

## ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

### ESS 2: LABOUR AND WORKING CONDITIONS

LABOUR AND  
WORKING  
CONDITIONS



MAR FUND'S ESMS

## ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

# ESS 2: LABOUR AND WORKING CONDITIONS

Date: 14-03-2022

Version: Final

Circulation: Open

“ESS 2: Labour and Working Conditions” is part of MAR Fund’s Environmental and Social Management System (ESMS). Therefore, ESS 1 should be read and understood in conjunction with the other 9 Safeguards and the other documents that are part of the ESMS.

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• GLOSSARY

AFD	Agence Française de Développement <sup>1</sup>
BMZ	Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung <sup>2</sup>
EbA	Ecosystem-based Adaptation
CAPEX	Capital Expenditure
CSO	Civil Society Organization
CTF	Conservation Trust Fund
Due Diligence	Environmental and Social Due Diligence
EIA	Environmental Impact Assessment
ERP	Emergency Response Plans
ESAP	Environmental and Social Commitment Plan
Escazú Agreement	Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean
ES	Environmental and Social
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESPF	Environmental and Social Performance Framework
ESSQ	Environmental and Social (ES) Screening Questionnaire
ESS	Environmental and Social Safeguards

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<sup>1</sup> French Development Agency

<sup>2</sup> Federal Ministry for Economic Cooperation and Development of the Federal Republic of Germany.

FB	Fundación Biosfera
FCG	Fundación para la Conservación de los Recursos Naturales y Ambiente en Guatemala
FC-Measures	Financial Cooperation Measures
FFEM	Fonds français pour l’environnement Mondial <sup>3</sup>
FI	Financial Intermediary
FMCN	Fondo Mexicano para la Conservación de la Naturaleza
FPIC	Free, Prior, and Informed Consent
GCF	Green Climate Fund
GEF	Global Environment Facility
GHG	Greenhouse gas
GMO	Genetically Modified Organism
H&S	Health & Safety
IDB	Inter-American Development Bank
IFC	International Financial Corporation
ILO	International Labour Organisation
ISPM	International Standard for Phytosanitary Measures
IUCN	International Union for Conservation of Nature
JMP	WHO/UNICEF Joint Monitoring Programme for Water Supply, Sanitation and Hygiene
KfW	Kreditanstalt für Wiederaufbau <sup>4</sup>
LGBTQ+	Lesbian, gay, bisexual, transgender, queer (or sometimes questioning) and others. + represents other sexual identities including pansexual and Two-Spirit.
MAR	Mesoamerican Reef
MAR Fund	Mesoamerican Reef Fund
NAP	National Adaptation Plans
NDC	National Determined Contributions
NGO	Non-Governmental Organization

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<sup>3</sup> French Facility for Global Environment.

<sup>4</sup> Reconstruction and Credit Corporation of the Federal Republic of Germany.

MAR Fund – ESMS

OH&S	Occupational Health & Safety
PACT	Protected Areas Conservation Trust
PPE	Personal Protective Equipment
PS	Performance Standards
RfP	Request for Proposals
SEA	Sexual Exploitation and Abuse
SECF	Stakeholder Engagement and Communication Framework
SECP	Stakeholder Engagement and Communication Plan
SGBV	Sexual and Gender-Based Violence
SIA	Social Impact Assessment
The Policy	MAR Fund's Environmental and Social Policy
ToR	Terms of Reference
UN	United Nations
UNDP	United Nations Development Programme
UNEP	United Nations Environmental Programme
UNFCCC	United Nations Framework Convention on Climate Change
UN Protocol	United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners
WASH	Water, Sanitation, and Hygiene

## 1 ESS 2: LABOUR AND WORKING CONDITIONS

### 1.1 INTRODUCTION

1. The “ESS 2: Labour and Working Conditions” (ESS 2) establishes a framework to ensure a healthy, fair, and secure working environment for MAR Fund and the organizations executing projects approved by MAR Fund (the grantees).
2. The ESS 2 is aligned with the IFC ES PS 2 and the World Bank ESS 2. It also introduces important elements of the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners<sup>5</sup> (the UN Protocol).

#### 1.1.1 OBJECTIVES

3. The objectives of the ESS 2 are:
  - i.* To promote fair treatment, non-discrimination, and equal opportunities for people working for MAR Fund and people working on projects approved by MAR Fund, and to ensure safe & healthy working conditions for them.
  - ii.* To prevent the use of any form of forced labour, child labour<sup>6</sup>, and human trafficking<sup>7</sup>.
  - iii.* To support a working environment free from sexual exploitation and abuse.
  - iv.* To promote compliance with the national<sup>8</sup> employment and labour laws governing activities and projects approved by MAR Fund.

#### 1.1.2 SCOPE OF APPLICATION

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<sup>5</sup> United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners, 21 March 2018. [UN Protocol on Allegations of SEA for implementing Partners]. Available [here](#).

<sup>6</sup> Of children 14 years old and younger.

<sup>7</sup>The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Article 3(a) of the UN Trafficking Protocol (Palermo Protocol). Available [here](#).

