Results from the Philippines REDD+ Corruption Risk Assessment - Executive Summary

Study conducted by the Ateneo School of Government for the Forest Management Bureau with support by UNDP for the UN-REDD Programme

July 2013

1. Background and Context

The Philippine National REDD-Plus Strategy (here forth referred to as PNRPS) recognizes corruption as a major area of concern.

The UN-REDD Programme is supporting the Philippines through an initial national programme and a package of Targeted Support activities, including on anti-corruption and safeguards, at the request of the Department of Environment and Natural Resources. Under the anti-corruption component, the objective was to assess corruption risks through participatory methodologies and develop proposals that will ensure that the National REDD+ Strategy in the Philippines incorporates effective measures to address REDD+ corruption risks that fully reflect national and international requirements.

2. Methodology

1.1 Data collection

Data was gathered through a stocktaking exercise through literature review and key informant interviews, an anonymous online survey based on perception of over 50 stakeholders, and national (Manila) as well as regional workshops (Mindanao, Tacloban City, Davao City), including a final validation workshop.

1.2 Frameworks for analysis

The PNRPS, with its components and key activities, is an excellent reference framework through which corruption risks relevant to REDD-plus could be identified and prioritized. These elements are : (1) Policy; (2) Governance; (3) Resource Use, Allocation and Management; (4) Monitoring, Reporting and Verification; (5) Research and Development; (6) Capacity Building and Communication and (7) Sustainable Finance.

The Integrity Development Review (IDR) under the Office of the Ombudsman, provided a framework to categorize the types of corruption such as belonging to conduct, performance management, procurement management and financial management.

When possible, corruption risks in REDD+ were noted as either corrupt practices as root causes or drivers of deforestation and forest degradation or as new potential risks potentially brought about by REDD+.

Finally, the *UN-REDD Guidance on Conducting REDD+ Corruption Risks Assessments* and transparency International's *Analysis of Corruption in the Forestry Sector* were used as guidance for the overall methodology of the project, specifically the literature review and for the conduct of stocktaking activities and consultation workshops.

3. Results

3.1 Enabling/disabling national context

Legal and policy framework

The stocktaking exercise revealed that the Philippines has a relatively comprehensive legal framework, in terms of policies, laws, regulations, and programs, on corruption, with the exception of a full freedom of information law that remains to be passed. However, it is in the application and enforcement of these where the greatest difficulty lies

Existing initiatives

At the national level, enforcement bodies that may address corruption in the forestry sector have been set-up but have not been fully supported.

The Office of the Environmental Ombudsman under the national Office of the Ombudsman was recently restored to address environment-related crimes committed by public officers and employees. A resident Ombudsman based at the Department of Environment and Natural Resources, as well as the agency's Assistant Secretary for Internal Audit and Anti-Corruption supports this Office.

There is an active civil society organizations movement for anti-corruption and social accountability in the Philippines that encompasses several sectors. These include participatory audit projects and initiatives such as CheckMySchool and Road Watch from the Affiliated Network for Social Accountability in East Asia and the Pacific, which look into education and public works. Social Watch Philippines also implements the Alternative Budget Initiative, which looks into the national budgeting process

