



Memorandum of Understanding: Template for collaboration with public security forces

LLF ESMS Annex I

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ACRONYMS AND ABBREVIATIONS

Name	Description
E&S	Environmental and Social
ESMS	Environmental and Social Management System
IPLC	Indigenous peoples and local communities
LE	Law Enforcement
LL	Legacy Landscapes
LLF	Legacy Landscapes Fund
MoU	Memorandum of Understanding
SOP	Standard Operation Procedures
SRA	Security Risk Assessment
UNGP	United Nations Guiding Principles (on Business and Human Rights)
WB	World Bank
WB ESS	World Bank Environmental and Social Standards
VPSHR	Voluntary Principles on Security and Human Rights

DOCUMENT HISTORY

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1. INTRODUCTION

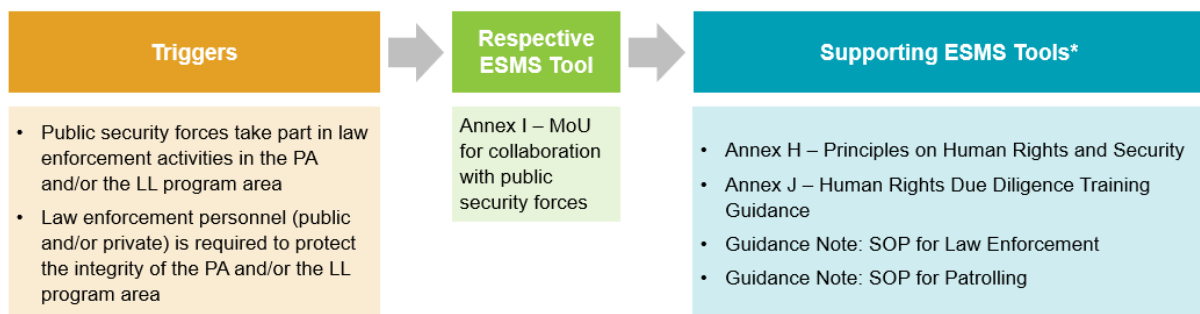
In the context of LLF’s work, special considerations apply to those contexts where the grantee works with third party law enforcement agencies. In most cases, those agencies will comprise government security forces, such as the military, police, gendarmerie etc. LLF affirms its commitment to human rights in all engagement with host government agencies, whether this engagement is direct or indirect, and LLF expects the grantee¹ and their partners to do the same. Government forces are accountable to their own lines of command, and LLF and its grantees will always respect this.

At the same time, LLF expects its grantees to take all necessary steps in establishing any security partnerships between conservation organizations and government law enforcement to include a clear, joint commitment to human rights. This commitment may be expressed in a memorandum of understanding (MoU) between the two sides.

The specific conditions governing law enforcement operations in an LLF landscape will be highly individual and context-dependent. Indeed, a signed MoU may not always be achievable, or even legally possible. The grantees are therefore encouraged to focus on the communication and collaboration with public security forces as the primary objective - and on a formal agreement as the secondary goal. In any event, LLF expects to have full transparency over the engagement process and must be kept informed of its progress at all times.

In cases where there is less direct cooperation between the grantee and the government controlled forces, it needs to be understood that the grantee shall demonstrate that they are using the leverage that they have in the very specific context of their operations, to try and obtain a formal assurance on human rights and rules of engagement from those forces engaged in law enforcement that are not under their control.

The requirement to develop the MoU might be stated in the environmental and social action plan (ESAP) that is part of the grant agreement between the grantee and LLF. Alternatively, such requirement will be triggered by legacy landscape (LL) program activity during the lifecycle of the LL program.



* The „Supporting ESMS Tools“ are potentially applicable and/or could be used for support of the „Respective ESMS Tool“ but are not triggered by the same trigger. For the annex specific trigger refer to the respective annex document. For example, the SEP always applies, but FPIC may be a supporting document, but it is not triggered under the conditions of the first column (i.e., „Triggers“).

Comments
<p>MoU should align with principles on human rights and security.</p> <p>MoU represents clear, joint commitment to human rights, including recognition that partner forces are accountable to their own chains of command. It aims to streamline practices and standardize approaches when working with partner LE agencies (i.e., armed forces, police, customs, intelligence services etc.) in the context of biodiversity conservation and LL management (also considered in SOP for law enforcement).</p> <p>MoU suggests training of personnel in human rights and humanitarian norms. Further guidance on this can be provided in the HRDD training guidance. SOP for law enforcement should cross-reference and align with principles on human rights and security.</p>

¹ Please note, LLF acknowledges that in some cases not the grantee but rather a separate organization has a law enforcement mandate in a legacy landscape. Thus, even though this document is addressed to the grantee of LLF programs, it also can be used by other organizations that have a LE mandate in the LL area and are developing a MOU.

1.1 Purpose

This document outlines baseline guiding principles to establish an MoU for multi-agency operations between the grantee and public security forces (i.e., third-party law enforcement agency) involved in environmental law enforcement (LE) in a LLF supported landscape. It is designed to serve as a guideline for implementing third partner agencies involved in LE having security partnerships with the grantee. It also assists in understanding what the legacy landscape (LL) program expects from public security agencies as well as vice versa. Importantly, it is to be understood as a guideline rather than a strict set of requirements.

1.2 Objective

A MoU represents a clear, joint commitment to human rights, including recognition that partner forces are accountable to their own chains of command. It aims to streamline practices and standardize approaches when working with partner LE agencies (i.e., armed forces, police, customs, intelligence services etc.) in the context of biodiversity conservation and LL management (refer to LLF document, **Guidance Note: SOP for Law Enforcement**²).

A multi-agency operation is defined as an activity conducted in conjunction with (third-party) forces that are outside of the LL's command structure. Given that external actors, such as NGOs (i.e., grantee) or donors (e.g., LLF), rarely have any level of oversight over third-party LE agencies, securing a MoU is a safeguards mechanism that can provide a degree of leverage. It is also key to build the approach of achieving an MoU on the results of a security risk assessment (SRA) to determine, i) why additional forces are needed and who makes the request; ii) what agency are the forces from; iii) what is the objective of the collaboration? In general, SRA should be part of management best practices and performed regularly to adapt the posture vis-à-vis threats and risks. LL programs do not always have power over the causes and triggers of risks, as well as contextual risks. Thus, having a solid MoU is a mean to increase compliance when control is limited. Finally, it allows a distinction between best practice vs. requirements.

Third-party LE agencies can be called upon to intervene or provide various support roles to handle specific tasks that are either not tailored to the capacity of rangers or that go beyond the LL's jurisdiction. Since requirements, training and standards may vary immensely between LE actors, an MOU can state commitments to which requirements, training and standards collaborative action must comply to, in order to prevent, mitigate and remedy possible negative human rights impacts related to incorporating external public security forces. This template serves as a guideline for governing the grantee and actors involved in protection and surveillance activities, such as third-party LE agencies.

2. APPLICABLE STANDARDS

The MoU guidance complies with the LE requirements as outlined in the World Bank ESS framework as well as other applicable standards listed in the LLF ESMS manual. As a general principle, all parties to the MoU are committed to the adherence to international human rights norms. Furthermore, due to the sensitivity of security operations and potential impacts on human rights, further principles catered to security topics are included to guide approaches:

- World Bank Environmental and Social Safeguard Standards (WB, 2018):
 - ESS 4 Community Health and Safety with regard to law enforcement operations;
- Good Practice Note: Assessing and Managing the Risks and Impacts of the Use of Security Personnel (WB, 2018)³;

² This guidance is available at LLF and can be shared on a request basis.

³ <http://documents.worldbank.org/curated/en/692931540325377520/Environment-and-Social-Framework-ESF-Good-Practice-Note-on-Security-Personnel-English.pdf>

- Voluntary Principles (VPSHR) on Security and Human Rights (2010)⁴;
- BMZ Guidelines on incorporating human rights standards and principles (BMZ, 2013)⁵;
- United Nation Code of Conduct for Law Enforcement Officials⁶;
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials⁷.

3. KEY TERMINOLOGY

Table 3-1 below elaborates on key terms used in this guidance note.

Table 3-1 Key Terminology

Term	Definition
Area of Influence	The area within which program’s activities have the potential to create E&S changes, including the: <ul style="list-style-type: none"> ■ Zone of direct impact, an area, often demarcated by a LL boundary, where land access restrictions will be in place and enforced, and where program facilities may be constructed. ■ Zone or zones of indirect impact, areas where stakeholders affected by a program’s reside, work or farm, including areas that experience economic growth, increased traffic or influx as a result of program’ activities.
Community	Usually defined as a group of individuals broader than the household, who identify themselves as a common unit due to recognized social, religious, economic, or traditional government ties, or through a shared locality
Donor	Financial entity providing funding to conservation programs: bilateral or multilateral (i.e. private foundation) or trust funds.
Grantee	A NGO(-s) and/or party that is in contractual agreement with LLF and receiving grant funds through the grant agreement.
Third-Party Law Enforcement Agencies	Any official host government law enforcement agency, including in some instances a nations’ armed forces (i.e.: police, customs, army, coast guard etc.)
Law Enforcement Staff	A group of individuals that includes all staff assigned to a protected area having a direct role in law enforcement or involved in security (i.e.: rangers, detached police or military, judiciary officers etc.)
Legacy Landscapes Program/Program activity	All activities ⁸ related to the legacy landscape and/or stakeholders that are planned, implemented and/or supervised by the grantee and/or their contractor.
Legacy Landscape Staff	All staff related to the legacy landscape program and/or program activity development and implementation (e.g., grantee, contractors, park management, etc.)
Program Affected Person	Any person experiencing loss of asset, access to income whether of a temporary or permanent nature due to the land acquisition process, and/or access restrictions regardless of whether they are physically displaced or relocated or not.
Stakeholders	Any and all individuals, groups, organizations, and institutions interested in and potentially affected by a program or having the ability to influence a program.

⁴ <https://www.voluntaryprinciples.org/>

⁵ <https://www.bmz.de/en/ministry/working-approach/bilateral-development-cooperation-56630>

⁶ <https://www.ohchr.org/en/instruments-mechanisms/instruments/code-conduct-law-enforcement-officials>

⁷ <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement>

⁸ The program-level MoU shall cover not only LLF funded activities for the program, but all program activities in the program specific legacy landscape and surroundings

The following chapters entail suggested content for a MoU based on the abovementioned best practice standards.

4. NATURE OF MULTI-AGENCY OPERATIONS

The MoU should cover all actions and activities in which LE staff are involved, that are liable to be funded by the donor (e.g. LLF). Some examples include, but are not limited to:

- Anti-poaching and surveillance patrols;
- Escorts for biomonitoring missions or border patrols (land or maritime);
- Operations where external logistical means are used (e.g., aircraft, vessels etc.);
- Environmental crime related interventions outside the LL associated with the grantee;
- Operations where anticipated security risks require additional firepower.

5. PRINCIPLES ON HUMAN RIGHTS STANDARDS ON THE USE OF FORCE

Any and all incidents must be properly reported on, based on existing protocols and hierarchical requirements. The MoU implies that all parties agree on the following guidelines to protect the rights affected by the use of force:

- Right to life, liberty and security of person;
- Prohibition of torture or other cruel, inhuman or degrading treatment or punishment;
- Respect for the inherent dignity of the human person;

All parties also commit to the basic principles in the use of force - “PLAN”

- **P: Proportionality** – when it is in line with objectives;
- **L: Legality** – in line with national and international law;
- **A: Accountability** – immediate reporting, even if abusive or mistaken;
- **N: Necessity** – when it is unavoidable after warning.

6. EXECUTION OF LAW ENFORCEMENT ACTIONS

6.1 Organization of multi-agency patrols or operations

All actions need to be jointly coordinated and planned. Each type of action (patrol, arrest, search, checkpoint etc.) will define the roles and responsibilities of each branch or agency and can include specific or shared standard operation procedures (SOPs – refer to the LLF documentation, **Guidance Note: SPO for Patrolling** and **Guidance Note: SOP for Law Enforcement**⁹) with rangers or the grantee.

