

**Discussion paper on Anti-corruption
The Philippine Development Forum, 30 March 2006**

The Philippine Development Forum (PDF) was created in January 2005, replacing the annual Consultative Group meeting between the Government and the development partners, with the intention to make the policy dialogue among stakeholders more interactive. The PDF is one event in a continuing process of development partnership to move the reform issues forward. The pre-PDF discussions, the PDF itself and the subsequent meetings and activities to implement the agreements flowing from the PDF constitute the process. The working groups serve as a forum to identify and discuss actionable events. The Office of the Ombudsman (OMB) and the Asian Development Bank (ADB) are the co-chairs for the Working Group on Governance and Anti-corruption.

In October 2005, a Governance sub-Working Group was created to overlook the long-term process of instilling good governance in institutions, procedures, the bureaucracy and political process. The sub-WG is co-chaired by the Department of Budget and Management (DBM) and AusAID, and focuses primarily on budgetary and civil service governance issues. These issues are covered under a separate discussion paper.

A. Reform agenda agreed during 2005 PDF

During last year's pre-PDF meeting, the main concern of the Working Group was that the interventions in the field of governance and anti-corruption were not well coordinated and prioritized. An additional concern was that in case positive achievements were reached, they were not recognized because of lack of monitoring and dissemination mechanisms. The Working Group identified three priority areas for further support during the rest of the year:

- (1) Investigation and prosecution of tax and graft cases;
- (2) Speedy disposition of cases in regular courts; and
- (3) Implementation of procurement reforms.

In addition, initial indicators were identified that would allow to monitor the progress made in these specific activities. It was planned to further flesh out these indicators during follow-up meetings.

B. Accomplishments in 2005

1. Convergence process and the formulation of NACPA

In April 2005, the Philippines hosted the Southeast Asia Parliamentarians against Corruption (SEAPAC) meeting. During that meeting the Philippines not only agreed to ratify the UN Convention against Corruption, it also decided to develop a National Action Plan against Corruption. This National Action Plan should become the central tool for coordinating all governance and anti-corruption initiatives in the country.

Subsequently, an ad hoc anti-corruption convergence working group of domestic stakeholders was created to prepare a National Anti-Corruption Program of Action (NACPA). The intention was to prioritize and better coordinate the large number of initiatives in the fight against corruption through the "convergence" of the efforts by the different partners from the executive, judiciary and legislative powers, as well as from the constitutional bodies, the local government

units (LGUs), civil society, private sector and donor agencies. The NACPA has 4 major objectives:

- (1) Serve as an avenue for effective participatory consultations and greater coordination among key players in the fight against corruption;
- (2) Streamline and strengthen anti-corruption commitments of government, civil society, business sector, and donor community under a comprehensive strategic framework;
- (3) Install an anti-corruption performance measurement system;
- (4) Disseminate anti-corruption success stories for greater public support and investor confidence.

2. Progress in fighting corruption

While the focus on the further development of the priority areas proposed during PDF 2005 has been largely overtaken by the NACPA “Convergence” initiative, the government agencies have continued their efforts in combating graft and corruption and some of them have achieved significant positive outcomes.

In order to improve investigation and prosecution of tax and graft cases, the Government is further strengthening the Office of the Ombudsman (OMB), the agency spearheading the fight against graft and corruption. The allocation for OMB has almost doubled in recent years, from P480 million in 2003 to P936 million in 2006. At the same time, staffing for OMB has more than doubled from 1,088 in 2003 to 2,341 in 2006. Given the large number of new recruitments, capacity building is one of the principal concerns of OMB.

One of the main tasks of OMB is to investigate anomalies and inefficiency in the bureaucracy. In the past, there was a significant shortage of field investigators, with 46 field investigators for a bureaucracy of approximately 1,500,000 officials. In 2006, OMB has 499 budgeted positions for field investigators, responsible for the fact-finding investigation of cases which may be filed at the Office. This increase is needed to conduct the field investigation of the growing number of complaints received for fact-finding, from 2,730 cases in 2003 to 3,482 cases in 2005, and to work away the backlog of pending cases. In 2005, only 41% of all pending cases were resolved.

