article 9 of this Agreement;
2. "Acquiring Entity" is an entity that receives the ITMOs recognized under this Agreement;
3. "Authorization" is the formal statement that each Party publicly issues pursuant to Article 6 of this Agreement and thereby commits to recognize, pending fulfilment of all requirements for transfer pursuant to Article 8 of this Agreement, the international transfer of Mitigation Outcomes and their use towards NDC achievement or for mitigation purposes other than achievement of an NDC;
4. "Corresponding Adjustment" is an element in the reporting under the Paris Agreement ensuring avoidance of double counting of ITMOs, implementing Articles 4.13, 6.2, and 13.7.b of the Paris Agreement;
5. "Entity Authorized to Transfer" is an entity authorized by the Transferor to transfer the Mitigation Outcomes recognized under this Agreement;
6. "Issuance" is the creation of a transferable Mitigation Outcome in a Registry;
7. "Mitigation Activity" is a project or programme which mitigates greenhouse gases;
8. "Mitigation Activity Design Document" or "MADD" is a document describing the Mitigation Activity;
9. "Monitoring Report" is a report on the verifiable result indicators of a Mitigation Activity from which Mitigation Outcomes originate. The Entity Authorized to Transfer is responsible for its preparation;
10. "Nationally Determined Contribution" or "NDC" is the contribution of a Party to the Paris Agreement under its Article 3;
11. "NDC Implementation Period" is the time frame of a NDC of a Party to the Paris Agreement;
12. "Recognition of Transfer" is the registration of information in a Registry to confirm a transfer, without issuance of units;
13. "Registry" is a digital system to track Mitigation Outcomes;
14. "Receiver" is the Party to this Agreement which recognizes the Mitigation Outcomes internationally transferred in its Registry as ITMOs;
15. "Transferor" is the Party to this Agreement which recognizes the Mitigation Outcomes internationally transferred in its Registry as additions to its emission level covered by its NDC;
16. "Verifier" is the independent third-party entity that verifies Monitoring Reports;
17. "Verification Report" is the report issued by the Verifier confirming the accuracy of content of a Monitoring Report;

18. "Vintage Year" is the year in which a Mitigation Outcome has taken place.

ARTICLE 2 Objective

The objective of this Agreement is to establish modalities for implementing the transfers of Mitigation Outcomes for use towards NDC achievement or for mitigation purposes other than achievement of an NDC. In this regard, both Parties shall promote sustainable development and ensure environmental integrity and transparency, including in governance, and robust accounting, including avoidance of double counting.

ARTICLE 3 Competent authorities

1. The Government of the Republic of Malawi through the Environmental Affairs Department in the Ministry of Natural Resources and Climate Change will implement this Agreement.
2. The Swiss Confederation has authorized the Federal Department of the Environment, Transport, Energy and Communications, acting through the Federal Office for the Environment (FOEN), to act on its behalf in implementing this Agreement.

ARTICLE 4 Environmental integrity

Minimal principles and criteria relevant for ensuring environmental integrity of Mitigation Outcomes, for which transfer and use are authorized, are hereby established:

1. Mitigation Outcomes shall be real, verified, additional to any that would otherwise occur and permanent or achieved under a system that ensures permanence, including by appropriate compensation of any material reversals;
2. Mitigation Outcomes shall represent mitigation achieved from 2021 onwards;
3. The Vintage Year of a Mitigation Outcome and its use should be in the time frame of the same NDC Implementation Period; and
4. Mitigation Outcomes shall originate from activities that:
 - a. do not lead to an increase in global emissions;
 - b. are in line with the long-term low greenhouse gas emission development strategy of each Party;
 - c. foster the transition to low emission development, in accordance with net zero carbon emissions by 2050;
 - d. do not include activities based on nuclear energy and avoid locking in levels of emissions, technologies or carbon intensive practices incompatible with the achievement of the long-term goal of the Paris Agreement, in particular any activities based on the continued use of fossil fuels;
 - e. promote enhanced climate action and safeguard against incentives for low ambition by the Parties involved;
 - f. mitigate the risk of carbon leakage;

- g. are based on conservativeness in baseline setting, including consideration of the lower end of projected emission development;
- h. take into account all existing and planned national policies, including legislation;
- i. include consideration of other factors for incentivizing enhanced climate action by the Transferor;
- j. apply attribution of the Mitigation Outcomes to the sources of finance, where adequate; and
- k. prevent any negative environmental and social impacts, including on air quality and biodiversity, social inequality and the discrimination of population groups based on gender, ethnicity or age.