Beyond these entities, there are no fully operational bodies to address corruption specific to the forestry sector, even more so for REDD-Plus and the PNRPS. The National Multistakeholder REDD-Plus Council (the body mandated to govern the implementation of REDD-Plus and PNRPS and hence governance mechanism for the Strategy) is tasked to deal with corruption risks, among its other functions. However, this body is yet to be mobilized.
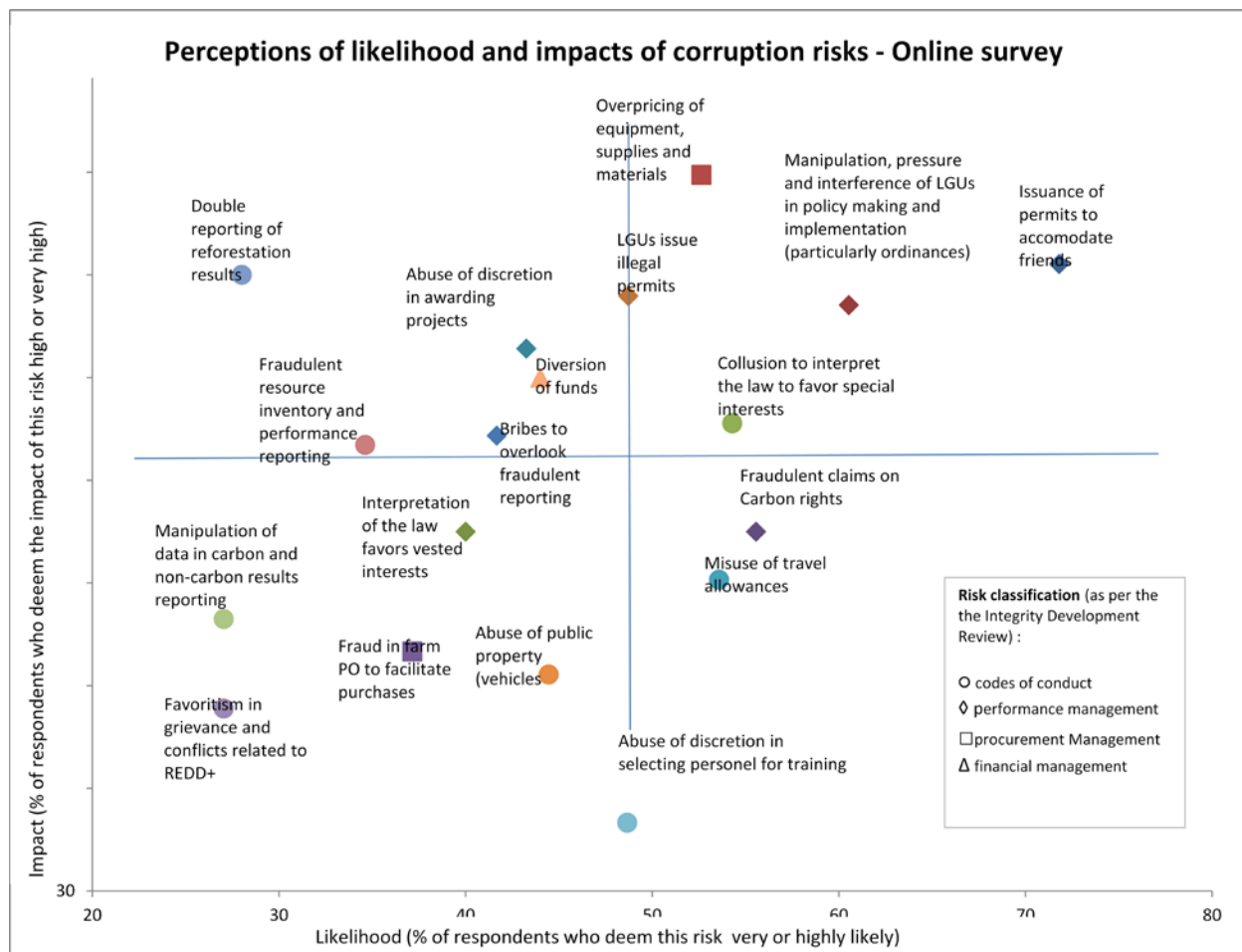
Capacity of various actors