Another major task for OMB is the prosecution of graft cases before the courts. In 2004, OMB had 39 prosecutors handling an average 1,200 cases, of which 95% are filed with regular courts and 5% with the *Sandiganbayan*, the anti-graft court of the Philippines. For 2006, the OMB has 136 budgeted positions for prosecutors. The increase in resources translated into some immediate results. The conviction rate of the criminal cases prosecuted with the *Sandiganbayan*, increased from 6% in 2002 to 33% in 2005. OMB has identified about 50 of the most prominent and high-impact (“big fish”) cases pending with the *Sandiganbayan*, on which it wants to focus as the chances on winning the cases are very high. In 2005, 19 high-ranking officials were dismissed, and 31 high-ranking officials were suspended from office.

A third major responsibility of the OMB is the administrative adjudication of erring public officials or employees. The adjudication of administrative cases increased from 162 in 2002 to 454 in 2005, resulting in more administrative errant public servants being penalized.

Another of the initiatives that resorted in some early successes is the lifestyle check program. It is an investigation into the character and ways of life of government officials to determine consistency with their income. The initial focus was mainly on the Department of Finance (DOF), where the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC) are perceived to

be amongst the most corrupt agencies in the Government. In 2003, DOF created the Revenue Integrity Protection Service (RIPS). RIPS investigates allegations of corruption in DOF and its attached agencies, and files the necessary charges against erring officials with the proper government agencies, such as the OMB. In 2005, 9 new RIPS cases were filed in OMB, and 20 cases were under investigation.

In addition, DOF launched the Run After Tax Evaders (RATE) campaign in the BOC and the Run After The Smugglers (RATS) campaign in the BIR. In the second quarter of last year, a number of high profile personalities were indicted for tax evasion, essentially sending out the message that no one is spared from the campaign.

While most of these programs were introduced with the necessary enthusiasm in the first half of 2005, the number of interventions reduced considerably in the second half of the year, primarily due to the change of the Ombudsman in OMB, stalling the recruitment process of additional prosecutors and field investigators, and the change of Secretary in the DOF, resulting in a slowdown of the RATE and RATS campaigns and the number of RIPS cases. Both OMB and DOF are fully committed to continue the anti-corruption activities in 2006. It is expected that some of the interventions initiated in 2005 will produce the necessary results and will strengthen the credibility of the programs launched.

Regarding the speedy disposition of cases, the *Sandiganbayan*, is now considering to introduce continuous trials for selected cases. In December 2005, it also proposed a number of revisions to its internal rules to address the 'choke points' in the disposition of cases. In addition, the *Sandiganbayan* is taking measures to rationalize the jurisdiction of the anti-graft court for expeditious resolution of cases. There are bills lodged with the Congress aiming to further rationalize jurisdiction.

The reality remains that the resolution of a judicial case, not only in the *Sandiganbayan*, still takes too long. Continued support and reform of the judicial system are of paramount importance.

The implementation of procurement reform gained momentum with the enactment in 2003 of the Government Procurement Reform Act, No. 9184. Basic reforms include the simplification of the procurement process, the use of the electronic procurement system, and the use of objective non-discretionary criteria. The integrity of the procurement process is protected through the observance of the bidding process by civil society organizations. The compliance with the law is assured through the presence of clearly defined protest mechanisms, and the availability of sanctions to enforce the provision of the law. In order to ensure the implementation of the legislation, there is a strong focus on capacity building.

The Government Procurement Policy Board (GPPB) rolled out a national training program on the Act and on the use of standardized bidding documents. As of 31 December 2005, 16% of the national government agencies and 83% of the LGUs have been trained on the Act, 88% of the LGUs have been trained on the use of Philippine Bidding Documents. As the onset of professionalizing the procurement practitioners, training modules for the Professionalization Program have been developed. Generic Procurement Manuals are being pilot-tested and customized in 9 agencies that are responsible for 60-70% of all executive agency procurement. The performance is being monitored, both on the national and the agency level. The rating is high for the regulatory framework, but still low when it comes down to the institutional capacity, which illustrates the need to further develop the Professionalization Program for procurement practitioners, amongst other support activities.

The OMB in partnership with civil society organizations, such as Procurement Watch Inc., G-Watch and the Coalition Against Corruption, has embarked on a training program for procurement observers, and initiated capacity building for procurement trainers, observers and monitors. In addition, the OMB has completed the pilot-testing of a feedback reporting system for procurement observers.

