

# UNCAC: 15th Res IRG, 15th Working Group on Prevention

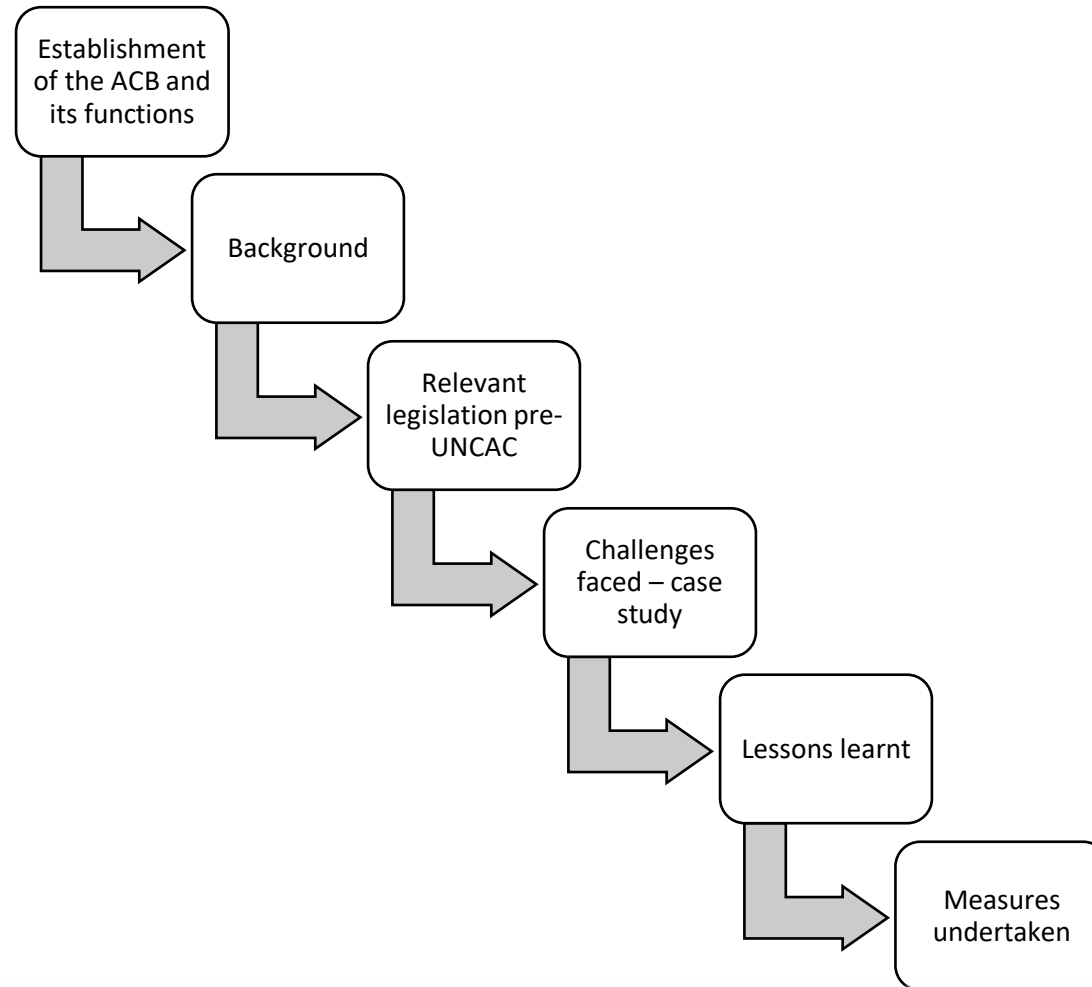
## AN OVERVIEW OF THE LEGAL AND INSTITUTIONAL FRAMEWORK OF MALAWI IN THE CONTEXT OF IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