ARTICLE 5 Sustainable development

Mitigation Outcomes for which transfer and use are authorized shall originate from activities that:

1. Are in line with sustainable development and any respective national, regional and international strategies and policies;
2. Are in line with the long-term low greenhouse gas emission development strategies, as applicable, and promote low emission development;
3. Prevent other environmental-related negative impacts and respect national and international environmental regulations; and
4. Prevent social conflict and respect human rights.

ARTICLE 6 Authorization

1. The international transfer and use of Mitigation Outcomes towards NDC achievement or for mitigation purposes other than achievement of an NDC requires Authorization by each Party, in accordance with Article 6.3 of the Paris Agreement and with Articles 4 and 5 of this Agreement and consistent with respective national requirements.
2. Each Party shall establish a process by which entities can submit a request for Authorization and publish its national requirements, including the submission of a Mitigation Activity Design Document (MADD), and inform the other Party of any modification thereof.
3. Each Party shall publish its Authorizations, including the MADD, in English in their respective Registry defined pursuant to Article 10.1 of this Agreement, and inform the other Party thereof, including updates or changes of the Authorizations.
4. Each Party shall submit the Authorizations to the Secretariat of the Paris Agreement or to an entity defined for this purpose in the respective decisions of the CMA.
5. Each Party may review consistency between their corresponding Authorizations and publish a statement in the case of inconsistency. In the absence of such a statement, the transfer is authorized as per paragraph 1 of this Article after 30 calendar days from the date on which Authorizations from both Parties are published.

6. Consistent with a request of the Entity Authorized to Transfer, each Party may update or change its Authorizations according to the procedures in this Article. Updates or changes become valid pursuant to paragraph 5 of this Article.

ARTICLE 7 Authorization Form

1. An Authorization statement shall reference the MADD and include:
 - a. an identification of the Mitigation Activity from which the Mitigation Outcomes originate;
 - b. a definition of, *inter alia*, the applied standard or baseline methodologies, and requirements for Monitoring and Verification Reports;
 - c. a definition of the crediting period for the Mitigation Activity;
 - d. a definition of the NDC period(s) during which the ITMOs are authorized for use, as appropriate;
 - e. the total cumulative maximal amount of Mitigation Outcomes for which transfer and use is authorized;
 - f. a reference to the corresponding Authorization of the other Party, where applicable; and
 - g. a reference to the amount of Mitigation Outcomes claimed by the transferor, where applicable.
2. An Authorization of the Transferor shall include identification of the Entity Authorized to Transfer.

ARTICLE 8 Monitoring, verification and examination

1. Monitoring Reports and verification thereof are required for each Mitigation Activity from which ITMOs recognized under this Agreement originate. A Verifier approved by each Party and selected by the Entity Authorized to Transfer establishes a Verification Report and submits the Verification and Monitoring reports to each Party.
2. Each Party shall make information on approved Verifiers publicly available.
3. Each Party shall publish the Verification and Monitoring Reports.
4. Each Party shall assess the Verification and Monitoring Reports based on the requirements defined in the Authorization pursuant to Article 7.1.b. of this Agreement. Approval of each Party shall take effect after a no-objection period of 90 calendar days from the date of the submission of the Verification and Monitoring Reports by the Verifier.
5. The Transferor shall examine the Mitigation Outcomes for which transfers are authorized against the following requirements for transfer, within 90 calendar days from the date of submission of the Verification and Monitoring Reports by the Verifier.
 - a. No double counting or double claiming of the Mitigation Outcomes under other national or international systems or aims;
 - b. No evidence of discrepancy with the provisions in the Authorization statements;
 - c. No evidence of violation of human rights or of national legislation of the Transferor in the implementation of the Mitigation Activity from which the Mitigation Outcomes originate.

The Transferor shall publicly issue an examination statement and notify the Receiver as well as the Entity Authorized to Transfer.

6. Upon positive examination by the Transferor, the Receiver shall issue within 30 calendar days a confirmation of the fulfillment of the requirements for transfer. The Receiver shall make the confirmation publicly available and notify the Transferor as well as the Entity Authorized to Transfer thereon.

ARTICLE 9 Recognition of Transfer

Each Party shall recognize authorized transfers of Mitigation Outcomes for which positive statements from the Parties are available pursuant to Articles 8.5 and 8.6 of this Agreement:

1. Consistent with a request by the Entity Authorized to Transfer, the Transferor shall ensure notification of the transfer to the Acquiring Entity and the Receiver. Such notification shall include identification of the Acquiring Entity and information on the amount of transferred Mitigation Outcomes, unique identifiers for each Mitigation Outcome clarifying the origin and Vintage Year of the Mitigation Outcomes, the applicable method for Corresponding Adjustment pursuant to Article 11 of this Agreement and a reference to the underlying Authorization.
2. The Transferor shall recognize the transfer of the Mitigation Outcomes in the Registry defined per Article 10.1 and recognize the transferred Mitigation Outcomes through Corresponding Adjustments pursuant to Article 11 of this Agreement.
3. The Receiver shall recognize the transferred Mitigation Outcomes as ITMOs in the Registry defined per Article 10.1 of this Agreement.