The lack of capacity to implement laws and regulations to prevent and punish corruption came as the top two causes of corruption in the online anonymous survey. This was not associated with a lack of awareness, funding or available information, which appeared as the lowest ranking causes.
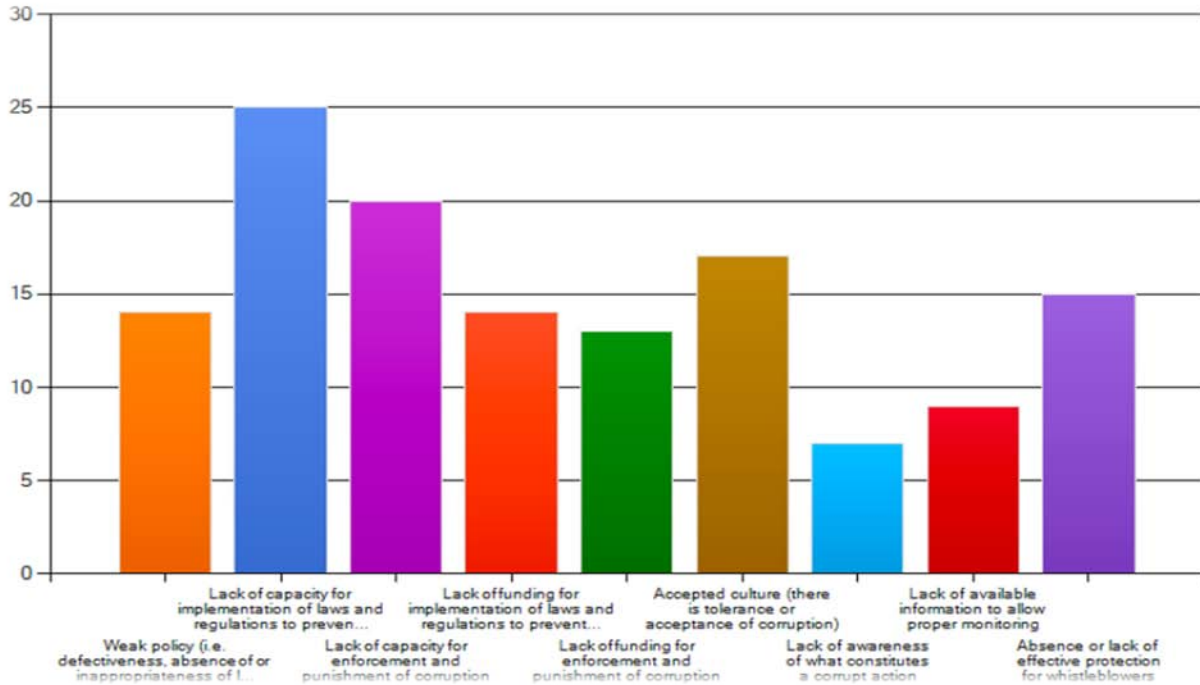
3.2 Identifying and prioritizing risks

The risk map below was constructed based on the survey and analyses 18 risks identified following the first consultations. Those risks are positioned according to their perceived likelihood (percentage of respondents who deem a particular risk either likely or very likely) and perceived potential impact (percentage of respondents who deem the potential impact of a risk as either high or very high). Arguably, the priority risks, whose impact and likelihood are high, are those in the upper right hand corner, while the risks that may be tackled later are located in the bottom left corner.

Perceptions of likelihood and impacts of corruption risks - Online survey

Overpricing of equipment, supplies and materials

Manipulation, pressure and interference of LGUs in policy making and implementation (particularly ordinances)

Issuance of permits to accomodate friends

Double reporting of reforestation results

Abuse of discretion in awarding projects

LGUs issue illegal permits

Fraudulent resource inventory and performance reporting

Diversion of funds

Collusion to interpret the law to favor special interests

Bribes to overlook fraudulent reporting

Interpretation of the law favors vested interests

Fraudulent claims on Carbon rights

Manipulation of data in carbon and non-carbon results reporting

Misuse of travel allowances

Fraud in farm PO to facilitate purchases

Abuse of public property (vehicles

Favoritism in grievance and conflicts related to REDD+

Abuse of discretion in selecting personel for training

Risk classification (as per the the Integrity Development Review) :

O codes of conduct
◊ performance management
□ procurement Management
Δ financial management

Impact (% of respondents who deeem the impact of this risk high or very high)

Likelihood (% of respondents who deem this risk very or highly likely)

20   30   40   50   60   70   80

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This map was further refined during workshops to conclude with the following seven top risks, organized below according to different elements of the Philippines National REDD Plus Strategy.