<sup>8</sup> The Law of Mexico, Guatemala, Belize or Honduras, or the Laws of other jurisdictions where MAR Fund’s branches and operative units may be established.

4. The ESS 2 applies to MAR Fund and to all projects approved by MAR Fund. It means that persons working for MAR Fund and for organizations executing projects approved by MAR Fund (the grantees) are covered by the provisions of this ESS.

#### **1.2 LABOUR CONDITIONS OF PERSONS WORKING WITH MAR FUND AND WORKING ON PROJECTS APPROVED BY MAR FUND**

5. The term “persons working with MAR Fund” refers to the individuals who provide services to MAR Fund, including MAR Fund employees or staff, consultants, and contractors.
6. The term “persons working on projects approved by MAR Fund” refers to the individuals who provide services related to the projects approved by MAR Fund, including employees or staff of the grantees, consultants, contractors, and occasional workers.
7. MAR Fund has a Human Resources Manual with policies and procedures aligned with the ILO Core Conventions<sup>9</sup> and this ESS 2. These policies and procedures may be adjusted and updated from time to time by the Board of Directors of MAR Fund. In case of a discrepancy between the Human Resources Manual norms and procedures and this ESS 2, this ESS 2 will prevail.
8. If the national legislation governing the MAR Fund grantees is silent or unclear with respect to the requirements set forth in this ESS 2, the provisions of this ESS 2 shall prevail over the uncertainties of the national legislation.
9. Neither MAR Fund nor MAR Fund grantees use forced labour<sup>10</sup> nor harmful child labour<sup>11</sup>.
10. Neither MAR Fund nor its grantees or partners shall engage in, support, or allow any form of human trafficking.

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<sup>9</sup> ILO Core Conventions or Fundamental Conventions are Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol; Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (retrieved from [ILO website](#) on August 9, 2021).

<sup>10</sup> Forced labor means all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty (From IFC Exclusion List).

<sup>11</sup> Harmful child labor means the employment of children that is economically exploitive, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral, or social development (From IFC Exclusion List – IFC PS2).

11. MAR Fund does not employ minors. MAR Fund's grantees may employ minors older than 14 years old only when the benefit of doing so exceeds the risks. In such cases, these minors can only be employed if the employment is not economically exploitative, does not interfere with the child's education, is not harmful to the child's health and wellbeing, and does not affect the child's social development.
12. The employment of minors 14-17 years old by organizations executing projects approved by MAR Fund, automatically increases the level of risk of the project as follows: if the project was Category C, it becomes Category B; if the project was Category B, it becomes Category B+. If the project was already Category B+, it maintains the same Category. If a minor is employed by organizations executing projects, passports or birth certificates need to be shown, and youngsters will be supervised by the grantee.
13. Persons working with MAR Fund or on projects approved by MAR Fund are free from discrimination based on race, age, religion, political or other opinion, gender, sexual orientation, and gender identity in every aspect of their working relationship, including recruitment, hiring, compensation, working conditions, access to training, promotion, termination, and retirement, regardless of the country where they reside or provide their services.
14. Persons working with MAR Fund or on projects approved by MAR Fund are free to express their complaints and grievances following the channels established for that purpose, including the Grievance Mechanism, without reprisals or negative consequences.
15. The use of the Grievance Mechanism by persons working on projects approved by MAR Fund does not preclude any legal or other recourse to which they may be entitled.
16. The labour relations between the persons working with MAR Fund or on projects approved by MAR Fund should be governed by the labour laws of the countries where the services are provided (Mexico, Guatemala, Belize, Honduras), or the countries where the workers reside, or any other third country acceptable to both parties.
17. Provisions governing these labour relations should ensure fair compensation for the work, equal pay for equal work, overtime payment, vacation, sick leave provisions, fringe benefits, and other provisions in line with the ILO Core Conventions<sup>4</sup>.

18. Persons working with MAR Fund or on projects approved by MAR Fund are free from sexual and gender-based violence (SGBV), including sexual harassment, sexual exploitation, and abuse (SEA). MAR Fund and the organizations executing projects approved by MAR Fund must comply with the United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners<sup>12</sup> (the UN Protocol) to ensure adequate safeguards and appropriate action related to SGBV, including SEA. The MAR Fund ESS 9: Gender provides guidance to grantees on this matter (see *section 11.2.1 Sexual Exploitation and Abuse* in this document).
19. MAR Fund approved projects may include the physical work of community members (known as community labour). In these cases, MAR Fund grantees will ascertain that such labour is provided voluntarily, because of a community agreement, and is free of any form of SGBV.