ARTICLE 10 Registry

1. Each Party shall define and use a Registry with the following properties for the Recognition of Transfer:
 - a. The Registry shall be publicly available;
 - b. The Registry shall be updated pursuant to the publication of Authorizations under Article 6.3 of this Agreement and the Recognition of Transfers under Articles 9.2 and 9.3 of this Agreement, respectively;
 - c. The Registry shall include unique identifiers for all ITMOs recognized under this Agreement, information regarding the origin and the Vintage Year, a reference to the Authorizations and documentation required for the recognition of the transfer of Mitigation Outcomes.
2. Parties may define a Registry jointly used for Issuance, transfer and tracking of international units representing ITMOs.

ARTICLE 11 Corresponding Adjustment

In order to avoid double counting of ITMOs recognized under this Agreement, each Party shall apply Corresponding Adjustments in accordance with the guidance adopted under Article 6 paragraph 2 of the Paris Agreement.

ARTICLE 12 Reporting

Each Party shall report information relating to the implementation of this Agreement in accordance with the guidance adopted under Article 6 paragraph 2 of the Paris Agreement.

ARTICLE 13 No double counting with international climate finance

The resources used for the acquisition of ITMOs recognized under this Agreement shall not be reported as support provided or mobilized under Article 9, 10 and 11 of the Paris Agreement, unless the Parties to this Agreement agree otherwise in accordance with Article 13.13 of the Paris Agreement.

ARTICLE 14 Common Concern

The Parties agree to combine their efforts to fight corruption and, in particular, declare that any offer, gift, payment, remuneration or benefit of any kind whatsoever, made to whomever, directly or indirectly, with a view to being awarded an Authorization or a Recognition of Transfer under this Agreement, will be construed as an illegal act or corrupt practice. Any act of this kind constitutes sufficient grounds for suspending Recognition of Transfers pursuant to Article 19 of this Agreement. The Parties shall promptly inform each other of any well-founded suspicion of an illegal act or corrupt practice.

ARTICLE 15 Entry into force and Duration

1. The Agreement shall enter into force 60 days after its signature by the Parties.
2. The Agreement shall be concluded for a period ending four calendar years after the end of the current NDC Implementation Period (i.e. 31 December 2034) and, unless denounced by a Party pursuant to Article 18, it will be tacitly renewed for successive NDC periods.

ARTICLE 16 Amendments

Any modification or amendment to the present Agreement shall be made in writing with the mutual agreement of both Parties.

ARTICLE 17 Settlement of disputes

Any dispute between the Parties concerning the interpretation or application of this Agreement shall be amicably resolved by direct negotiations through diplomatic channels.

ARTICLE 18 Denunciation of this Agreement

1. Any Party may denounce this Agreement by written notification to the other Party. Such denunciation shall take effect four calendar years after the end of the NDC Implementation Period during which the denunciation is communicated.
2. The Entities Authorized to Transfer shall be informed by the Transferor immediately on the termination of the Agreement.

ARTICLE 19 Suspension of Recognition of Transfers

1. Any Party may suspend a Recognition of Transfer if:
 - a. The other Party is in non-compliance with Article 4.2 of the Paris Agreement, whereby consideration of compliance should be based on relevant considerations by the committee established under Article 15 of the Paris Agreement;
 - b. The other Party is in non-compliance with the provisions of this Agreement.
2. Such suspension of Recognition of Transfer shall be communicated by written notification to the other Party and shall take effect 30 calendar days from the date of receipt of the written notification or on later date as specified in that notification.

ARTICLE 20 Termination

1. This Agreement and all Authorizations under this Agreement shall terminate if any of the Parties withdraws from the Paris Agreement.
2. Such termination shall take effect on the same date as the date on which the Party's withdrawal from the Paris Agreement takes effect.

The signatories duly authorised by their governments have signed this Agreement.

Done in Sharm-El-Sheikh, on 16 November 2022, in two original copies in English and German language, all texts being equally authentic. In case of divergence, the English text shall prevail.

FOR THE SWISS FEDERAL COUNCIL:



FOR THE GOVERNMENT OF THE
REPUBLIC OF MALAWI:


