



OFFICE OF SAFEGUARDS

Environmental & Social Standard 2 Labor and Working Conditions

ESF Training – 1.5

SESSION OVERVIEW



- ESS2: Key Requirements
- Priority Topic for Deep-Dive Discussions
- Pre-identified Questions
- Open floor Q&A session



OBJECTIVES

- Covers **core labor standards**.
- Application of a **consistent systemic approach** to improving the management of risks and impacts related to labor and working conditions in projects.
- Management of project risks **throughout the project cycle**.
- Application of **differentiated and proportionate requirements** to different types of workers.
- Sets the need for accessible means to raise **workplace concerns**.

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WHAT DOES ESS2 COVER?

Differentiated requirements applicable to direct, contracted, community, primary supply workers, government civil servants

Adoption and implementation of project labor management plans

Specification on terms and conditions of work

Emphasis on non-discrimination and equal opportunity and treatment

Requirements on accommodation and arrangements to promote health, and safety

Freedom of association and collective bargaining

Specific provisions addressing child labor and forced labor

Provisions on collective dismissal

Grievance mechanism for all project workers

Training of workers

Behavioral requirements, including Code of Conduct

Requirements for primary suppliers

**Direct workers**

Engaged or employed directly by a borrower/client

All ESS2 requirements apply and are the responsibility of the borrower/client

Contracted workers

Engaged or employed by a third-party (e.g., contractors, subcontractors, brokers)

All ESS2 requirements apply and are the responsibility of the contractor(s)/subcontractor(s)

Primary supply workers

Suppliers providing goods or materials essential to the project

Prohibition on child labor and forced labor. Mitigation of serious safety issues. Responsibility of supplier(s).

Community workers

Community labor engaged on a voluntary basis by a borrower/client

Similar rights to other workers. If relationship involves wages and benefits, they are considered contracted workers.

Government workers

People employed as government civil servants with public sector employment contract

Requirements relate to protecting the workforce: OHS, and prohibition on child labor and forced labor

CHILD LABOR



- Zero tolerance to child labor.
- Understand contextual risks.
- Borrowers/ client should have mechanism to monitor, prevent, identify and address any incidents of child labor in projects.

- 13 to 15 years:
 - Light work not harmful to the child's health, education, or development
 - If allowed by national law and agreed to by ADB
- 15 to 18 years:
 - Not economically exploitative or hazardous work
 - Not harmful to the child's health, education, or development
- If national law requires higher minimum working age it will apply in the project
- Requires prior assessment and regular monitoring
- Prevent and address violence, harassment, bullying, and exploitation including SEAH

FORCED LABOR

- Zero tolerance to forced labor.
- Includes no employment of trafficked persons.
- Remember 11 ILO forced labor indicators.
- Understand contextual risks.
- Borrowers/ client should have mechanism to monitor, prevent, identify and address any incidents of forced labor in projects.



“Forced labor is all work or service which is exacted from any person under the threat of force or penalty and for which the person has not offered themselves voluntarily.”

(ESS2, para 25)

ILO Indicators of Forced Labor

1. Abuse of vulnerability
2. Deception
3. Restriction of movement
4. Isolation
5. Physical and sexual violence
6. Intimidation and threats
7. Retention of identity documents
8. Withholding of wages
9. Debt bondage
10. Abusive working and living conditions
11. Excessive overtime

- One indicator enough, often a cluster

Key questions:

Have the workers entered into employment **voluntarily**? Are they free to leave employment if they like?

Are **penalties** or **threats** used to keep workers from leaving employment?

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING



1. Where national law recognizes workers' rights to organize and bargain collectively:
 - Workers will be informed of their rights
 - No discrimination or retaliation against workers who participate or act as representatives
2. Where national law restricts workers' organizations:
 - Borrower/client will allow alternative mechanisms for protection of workers' rights to represent their interests and protect their rights
 - Borrower/client will not influence or control these alternative mechanisms
3. Where laws are silent:
 - Borrower/client will not discourage worker representation
 - Borrower client will allow collective bargaining

LABOR MANAGEMENT PLAN - PRINCIPLES

- Conceived during project planning.
- Stand-alone plan or part of other project E&S management documents.
- Proportionate to the size, needs and risks to project workforce.
- Living document – initiated early in project preparation, reviewed and updated throughout development and implementation of a project.
- Identifies main labor requirements and risks associated with the project, establishes how they will be managed.



