**Ministry of Environment, Water and Natural Resources, UN-REDD+ Workshop on Scoping REDD+ Governance:**

**3rd& 4th July, Nairobi, Laico Regency Hotel**

**Key discussion points**

1. The following notes represent key discussion points to inform the workshop on governance, corruption and benefit sharing in REDD+. These are based on the initial findings of the consultants undertaking the study for the Ministry and UNDP (on behalf of the UN-REDD Programme), gathered through literature reviews and over 20 interviews with a diversity of governmental and non-governmental stakeholders.

2. In thinking about the way in which corruption presents risks for the successful implementation of REDD+ in Kenya, it is useful to distinguish between two aspects:

* First, how does existing corruption in forest governance contribute to deforestation, degradation and unequal benefit sharing? These corrupt practices may be critical to address in order for the effectiveness, efficiency and equity goals REDD+ to be realized.
* Second, what are the potential ways in the implementation of REDD+ may generate new forms of corruption and how can stakeholders respond to these risks in both the preparation (“readiness”) and implementation phases of REDD+?

**THE RELATIONSHIP BETWEEN CORRUPTION AND DEFORESTATION AND DEGRADATION IN KENYA:**

3. In the context of increasing population and the resulting demands on forests and forest resources, understanding the extent to which corruption contributes to deforestation and degradation is extremely difficult. Moreover, verifiable information on corruption related problems are scarce. Nevertheless, several forms of corruption risks have been identified in Kenya, and these can be divided into three themes:

***Land grabbing and illicit conversion, and encroachment of forests.***

4. The problem of irregular allocation of forest lands has been historically important in Kenya, as illustrated in cases such as the Mau forest. What is now well established is that forests have been allocated to politically powerful individuals and access to forest resources and land has been abused for securing political support, particularly in the run up and in the aftermath of elections.

5. The extent to which illicit ‘land grabbing’ and illicit forest conversion continues to be a risk for Kenya is uncertain. While it is unclear whether and to what extent Kenya’s judicial system and Land Commission will succeed in reclaiming forest land lost through corruption in the past, many people acknowledge that a combination of factors have strengthened the likelihood that past abuses will not occur again, at least not on the scale witnessed before. The New Constitution is considered to have provided significant improvement in restricting the possibility of illicit and unpopular de-gazetting of forestlands, and indeed cases illustrating this problem are few in the past years. There is also a widespread view that knowledge on the importance of forests has increased in Kenya and therefore political will to protect public forests has increased. What is more, over the past decade, the voice of civil society and NGOs has been strengthened, and it has become easier for people to contest decisions by the government and hold decision makers accountable.

6. There are however some concerns that forests remain vulnerable to illicit encroachment and conversion, including among community forests. This is compounded by uncertainty regarding the governance of land tenure between Kenya Forest Service (KFS), local county administrations and communities. Governance arrangement for community land is particularly unclear and is expected to be clarified by the Community Land Act, which is being developed. NEMA is also regarded as providing a strong function in terms of issuing licenses and approvals for new developments in environmentally sensitive areas, although there are still potential weaknesses and the opportunity for political and commercial interference. New investments in roads, infrastructure and mining operations may test land tenure and rules and procedures for forest encroachment, while the potential for vested interest to interfere with such decisions requires further reflection.

***Illegal logging and charcoal production.***

7. Alongside the threat to forests from land grabbing and illicit encroachment is the problem of illegal logging, which in turn can supply the national charcoal producing sector. While such illegal felling of trees may not always involve corruption, there is a widespread view that these activities are allowed to exist through the collusion of public officials, including forest guards. This may take the form of accepting bribes from illegal loggers, or at times public officials may be directly involved in orchestrating illegal logging over a longer time period. It is a problem that some feel is exacerbated by lack of morale in the forest service, but also lack of transparency on revenue collection at the local level as well as poor internal systems of accountability in the KFS.

8. In theory the development of Community Forest Associations (CFAs), as supported by the 2005 Forest Act, may diminish the opportunities for this type of corruption in the forestry sector. However, there are also concerns that in some cases CFAs are vulnerable to collusion in corrupt transactions, whereby leaders of CFAs are implicated in illegal logging and charcoal production.

9. The charcoal producing industry is also vulnerable to corruption. Since the implementation of the 2009 Charcoal rules, newly formed Charcoal Producer Associations (CPAs) have been given the mandate to provide certificates of origin for charcoal bags, for which an administrative fee is charged and the resulting money is intended to support sustainable charcoal production. In turn, such certificates are to be verified by regional offices of the KFS. However, there are incentives for fraudulent allocation of permits and the oversight role by KFS may not be entirely effective. Moreover, the income by CPAs may not be used responsibly and is at risk from embezzlement.