The Presidential Anti-Graft Commission (PAGC) is providing support in strengthening the internal audit units of agencies to effective procurement monitoring and enforcement to further enhance transparency and safeguard against corruption.

3. Donor support

In the field of investigation and prosecution of tax and graft cases, USAID and World Bank (WB) provided capacity building activities for investigating and prosecuting corruption, tax evasion and money-laundering. ADB assisted in fostering transparency and anti-bribery partnership between the government and the private sector to reduce transaction costs for business. USAID, UNDP and the European Commission (EC) jointly supported the Summit of Independent Accountability Institutions which produced the Second Solana Covenant for continued cooperation in investigation and internal control measures.

The OMB received considerable assistance to build its capacity in investigation and prosecution. USAID and UNDP provided training of prosecutors and field investigators. USAID supported the pilot testing of the Integrity Development Review, a diagnostic tool used to determine corruption vulnerabilities, in the OMB. The WB supported the computerized case-tracking system for prosecutors. The EC provided training to strengthen OMB's cooperation with civil society organizations.

In order to promote the speedy disposition of cases, USAID supported the revision of *Sandiganbayan* internal rules for speedier trials, and assisted in the development of electronic case flow management software to fast track the disposition cases. Considerable support is also being provided in judicial reform. These interventions are highlighted in a separate presentation later on during the PDF breakout session.

The WB supported the GPPB in its first year of implementation of procurement reform. The EC supported a large number of OMB activities, amongst which procurement training and manuals. Together with the UK Foreign Office, the EC also supported the anti-corruption communications campaign. The Asia Foundation supported the OMB in the development of reporting mechanisms for procurement fraud. USAID supported PAGC in the formulation of Integrity Development Action Plans, introducing a host of anticorruption measures to strengthen the disciplinary machinery, and to create an enabling environment for whistle blowing and internal reporting, amongst others.

C. Main planned activities for 2006

1. The NACPA Convergence process

On 17 March 2006, the OMB, together with the Development Academy of the Philippines (DAP) and UNDP, organized the Anti-Corruption Convergence Summit. Representatives from the executive, judiciary and legislative powers, as well as from the constitutional bodies, the local government units, civil society and the private sector were invited to declare their commitment

and to sign the Covenant of Commitment. At the end of the NACPA Summit, the participants identified a list of critical areas on which the Government needs to work in order to make corruption a high-risk low-reward activity.

The most immediate tasks are to:

- (1) organize the NACPA secretariat in the OMB;
- (2) identify priority initiatives according to the NACPA key result areas;
- (3) design performance indicators;
- (4) devise coordination and monitoring mechanism;
- (5) further develop a public communication program

The intention of the NACPA is to better coordinate and prioritize the ongoing initiatives. In order to do so, a sequenced and detailed action program will need to be developed. A first step in the action program is to create a secretariat and a multi-sectoral advisory group, representing government, private sector, civil society and the donor community, chaired by the Ombudsman, to steer the further implementation and monitoring of the NACPA. In proceeding with the first step, it is important to coordinate with existing anti-corruption coordination mechanisms, such as the Inter-Agency Anti-Graft Coordinating Council – composed by OMB, PAGC, Department of Justice, Civil Service Commission, National Bureau of Investigation and Commission On Audit – in charge of interagency anti-graft coordination. The following short-term activities are proposed under the first step:

- Prepare outline of tasks and responsibilities of Secretariat and of multi-sectoral advisory board to be headed by the Ombudsman and actively involving the convergence partners
- Organize a series of workshops involving the convergence partners – executive, legislative, judicial, LGUs, private sector, civil society and donor community – discussing the roll-out process of the NACPA, including the creation of a Secretariat in the Office of the Ombudsman (OMS) and a multi-sectoral advisory board
- Finalize tasks and responsibilities of Secretariat and multi-sectoral advisory board (building on or coordinating with Inter-Agency Anti-Graft Coordinating Council)
- Create (or expand IAAGCC's) Secretariat and multi-sectoral advisory board

Further steps still need to be determined.

2. The fight against corruption

While the NACPA aims for a better coordination of initiatives, it will not generate new initiatives. The existing and new programs all emerge on the agency level. During the breakout session of the Anti-Corruption Convergence Summit, the participants came up with a long list of interventions, categorized in three key result areas: prevention, prosecution and promotion. It concerns priority activities the Government needs to carry out or sustain in making corruption a high-risk low-reward activity and reducing the cope and opportunities for corruption.