The LMP and procurement documents (bidding documents, contracts with contractors) should inform each other



Key aspects of the LMP should be incorporated into contractual obligations of contractors and subcontractors

LABOR MANAGEMENT PLAN AND SYSTEM



Identify labor requirements and risks associated



- Management Plans, policies, procedures, tools
- Project company, EPC, subcontractor/supplier organization
- Staffing and resources
- Training, capacity building
- Monitoring, Reporting
- Compliance management

KEY ELEMENTS OF LABOR MANAGEMENT PLAN

1. Overview of different types of workers involved in the project and differentiated application of ESS2 requirements

2. Outline of potential labour and working conditions risks and impacts

3. Overview of host country's applicable laws related to labour working conditions

5. Roles and responsibilities for implementing ESS2 requirements

6. Human resource policies and procedures

7. Minimum age of employment and child labour prevention and monitoring measures

8. Terms and conditions work applicable to different types of project workers

9. Worker's grievance mechanism

10. Contractor management

11. Specific measures for community workers

12. Management and monitoring of CL and FL risks related to primary suppliers

13. Training

14. Monitoring and Assurance

WORKER GRIEVANCE MECHANISM

Labor and Working Conditions

**ESS2**

I. INTRODUCTION

1. This Environmental and Social Standard (ESS) 2 recognizes that the borrower/client can advance the social and economic well-being of **project workers** through employment generation and that project workers play a major role in delivering quality projects. The International Labour Organization sets and promotes standards and fundamental principles and rights at work. ESS2 promotes equitable standards for labor and working conditions and good human resources management and relationships that support respect for project workers.

II. OBJECTIVES

- a. Promote fair treatment, nondiscrimination, and equal opportunity for **project workers**, including those who are **disadvantaged or vulnerable**.
- b. Prevent and address any forms of violence and harassment, bullying, intimidation and exploitation of project workers, including any forms of **sexual exploitation, abuse, and harassment**.
- c. Support the principles of freedom of association and collective bargaining.
- d. Prevent the use of **forced labor** and **child labor**.
- e. Promote, develop, and maintain transparent project worker relationship management.
- f. Provide project workers with accessible means to raise workplace concerns.

III. SCOPE OF APPLICATION

2. The applicability of ESS2 is established during the environmental and social (E&S) assessment process described in ESS1. The scope of application of ESS2 depends on the type of employment and nature of the employment relationship between the borrower/client and **project workers**.

3. Project workers include:

- (i) **direct workers**—workers engaged or employed directly by a borrower/client (including the project proponent and the project executing and implementing agencies) to work on a project. The requirements in paras. 5–35 and 47–48 apply;
- (ii) **contracted workers**—workers engaged or employed by a third-party (a party or entity that is not a borrower/client and including contractors, subcontractors, brokers, agents or intermediaries) to perform work and/or provide service processes essential for a specific project activity without which a project or project activity cannot continue, regardless of location. The requirements in paras. 5–35 (applied as described in para. 36), 36–37 and 47–48 apply;



“The borrower/client will establish, at the earliest opportunity, and implement a worker’s grievance mechanism to respond and manage workplace concerns and grievances.”
(ESS2, para 31)

- Proportionate to labor risks and impacts and workplace concerns and grievances.
- Same principles as ESS10.
- Not impeding access to judicial or administrative remedies.
- However, Worker Grievance Mechanism has specific receiving and processing channels.

CROSSCUTTING MATTERS WITH OTHER ESSs

1. Labor Management Plan and System
2. Contractor Management
3. Primary Supply Workers
4. Meaningful Engagement and Disclosure
5. Grievance Mechanism
6. Confidentiality, Reprisal
7. Worker Accommodation
8. Worker Welfare and Safety
9. Project Workers
10. Disadvantaged or Vulnerable
11. Discrimination
12. SEAH



ESS1



ESS10



ESS4



ESS1



ESS4



ESS5



ESS7



ESS9



ESS10

**Pre-identified Questions
(from ESF Masterclass,
ESF Orientation)**

1. Why ESS2 discusses different categories of workers?
2. How does the new standard align with ADB's procurement framework or the project procurement?
3. Is LMP still required if the borrower or PMU already has an existing human resource management policy in place?
4. What is the difference between ESS2 and ESS4?