Top Risk 1: Politicians influence the issuance of permits to accommodate friends or as owners of business

The influence of politicians was seen as having community and environmental impacts which are generally large in scale. While there were gray areas in policy, the presence of politicians' influence was viewed as a result primarily of gaps in institutional capacity, more than of policy. The points below refer to existing practices that could continue or be enhanced in REDD+.

Policy and governance: from application for and issuance of environmental clearances, business permits, all types of resource use permits (such as those for forestry, quarrying and mining, and energy) and agreements and tenure instruments, to the drafting of government reports and guidelines and the passage of local legislation.

Resource utilization, allocation and management : delineation where part of forest land will be included in alienable and disposable areas, in the issuance of tenure instruments, resource utilization permits, cutting permits and small scale mining permits, in non- endorsement of CBFMA and CADT applications

and in the approval of government budgets. Those involved in the occurrence of this risk were local chief executives, the municipal council and congressional representatives.

MRV and Monitoring: Politicians are seen to impose demands or conditions in the conduct of inventories in non-IP areas where undue influence can be exerted by politicians to obtain a favorable endorsement / consent from the community

Top Risk 2: Local Government Units allow illegal permits, contracts and plans

This corruption risk was identified in all PNRPS components and was unanimously viewed as having both community and environmental impacts that are potentially large in scale. All components also attributed this corruption risk to both policy and capacity gaps.

Policy and governance : this corruption risk was said to take place when ordinances are passed, which contradict national laws and policies, when business permits are processed or issued, and when local councils endorse development projects (e.g. biodiesel investment) without the benefit of public hearings. It was likewise identified that local leaders, management bodies and council of elders may accept bribes and may be prone to this corruption risk. Local officials like the governor, mayor and municipal council were identified as perpetrators of this risk.

Resource utilization: allocation and management, the issuance of small-scale mining permits for what are actually large-scale mining operations was identified as a concrete occurrence where LGUs have allowed illegal permits and contracts. The governor was identified as the local official responsible for allowing this illegal mining activity.

MRV: this corruption risk was identified when local governance units have allowed conditions for land uses. In this case, LGUs approved of development plans or extractive projects which are inappropriate or contrary to the land use of an area, as per its classification. The persons who would be responsible here would be the private investors, officials from national government and local politicians.

Attention was also drawn to the scientific and "matter-of-fact" nature of MRV, where measurements are established, and with no room for embellishments. The possibility of committing errors on field data was also mentioned. Likewise, there was mention that the avoidance of inventory in a certain area may not be due to corruption, but also due to the long process involved in MRV and securing consent for the conduct of the inventory.

Financing, research and capacity building: opaque approval of plans and contracts, such as the Comprehensive Land Use Plan and the Ancestral Domain Sustainable Development and Protection Plan. The lack of transparency in the approval of such plans was said to enable local governance units to perpetrate corrupt practices or activities.

Top Risk 3: DENR and local governance units misuse of official resources

A major corruption risk under Performance Management/Service Delivery, misuse of official resources was identified in all PNRPS components, albeit with varying views in terms of impact and scale.

Policy and governance: database security was identified as a possible activity where this corruption risk would apply. However, impact and scale were undetermined, nor were there policy and capacity gaps indicated.

Resource utilization, allocation and management: taking place in field activities and out of office work, more particularly, through the reduction of travel days and the use of vehicle and equipment for unofficial purposes. Personnel from the DENR and the LGU were identified as the possible perpetrators of this risk.

MRV: misuse of official resources can take place when there is limited or deficient allocation of funds for *per diem* during verification activities. Field visits and verification activities are critical to MRV and the inadequacy of funds would endanger MRV's effectiveness.

Financing, research and capacity building, the inadequacy of the allocation of resources to ensure people's participation has been identified, but similar to the policy and governance component, there were no gaps, impacts and scale identified.