6.2 Operational management: chain of command

Decision making along with command-and-control capacities must be clearly defined prior to execution. To limit risks and exposure, the grantee cannot be held responsible for actions committed by partner LE agencies. The partner LE agency will operate under its own hierarchy and the MoU (if in place) does not imply that said third-party LE agencies are employed by or represent the

⁹ These guidance are available at LLF and can be shared on a request basis.

grantee. However, the grantee needs to demonstrate that they are using the leverage that they have in the very specific context of their operations, on those forces engaged in law enforcement that are not under their control.

Selected partner forces should designate a focal point to liaison with the grantee to coordinate actions, shared security, report and deal with incidents involving their forces, including accusations or grievances from communities.

6.3 Equipment, logistics and coercive means

LE partner forces commit to using any means put at their disposal by the grantee for the joint purpose agreed upon. Additionally, the grantee should conduct and document prior assessments to evaluate the suitability of sharing or donating any equipment, or resources, to public security forces to weigh the risks such assistance will not be misused.

Coordination of the supply of logistical means is performed prior to any action: rations, fuel, vehicles etc. Financial compensations and reimbursements should comply with donor (e.g., LLF) regulations and contractual agreements.

Note: LLF will not finance any activities that involve production and purchase of and trade in weapons and munitions¹⁰ or critical components thereof (refer to ESMS document, Annex B – Exclusion List).

6.4 Medical assistance

Third-party LE agency personnel and leadership will commit to aiding and assisting any person injured by their agents during joint actions.

7. ADMINISTRATION OF COLLABORATIONS WITH PUBLIC SECURITY FORCES

7.1 Training and background of partner agency personnel

The nature or branch of public security forces included into joint operations must be carefully considered (police, military, coast guard etc.) in order to best match the expected outcome. When considering or preparing for such joint actions, their background must thus be adapted (direction action, judiciary police or simple guard units, for instance) in order to avoid negative impacts of ill-suited forces. This may not always be possible due to national security concerns and in some cases the government may choose to unilaterally deploy forces as defined by their agenda. However, this should be considered to the maximum extent possible. Similarly, unit backgrounds may suggest specific training or historic precedents that could influence outcomes from a safeguarding perspective. Prior to deployment, third-party LE agencies and the grantee should assure that participants have all been briefed and/or trained on international relevant standards (refer to chapter 2). The following themes could be considered:

- Awareness training on the use of force, international human rights and humanitarian norms etc.;
- Awareness raising on judicial or penal sanctions applicable by law in case of violations or abuse.

7.2 Selection and vetting of participating agents

Third-party LE agencies should assure that their personnel working with the grantee have been properly vetted and screened to exclude elements that have a past of human rights violations or adverse behavior. Furthermore, situations should be avoided, where indigenous peoples and local communities (IPLC)/local rangers survey areas inhabited by communities from rival ethnic groups or

¹⁰ The restriction does not apply to field or bush knives, machetes and other essential field or safety gear provided to rangers. Equipment needed for research, one health related activities or translocation of wildlife is also permitted.

communities with which their group has a recent history of conflict. Therefore, vetting should include awareness/sensitivity on ethnicity and local power structures/conflict dynamics.

7.3 Documenting joint actions

Every joint action or collaboration should be documented by all parties, including but not limited to:

- Planning: area of operations, GPS coordinates, start and end date, type of action, actions on, SOPs, logistical means, coercive means, risk assessments to populations and agents etc.;
- Human resources: team and personnel composition, repartition of agents etc.;
- Management: Use of existing or creating law enforcement management forms or reporting formats
- Equipment: inventory on equipment use, specifically if there are transfers;
- Authorization: Administrative authorizations, mission orders etc.;
- Reporting: through after-action reports: itinerary used, contacts with offenders, arrests, seizures, incidents, injuries etc.;
- Follow up: reports on judicial follow up, if relevant;
- Disciplinary issues encountered during execution;
- Any other reporting means prescribed by the government, donor, NGO or agency.

7.4 Investigation on incidents

Partner LE forces should commit to informing without delay on any incidents that occurred involving risks or damages caused to civilians (guilty or not) or the use of force by their agents. They should commit to opening an investigation and performing any actions needed as dictated by national and international laws. The grantee should commit to notifying without delay on any complaints or reservations on the applicability of the above rules and principles.