A Presentation by Hillary Chilomba

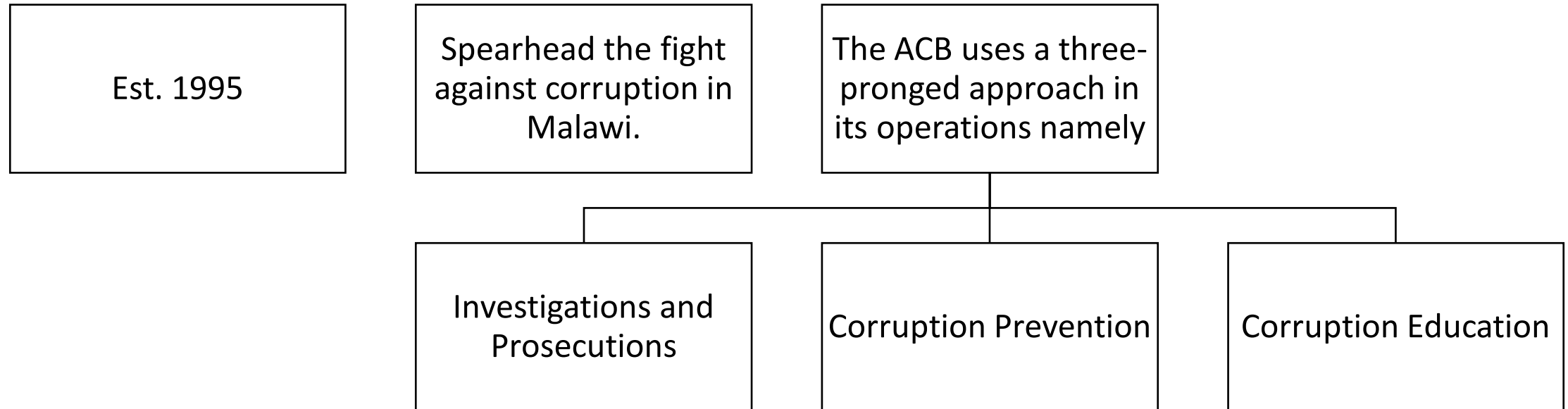
Ag Director General

Anti-Corruption Bureau (Malawi)

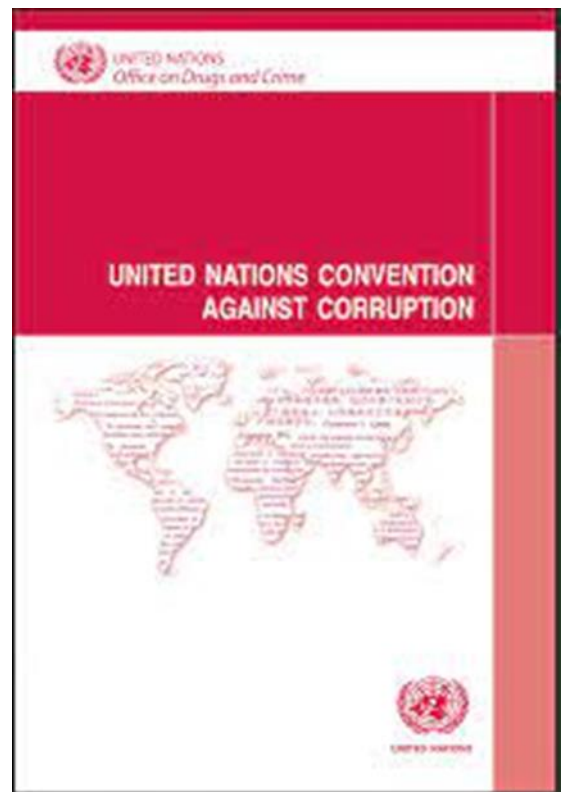
# OUTLINE



# ESTABLISHMENT OF ANTI-CORRUPTION BUREAU



# Background



## International Legal Instrument-

1. United Nations Convention against Corruption Article: Chapter 3



# MALAWI'S LEGAL SYSTEM

- The legal system of Malawi is based on English common law.
- The sources of law include the 1994 Constitution, legislation, international law, common law etc

## RELEVANT LEGISLATION PRE-UNCAC

- Malawi signed the convention on 21 September 2004 and ratified it in 2007. Prior to UNCAC, Malawi had the following pieces to prevent and punish corruption offenders
  - a. Corrupt Practices Act -
  - b. Penal Code
  - c. Criminal Procedure and Evidence Code
  - d. Mutual Assistance in Criminal Matters Act
  - e. Extradition Act