Top Risk 4: A wide range of actors make fraudulent reports

Fraudulent reporting was identified as a major corruption risk under Performance Management and Service Delivery, of particular relevance to the PNRPS components of Policy and Governance, Resource Use Allocation and Management, and MRV. There was also a very strong sense that there is no policy gap with regard to manuals, guidelines and rules for procedures for reporting in the forestry sector. Rather, the persistence of fraudulent reporting was said to indicate a huge capacity gap within the sector's performance management system. Such a risk will emerge as a serious challenge with REDD-Plus implementation given the strict requirements of international MRV approaches and difficulties in detection. While cases of fraudulent reporting are at times considered as "low-level" and hence small in scale, their potential impact to the implementation of REDD-Plus was deemed significant, particularly with regard to possible cases of fraudulent reporting leading to the undervaluation of forest resources and personnel turning a blind eye to violations against the environment and community rights. There was a consensus that fraudulent reporting will largely emanate from field operatives but not only from the DENR (specifically, FMB, MGB, and LMB), but also any stakeholder with a potential conflict of interest, i.e. local government personnel, project staff, NGOs, people's organizations, and the private sector.

Policy and governance: fraudulent reporting was described as an extremely commonplace practice in the forestry sector ranging from low-level to serious offenses. Examples included:

- Submission of inaccurate or "inflated" accomplishment reports, especially with regards to the daily management of forestry
- Forwarding of dummy NGOs and "ghost" projects from people's organizations to facilitate kick-backs
- Conduct of "payroll padding", where "ghost employees" are presented as participating and providing services towards an activity but compensation is acquired by others
- False representation of labor, number of laborers, and laborers' wages to acquire kick-backs
- Submission of false financial reports
- Passing off non-consent as consent of indigenous peoples and local communities, possibly on the basis of technicalities
- Submission of false technical assessments such as baselines, socio-economic assessments, results of interventions, particularly to do with forest cover and/or its regeneration as well as community benefits and distribution
- Conduct of false land delineation and boundary setting for permitting purposes

Forged signatures are said to facilitate the submission of falsified documents

Resource use, allocation and management and *MRV*: fraudulent reporting involves the following:
- False or "overly lenient" baselines for carbon, biodiversity and community
- Deliberately erroneous monitoring, reporting and book-keeping
- Misrepresentation and false declaration of standing and planted trees and volume under reforestation efforts
- Double reporting of reforestation efforts and under-reporting of reforestation failures
- Recycling of transport documents and permits, facilitating double reporting of reforestation efforts and other anomalous activities inside forests
- Falsification of documents where seedlings are reported as sold but not according to rightful prices, allowing for systemic overpricing

These practices are reported as compounded by a resistance to audits

Top Risk 5: Overpricing in supplies, equipment and infrastructure through falsification of documents

Overpricing was identified as a major corruption risk under Procurement Management, applicable to all PNRPS components. It was noted that overpricing has traditionally been difficult to detect due to connivance between officials and suppliers on price fixing before even any official transaction takes place. Overpricing is believed to involve supplies, equipment, and infrastructure specifically for reforestation and monitoring efforts and consultants and research contracts. Linked to the risk above, t was said to be achieved through the presentation of false documents that are represented to official and in order. As such, it represents a cross-cutting risk for the PNRPS.

Those identified as likely perpetrators of overpricing involve field personnel from the community to regional level offices under the DENR, local government, and the Bids and Awards Committees of various departments. The private sector is also believed to connive with officials to overprice certain acquisitions and services either for personal gain of employees or for wholesale company profit.

No policy gap was identified, in view of several policies in place intended to curtail overpricing, such as Republic Act 9184, which standardizes and regulates procurement processes involving the government.

The gap was said to lie with the capacity of regulators to detect and verify cases of overpricing where receipts are non-existent and where the parties in question are complicit and/or keep silent out of fear of reprisals.

Overpricing has impacts on the environment and communities in that it reduces the materials and services certain efforts should be receiving, in turn, reducing the impact of intended investments for REDD-Plus on the ground. Due to difficulties in detection and the noted lack in checks and balances, there is a perception that overpricing can happen at seriously large scales under the PNRPS if left unchecked, with costs and risks systematically being transferred to communities in the long run.