Open Q&A

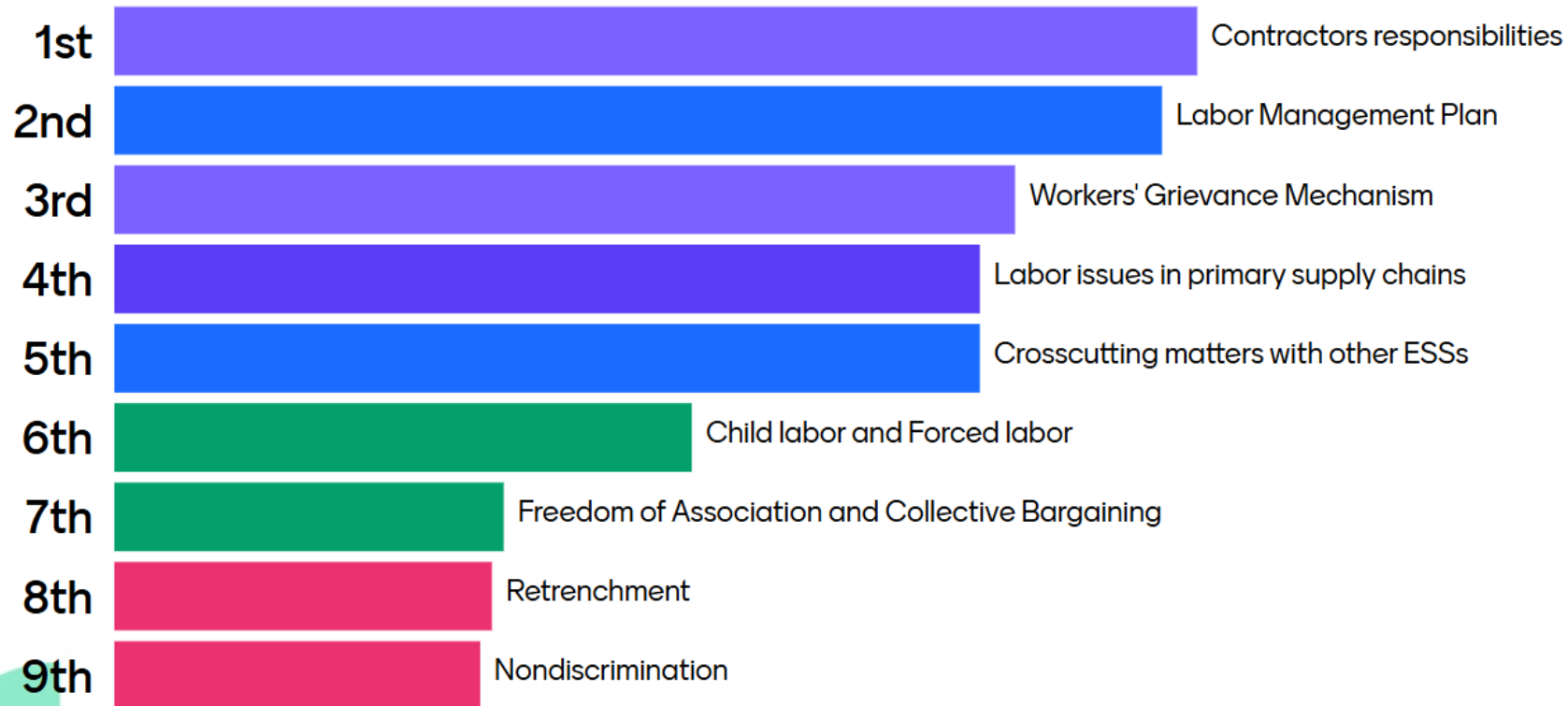
*Questions and discussions from the
participants*

Which of the following topics should be prioritized for future deep dive sessions?

- 1st | Labor Management Plan
- 2nd | Workers' Grievance Mechanism
- 3rd | Nondiscrimination
- 4th | Child labor and Forced labor
- 5th | Labor issues in primary supply chains
- 6th | Crosscutting matters with other ESSs
- 7th | Contractors responsibilities
- 8th | Retrenchment
- 9th | Freedom of Association and Collective Bargaining



Which of the following topics should be prioritized for future deep dive sessions?





Thank you!

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