10. The transportation of charcoal is also widely regarded as vulnerable to police bribery; trucks carrying charcoal to be sold in urban areas are known to pay bribes to traffic police at regular intervals on their journey. This in turn may be undermining efforts to regulate the charcoal sector and diminishes profits of those involved, which may have negative implications on downstream activities in the sector, raising production to compensate for higher costs.

***Management of public forest plantations***

11. Finally, since the ‘informal’ logging ban imposed in Kenya there have been persistent complaints that the allocation of permits to companies for timber production from government forest plantations has neither been transparent nor fair. This is because a small number of commercial companies have been granted exclusive access, for reasons that are not clear to all stakeholders interviewed, and may be beyond the control of KFS. Moreover, past reports have noted that there are inherent risks of conflict of interests because the commercial logging companies have been represented directly on the Kenyan Forest Service Board. This is no longer the case, but there are still some concerns that the tendering process for logging and processing government plantations lacks openness and that the resulting revenue management and benefit sharing between the government and companies is lacking oversight and accountability. This situation may also contribute to a lack of trust between some stakeholders and the government on forest management.

**CORRUPTION RISKS IN REDD+ IMPLEMENTATION**

12. In understanding the corruption risks presented by REDD+ implementation, it is important to recognize that REDD+ may have beneficial impacts on forest governance that help address existing corruption problems in the sector. This includes building awareness on forest management and conservation, more participatory decision-making on forest policies, generating new data about forest stocks and social and environmental safeguards, improving access to information and supporting capacity building. All these potential beneficial outcomes of REDD+ (which are also conditions for its efficiency, equity, effectiveness and therefore sustainability) need to be understood alongside the potential way in which corruption could undermine REDD+.

13. The initial scoping on the corruption risks for implementation of REDD+ in Kenya, and drawing on international studies on this topic, highlight two key themes, although there may well be additional issues to consider.

***Benefit sharing and revenue management.***

14. A key concern with REDD+ is how revenues earned will be managed and distributed fairly. Details on how REDD+ benefit sharing mechanisms will be designed and regulated remains work to be done in Kenya. The emerging voluntary market displays various different approaches, where communities involved enjoy varying shares of revenues. However, irrespective of these ratios and approaches to benefit sharing, problems may be encountered by NGOs and investors misleading communities and also manipulating information on revenue streams. This may mean that profits generated through REDD+ will be disproportionately shared among owners of private organisations. Moreover, where funds are channeled towards communities, a small number of individuals may be the chief benefactors. Thus, it is crucial that information and rules on earnings through REDD+ are communicated effectively with all stakeholders, and that the right to *Free, Prior, Informed* consent is respected. Balancing between community rights and those of individuals within the community on REDD+ rights is another issue that should be clarified especially on community land.

15. Where earnings from REDD+ are made at the national level, this too requires vigilance in terms of expectations and transparency. The government of Kenya will have ultimate responsibility for accounting to the public of how much revenues have been earned and how these are to be distributed, and to whom. Unless there is effective oversight and independent auditing, REDD+ revenue could fall victim to embezzlement and nepotism, or funds may be consumed by government departments on unnecessary expenditures. The challenge of achieving accountability is also an enormous challenge as funds are distributed to the regional and local level, where appropriate systems of accountability may be costly and difficult to implement. If REDD+ funds are undermined by elite capture and corruption, then legitimacy and support for REDD+ may quickly dissipate.

***Generating data and implementing measurement reporting and verification.***

16. Finally, the process of implementing REDD+ requires enormous efforts to collate reliable data on avoided deforestation, afforestation and carbon storage, which in turn informs the value of revenues to be received from the voluntary market or the international donor community. Kenya has yet to develop a thorough plan for how data for REDD+ will be captured, reported and verified. However, corruption is a risk in this process, both at a national level and within voluntary REDD+ projects. This is because the beneficiaries of REDD+ funding may also be the same organisations tasked with collating data on achievements. Thus, there are inherent conflicts of interests.

17. The verification of data is of paramount importance for the success and legitimacy of REDD+. While external consultants may be used to undertake verification, additional oversight from communities and NGOs in Kenya will be necessary, otherwise external consultants may be vulnerable to providing ‘favorable’ assessments of data, and therefore gains achieved in reducing deforestation and forest degradation may be overstated. This suggests the need for capacity building (about what) among a range of stakeholders and also considerable efforts in transparency and freedom of information. The role of communities in forests in generating and verifying data should be further explored and scrutinized for potential conflicts of interests.