Top Risk 6: Bidders and government officials collude during bidding process

Related to overpricing, a major corruption risk identified under Procurement Management for REDD-Plus is collusion in bidding processes. A key difference of this risk with overpricing is that collusion for bidding usually occurs at multiple levels. The act is not solely interested in price fixing, but is in fact a well-organized and well-planned effort by both the bidder and government officials to secure large government bids even if the acquisition or service in question is sub-par in terms of quality.

Across all PNRPS components, collusion in bidding was identified to involve the following activities, ranging from minor to major offenses:
- Rental of facilities and vehicles, and procurement of minor services and equipment, without due bidding process to avoid bureaucratic "hassles"
- Government officials allow for "monopolies" of service providers and bulk seedling suppliers out of convenience or vested interests
- Use of "dummy bidders" for seedlings, equipment and plantation services to make favored bidders look competitive
- Preferential treatment of favored bidders, leniency for incomplete requirements and lack of due diligence
- Specifically, favoring research contractors who have been coaxed to manipulate research results
- General non-observance of Republic Act 9184 provisions, from basic documentation to serious violations

Again, no policy gap was seen with regard to facilitating transparent and fair procurement processes as these are all laid out in the Republic Act 9184 and internal procedures and standards as overseen by Bids and Awards Committees. However, capacity gaps were noted with regard to the conduct of due diligence on bidders, regular monitoring, and streamlining the bidding process to avoid corruption committed out of convenience. These still hamper proper enforcement of procurement laws. And similar to overpricing, unlawful procurement may reduce the quality and quantity of acquisitions to the detriment of the REDD-Plus objectives such as sustainable forest management, reforestation and community development.

Top Risk 7: Diversion of funds

Diversion of funds was singularly identified as the major corruption risk under financial management. And it is of interest that diversion of funds is described as a "facilitator" of corrupt activities very similar to how bribery is viewed as the "currency" for committing corrupt acts. These risks relate more broadly to potential risks for REDD+ than existing corrupt practices in the forest sector.

In this case, diversion of funds could be seen as relevant to the various PNPRS components through the following:

- A portion of funds intended for REDD-Plus activities are used to purchase favors from government officials, indigenous peoples and local communities, usually in the form of gifts
- A portion of funds intended for REDD-Plus activities are used to bribe government officials to favor certain entities and railroad permitting and bidding processes
- In the absence of formalized benefit sharing schemes, financial benefits are diverted away from community development needs
- Due to poor or false baselining efforts, funds are diverted to areas and activities favoring certain parties only
- Due to lack of capacity, connivance or possibly intimidation, a portion of funds intended for REDD-Plus activities at the community level are spent by indigenous peoples and local communities to "pay" consultants, NGOs, government staff, or fixers to complete technical requirements for them

As with others, there are laws in place that avoid the improper diversion of funds. However, there was consensus that it is very difficult to differentiate what constitutes as improper and what falls under the prerogative of government officials and other entities when it comes to financial management decisions, especially at the local level. This raises the question of whether or not local government officials and stakeholders have enough capacity to make fair, balanced, and informed decisions on financial management.

Funds diversion was identified as a major challenge for REDD-Plus implementation in the Philippines as the country demonstrates varying levels of "readiness" and appreciation of REDD-Plus and the PNRPS. Funds could likely be siphoned off to other activities deemed more pressing and more relevant from a point of view of political mileage—seriously impairing the ability of REDD-Plus to have positive environmental and community impacts.

3.3 Framework for action and recommendations

The following cross-cutting measures were initially identified by stakeholders.