### 1.3 OCCUPATIONAL HEALTH AND SAFETY

20. Persons working with MAR Fund or on projects approved by MAR Fund (and Community Labour when applicable) should be protected from risks, hazards, accidents, and any other type of adverse effect in the fulfilment of their activities.
21. Where risks or potential adverse impacts to persons working with MAR Fund or on projects approved by MAR Fund are identified during the Due Diligence risk assessment process, a labour risk assessment will be conducted and measures will be developed, implemented, and monitored to manage those risks in a manner consistent with this ESS and respecting and protecting the fundamental rights of workers, in accordance with the ILO Declaration on Fundamental Principles and Rights at Work.
22. For proposed projects assessed as having significant risk in relation to labor and working conditions, labor management procedures will be established in accordance with the applicable laws of Mexico, Guatemala, Belize or Honduras and the requirements of this ESS and the nature of the project activities. This includes the application of the World Bank's General Environmental, Health and Safety (EHS) Guidelines and industry specific EHS and other International Good Industry Practices (GIIP), as required. These measures will be included in the ESAP.

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<sup>12</sup> United Nations Protocol on Allegations of Sexual Exploitation and Abuse Involving Implementing Partners, 21 March 2018. [UN Protocol on Allegations of SEA for implementing Partners]. Available [here](#).

23. MAR Fund grantees are responsible for the protection of the persons working with them. They must take all necessary steps to prevent accidents, injury, and disease arising from, associated with, or occurring in the course of work, in a manner consistent with good international industry practice<sup>13</sup>. In that regard, they need to identify potential hazards to workers, minimise these hazards, and put in place preventive and protective measures to manage the residual hazards<sup>14</sup>. It includes risks and adverse impacts that can be exacerbated by gender, sexual orientation, and gender identity.
24. MAR Fund grantees will provide mandatory Health and Safety (H&S) training to the persons working in their projects. They will also provide them with Personal Protective Equipment (PPE) when needed. Persons working with MAR Fund and on projects approved by MAR Fund shall use the Personal Protective Equipment (PPE) when it is necessary. Failure to do so represents a serious misconduct.
25. MAR Fund grantees will make sure that the persons working on projects approved by MAR Fund are trained in the safe use and proper operation of equipment for their marine and coastal activities, including operation of equipment in the water and in submarine environments.
26. Persons working with MAR Fund and on projects approved by MAR Fund shall always use Personal Life Saving Appliances when on board a boat or similar device in rivers, close by the coast, or in marine environments. Failure to do so represents a serious misconduct. They shall refuse embarkation when the required Personal Life Saving Appliances are not available to them.
27. The cost of the H&S measures, including the PPE and training will be part of the total cost of the project or project.
28. MAR Fund and MAR Fund grantees will maintain records of their H&S, including mandatory training delivery; near-misses<sup>15</sup>, and accidents<sup>16</sup>. MAR Fund grantees will

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<sup>13</sup> Good International Industry Practice is defined as the “exercise of professional skill, diligence, prudence, and foresight that would reasonably be expected from skilled and experienced professionals engaged in the same type of undertaking under the same or similar circumstances, globally or regionally” World Bank ESS 2. [2016. “World Bank Environmental and Social Framework.” World Bank, Washington, DC.] License: Creative Commons Attribution CC BY 3.0 IGO.

<sup>14</sup> It includes hazardous activities, hazardous conditions, hazardous substances, and any other occupational hazard.

<sup>15</sup> Near-miss is when something unexpected occurs without harm to workers nor damage to property, but it can be a precursor of an accident. They are also called “close calls”.

<sup>16</sup> Accident is a sudden and uncontrolled liberation of energy producing harm to people and/or damage to property. The range of an accident is wide: it could be a simple hit on a leg because a file-cabinet was inadvertently left open in an office, and it also could be an extensive fire in a storage place causing the death of workers.

share these records with MAR Fund as part of the regular reporting agreement of the projects. Nevertheless, accidents or activities resulting in occupational injuries, deaths, disability, or disease and the remedial measures put in place must be reported immediately to MAR Fund.

### 1.3.1 SAFETY AND SECURITY IN BORDERING OR INTERNATIONAL ACTIVITIES

29. Some projects approved by MAR Fund may include activities in international waters or in terrestrial international borders. Grantees must plan and undertake these activities carefully with the ultimate purpose of ensuring the safety, security, and integrity of all the persons involved.
30. Bordering or international activities must be carried out with bi-national teams authorized by the authorities of their respective countries. Even when these activities affect a border zone but are carried out only in one country, the partner organizations of both countries must be informed at least a week in advance. Once notified, the partner organizations must notify the relevant authorities of their country.
31. Grantees shall review the contact information of maritime authorities that MAR Fund will update on its website.

### 1.3.2 SAFETY IN ACTIVITIES INVOLVING DIVING

32. Diving activities may have different risks. Grantees carrying out these activities must have in place an emergency protocol to prevent accidents and other incidents, adapt to contingencies, and respond effectively to diving emergencies.
33. Grantees must restrict their diving activities only to qualified divers with verifiable experience. The use of inexperienced divers or divers without adequate training in diving activities is prohibited. Grantees are responsible of the enforcement of this prohibition.
34. Grantees may use their own diving emergency protocols or follow the emergency protocol prepared by the MAR Fish project (and available in the MAR Fund's website).

\*\* \*\* END OF ESS 2 \*\* \*\*

\*\*\*\* END OF DOCUMENT \*\*\*\*