# CHALLENGES FACED

- CASE STUDY – R v Dennis Kambalame  
R v Grezelder Jeffrey  
R v Bakili Muluzi

## LESSONS LEARNT THROUGH THE IRM

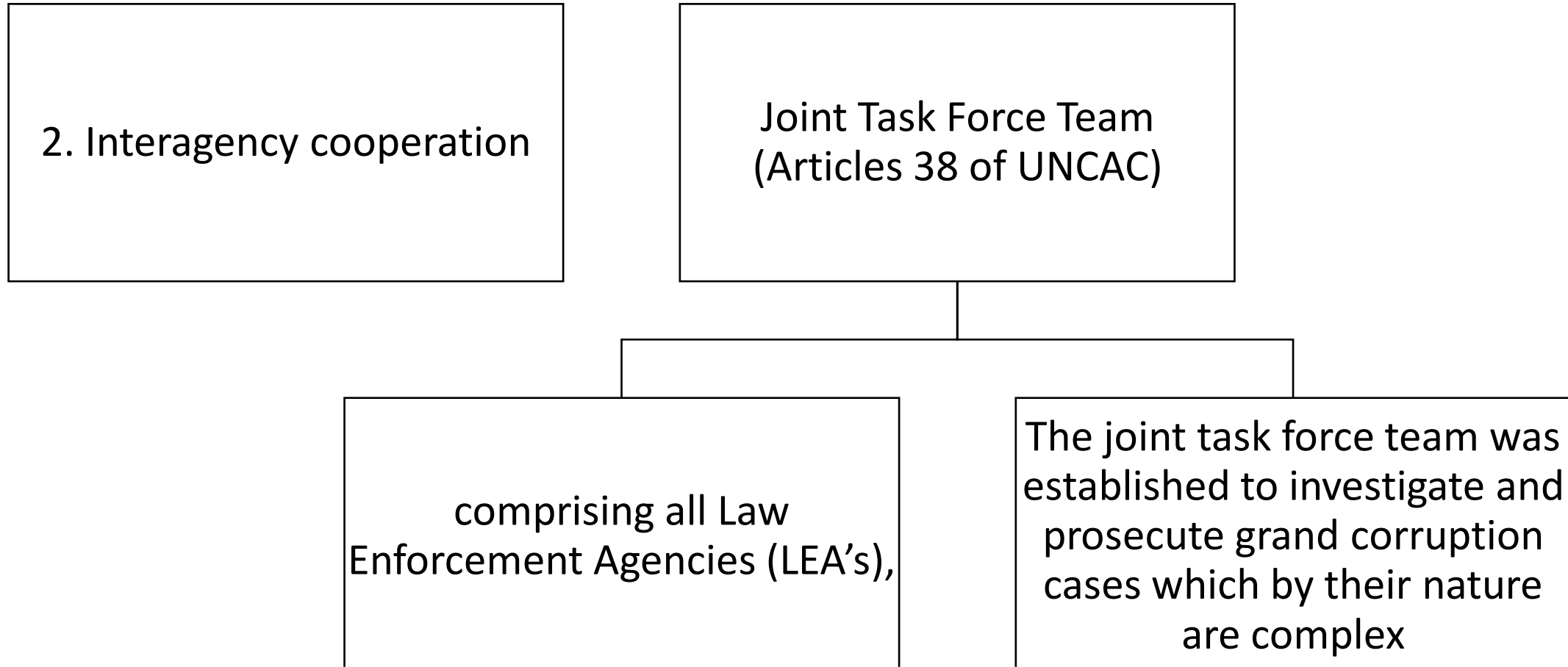
- Post ratification, and through our participation in the IRM, we identified gaps in our domestic laws and policies to deal with the following
  - a. independence of the ACB
  - b. Illicit enrichment committees
  - c. non-conviction-based forfeiture
  - d. Need for involvement of other stakeholders i.e civil society etc
  - f. Duplication of work by different law enforcement agencies



## MEASURES UNDERTAKEN TO BRIDGE THE GAPS

1. Amendment and adoption of new pieces of legislation;
  - a. Corrupt Practices Act – amendment on appointment of and removal of requirement to seek consent from DPP which has reinforced independence of ACB
  - b. Financial Crimes Act – introduced non-conviction-based forfeiture and creation of Financial Crimes Division at High Court Court
  - c. Office of the Director of Public Officers Declarations - to assess public officials' accumulation of wealth before and after their appointment.
  - d. Access to Information Act – empowered civil society to hold public servants accountable

# Cont;



# INTER-AGENCY COOPERATION Cont.

---



# IMPLEMENTATION OF CHAPTER 3 OF UNCAC

- In conclusion, Malawi has benefitted a lot from the IRM, through the peer reviews, and its participation in the IRG.
- As it stands, Malawi implements its obligations under Chapter 3 of UNCAC through the following pieces of legislation;
  - A. Corrupt Practices Act
  - B. Penal Code
  - C. Criminal Procedure and Evidence Code
  - D. Financial Crimes Act
  - C. Mutual Assistance in Criminal Matters Act
  - E. Office of the Director of Public Officers Declarations Act
  - F. Extradition Act
  - G. Access to Information Act

## Contact Details

The Director General, P.O Box 2437, Lilongwe,

- Tel: ( 265)757 844/757 682,
- [www.acbmw.org](http://www.acbmw.org)

THANK YOU