Top measures	Preventive	Prosecutory
1. Strengthen and standardize internal audit system at all levels to ensure speedy and actionable audit processes	✓	
2. Impose and enforce appropriate sanctions according to applicable laws		✓

3. Improve consultation process especially before the issuance of policies	✓	
4. Massive information, education and communications campaigns on REDD-Plus at all levels, with particular focus on good governance and operations	✓	
5. Creation of REDD-Plus offices at the Regional and Provincial levels	✓	
6. Ensure independent monitoring and Third party reporting and investigations	✓	
7. Strengthen the system for reward and punishment		✓
8. Encourage vigilance among external sectors such as the media, intelligence offices, NGOs and CSOs and the academe in reporting malpractices	✓	
9. Strengthen prosecutory practices (streamline prosecution processes and speedier prosecution of cases)		✓

From these and the seven top risks identified above, the recommendations below are extracted. Since risks are interrelated, these measures address more than one risk at a time, proposing a holistic approach.

Short Term

Preventive measures identified were mainly in the PRNPS elements of research, training and policy and institutional support. These measures are cutting across a number of the risks prioritized above.

Research activities:

(a) Baselining and mapping of corruption hotspots in REDD-Plus areas and the forestry sector and integrating this with the safeguard information system (SIS) and MRV registry. The development of non-perception based indicators could complement the existing data.

(b) Comparing anti-corruption efforts in the forestry sector based on their effectiveness and extracting best practices;

(c) Evaluating system of rewards and punishment, with the recommendations to be presented to the National Multistakeholder Redd-Plus Council.

Training and capacity building activities:

Under the PNRPS, the capacity building component will take charge of training needs assessments training designs and the conduct of trainings. The recommendations is that the process includes :

(a) Review of training programs and development of training modules on REDD-Plus, PNRPS, safeguards, governance and corruption;

(b) Conduct of training needs assessment among government personnel involved in REDD-Plus implementation;

(c) Training members of the National Multi-stakeholder Redd-Plus Council and Provincial MRCs (PMRCs) who will be governing the implementation of REDD-Plus in the national and local levels, respectively; and

(d) Training of REDD-Plus practitioners, which would include governance bodies, DENR, local Ombudsman personnel, watchdogs, media and other REDD-Plus champions

Besides focusing on knowledge on REDD-Plus and the attendant skills needed for its implementation, these trainings should also be orientational (values and principles) in that, among others, the participants/trainees will appreciate the role of IPs and local communities in resource management and the need for transparency and participation.

Policy and institutional support:

(a) Setting of anti-corruption clinics which can provide technical assistance to PMRCs and REDD-Plus practitioners who seek guidance in the development, assessment and monitoring of anti-corruption strategies;

(b) Pilot testing innovative anti-corruption systems and social accountability tools, such as regular early warning dialogues between watchdogs and government authorities, backed by easy access to usable, relevant and timely information;

(c) Establishing an effective transparent system for data sharing and third party monitoring through the development of guidelines or protocols, training of trainers and organizing a community of national and local validators.

Short term, prosecutory measures were focused on the organization, advanced trainings and technical support to a community of anti-corruption practitioners, as well as active use of the remedies provided under the new Supreme Court Rules on the Prosecution of Environmental Cases, maximizing the Green/Environmental Ombudsman and providing assistance to the filing of environmental cases.

Medium Term

The medium term measures are preventive in nature and focused on consolidating key institutions. They involve strengthening the National Multistakeholder REDD-Plus Council as the primary governance body for PNRPS implementation as well as anti-corruption enforcement bodies such as the Ombudsman and Integrity and Anti-Corruption Committee/Council under the DENR. Watchdogs and media groups focusing on anti-corruption are also included in these strengthening efforts.

The recommended measures include:

(i) Human resource development planning with focus on institutions involved in REDD-Plus implementation, such as the National Multi-Stakeholder REDD Plus Council, DENR, NCIP and Climate Change Commission;

(ii) Fully integrating anti-corruption into the Safeguards Information System (SIS) and REDD-Plus Registry which would entail the development of guidelines, protocols, and monitoring and evaluation systems;

(iii) Scaling up the organization, training and support for local anti-corruption practitioners and champions;

(iv) Enhancement of independent third party monitoring schemes or systems; and

(v) Developing best practices and innovative models for anti-corruption and social accountability for REDD-Plus implementation.