The first key result area is to sustain and expand corruption prevention initiatives to ensure transparency, accountability and participation in governance processes. Some major initiatives mentioned during the breakout session are to:

- (1) advance procurement reform;
- (2) heighten the integrity and efficiency of Government systems through integrity development reviews;
- (3) strengthen the audit;
- (4) develop a performance management system;
- (5) utilize IT to improve agency systems; and
- (6) mainstream all HRM processes and actions

The second key result area for the government agencies is to continue corruption prosecution initiatives, ensuring that the corrupt are sent to jail. Main initiatives that will need further attention in the future are to:

- (1) continue the prosecution of big fish corruption cases;
- (2) ensure the timely disposition of these cases;
- (3) ensure coordination among investigative bodies;
- (4) strengthen the capacity of internal affairs units; and
- (5) review the internal policies of the Ombudsman in order to address choke points and guarantee integrity in the disposition of cases; and
- (6) strengthen the capacity building of anti-corruption agencies

The third key result area is the promotion of anti-corruption. It is necessary to communicate the anti-corruption gains to the public to raise greater awareness on the harmful effects of corruption. Main initiatives that need to be pursued further are to:

- (1) support the anti-corruption laws;
- (2) convict the corrupt officials;
- (3) protect the whistleblowers;
- (4) provide public education on effects of corruption;
- (5) institutionalize Integrity Development Action Plans; and
- (6) provide incentives to honest officials

D. For discussion at PDF breakout session

1. Priority areas for intervention

With the preparation of the NACPA, the Government has put in a considerable effort in bringing the different segments in society around the table and to agree on a common framework. A long list of activities has been identified, both on the national level, and on the agency level. However, it is not clear yet, how the NACPA program will be rolled-out, coordinating the agency initiatives.

Given the gradual implementation of the NACPA, what are the main interventions on which the Government wants to focus? What is the sequence in the implementation of the NACPA? Are there any pilot projects planned, where relatively easy corruption cases can be fixed, to build momentum for the NACPA? What is the proposed timeframe? What are the most urgent interventions on the agency level? For which activities does the government need the assistance from the development partners?

2. Performance indicators

Measures of anti-corruption are needed both government-wide as well as agency-specific level. DAP, with the assistance of WB, is preparing a study on the progress and effectiveness of the

anti-corruption activities between 2001 and now. The DAP/WB study could assist in the identification of the most doable indicators to measure the effectiveness of fighting corruption on the macro level. On the program level, programs will need to be identified first, as the most relevant performance indicators will have to be selected for each individual program. For example, to measure the effectiveness of procurement reform, GPPB has identified specific performance indicators, such as the number of bidders, the cost of the bid, the bidding period, and the party winning the bid.

The proposal is to defer the discussions on performance indicators to later on in the year, when the DAP/WB study will have identified a selected number of doable indicators.

3. Key messages

The PDF provides the opportunity to raise key messages/concerns to the attention of the policy makers in the Government. What are the main points of concern that the Working Group wants to bring to the attention of the Government? Regarding anti-corruption in general, regarding the NACPA, regarding the OMB or other specific agencies? What needs still to be done to improve the working of the OMB? What are the following bottle necks in fighting corruption?

Progress has been made in fighting corruption, but this has not been communicated very well. The Working Group has to come out with some striking data, information in which people are interested, that can turn around public opinion. The best marketing tool is results. At the same time the Working Group should be clear on the future direction in the fight against corruption. The key message should reflect these recommendations.

Draft key message: The government is giving a clear signal that it gives a high priority to the fight against corruption by substantially increasing the budget allocation for the Office of the Ombudsman, the agency spearheading the fight against corruption, and by backing the National Anti-Corruption Program of Action. The expectations are high to see these efforts translated into some concrete results in 2006: such as the effective start of the roll-out of the NACPA program through the creation of a Secretariat and an advisory mechanism representing all players in society, including the donor community; the continued disposition of some “big fish” cases; and some highly visible actions in priority agencies, such as the Bureau of Internal Revenue, the Bureau of Customs, and the Department of Public Works and Highways.