Long Term

Similar to medium term measures, the long-term measures were preventive in nature. These shall focus on institutionalization of anti-corruption initiatives in the implementation of the PNRPS and REDD-Plus in the Philippines. Replication of successful efforts is also to be pursued.

Such long-term measures involve:

(i) Promotion and integration of best anti-corruption practices and models in REDD-Plus implementation; and

(ii) Establishment of award/incentive schemes for the most transparent REDD-Plus project.

Organizational arrangements:

The PNPRS needs to ensure that national and local government officials are capacitated enough to make decisions on REDD-Plus and ultimately be vanguards against moves to divert funds away from intended activities. Similarly, the non-government sector need to be empowered towards monitoring and promoting sound public financial management especially with regards to PNRPS related investments.

One option is to continue the technical working groups to implement the PNRPS Components which were created by the DENR, through the Forest Management Bureau. The technical working groups on policy and governance can start the process of reviewing and deliberating on the recommended short term, medium term and long term measures and further refine these before these are acted upon by the National Multistakeholder REDD-Plus Council.

Another option is for the National Multistakeholder REDD-Plus Council to organize a technical working groups that would focus on corruption risks and work with the Environmental Ombudsman, DENR Internal Audit and Anti-Corruption group, civil society groups such as the Affiliated Network for Social Accountability (ANSA) and Social Watch Philippines and academic institutions.

In both options, it is important to identify champions from the government who can actively push for the adoption of the recommendations identified below.

4. Lessons learned

Perception differ among functions and gender

The online survey allowed disaggregating the responses of men and women. While there is general alignment on the importance of risks, their causes and top measures to address them, some notable differences emerged, for example:

- Regarding corruption risks: over 50 % of women considered that the risk of "bribery to overlook fraudulent reporting" was either high or very high, while only 27% of men considered that risk as important; similarly, "fraudulent reporting" itself was deemed considerably higher by women (49%) than men (21%), and a similar pattern was observed for "manipulation of carbon and non carbon reporting" (women: 53%; men 12%)
- Regarding the causes of such risks, women gave a much higher score (50%) to the cultural factor ("tolerance to corruption") than men (30%)

Similarly, while perceptions where generally aligned between different respondents from government, private sector, NGOs, indigenous peoples organizations, a few significant differences in perception emerged , such as :

- 23% of government respondents deemed the risk of "diversion of funds" as high or very high, compared to 60% of civil society respondents
- Nearly 60% of government respondents gave a high or very high ranking score to the risk of "Manipulation, pressure and interference of politicians (particularly at the local level) in policy-making and implementation (particularly for ordinances)," while only 40% of civil society respondents did so.

Engaging champions

Upon the identification and categorization of high priority corruption risks and their respective interventions, it was then necessary to determine actions that could support the implementation of the proposed response measures. Identifying and engaging champions in both government and non-government sectors, for instance, such as individuals or groups of stakeholders through which policy reform or implementation could effectively begin or be coursed through, would raise both the effectiveness and immediacy of response measures.

The importance of participatory processes and triangulating information

The corruption-risk assessment process entailed stocktaking to get a good sense of the environment as well as the corruption challenges faced by REDD-Plus in the Philippines. In addition, participatory processes in the form of focus group discussions, workshops, group interviews and the anonymous survey have been important tools that have facilitated consensus on the identification and prioritization of corruption risks and the formulation of measures to address them. Some shifts in prioritizing risks occurred during the final validation workshop, pointing to the necessity of relying on various data sources collected with multiple methodologies.

Building on the Framework and Gains of a National REDD-Plus Strategy

The distinct advantage of the Philippines is its development of its national REDD-Plus Strategy. The partnerships between government and civil society, as well as the processes that led to the development of the PNRPS continue to shape the Philippines' initiatives on REDD-Plus. The multisectoral working groups established to initially implement activities under the REDD-plus Readiness Phase are initial building blocks to pursue governance strategies that would give attention to corruption risks.