



Sierra Leone Agribusiness Investment Approval Process

aiap

**Sierra Leone Investment and
Export Promotion Agency**

O.A.U Drive, Tower Hill
Freetown, Sierra Leone

www.sliepa.org

info@sliepa.org

Tel: +232 25 332863





aiap

Sierra Leone Agribusiness Investment Approval Process

Introduction

The *Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (VGGT), endorsed by the World Food Committee in May 2012, have received great attention and support by governments, civil society organizations and other stakeholders. Sierra Leone is one of the international leaders in embracing and adopting the VGGT.

One of the government's key objectives has been to improve the country's Agribusiness Investment Approval Process (AIAP) to bring it more into line with the VGGT. With support from the United Nations Food and Agriculture Organization (UN-FAO), a multi-stakeholder working group, led by the Sierra Leone Investment and Export Promotion Agency (SLIEPA), was tasked with this activity. The group developed a revised AIAP, which has benefited from several rounds of multi-stakeholder input. The AIAP seeks to ensure that agribusiness investments in Sierra Leone are socially and financially sustainable such that all stakeholders—affected communities, the investor and the country at large—will benefit.

Stage 1

Initial inquiries & know your customer (due diligence) assessments



Process Stages

- A** SLIEPA should be the primary entry point for ALL agricultural investments in the country. SLIEPA will coordinate with other MDAs in working with potential investors.
-
- B** SLIEPA approached by potential investor (or in some cases SLIEPA may reach out to a potential investor).
-
- SLIEPA conducts Know Your Customer (“KYC”) checks using a questionnaire that is designed to learn more about the proposed investment and the potential investor. Within two (2) working days of receiving the completed questionnaire, SLIEPA:
- C**
1. Uses the information provided in the questionnaire to score the potential investor and project against a variety of criteria; and
 2. Provides the investor with a list of recommended service providers and suppliers in Sierra Leone and a copy of the Consultation Guide¹.
-
- D** If the KYC information reveals that a particular area (district/chiefdom) is either favoured by the investor or may be a potential location for the investment, SLIEPA informs the District Council and other local stakeholders to allow them to provide input into the KYC and subsequent due diligence processes.
-
- E** Within three (3) working days of learning that a particular district may be implicated in the proposed investment, SLIEPA will coordinate with the entity managing the Community Justice Fund (CJF) to provide the community with a list of lawyers and justice organisations to choose from for legal and/or paralegal assistance.



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**
Relevant Ministries, Departments and Agencies - **MDAs**
Sierra Leone Chamber for Agribusiness Development - **SLeCAD**
Human Rights Commission of Sierra Leone - **HRCSL**

¹ The Consultation Guide aims to help investors engage members of the community where their investment is located to obtain free, prior and informed consent (FPIC) on their investment.

Stage 2

Information exchange & site visits



Process Stages

- A** Based on information gathered in Stage 1, SLIEPA continues to provide information and resources the potential investor may need to proceed with the investment.
- B** It also begins to coordinate the investor's interaction with other government agencies such as the Corporate Affairs Commission ("CAC"), Office of the Administrator and Registrar General ("OARG"), Environment Protection Agency ("EPA"), Sierra Leone Local Content Agency ("SLLCA"), MoF, MTI and MAF.
- C** SLIEPA helps the investor locate service providers, suppliers and potential joint venture partners in Sierra Leone.
- D** Within seven (7) working days of an investor's request, SLIEPA coordinates with the potential investor to arrange for a visit to Sierra Leone (if that has yet to occur) and shows potential sites for a project to the investor based on desk research and community visits. Sites are also identified when current investors express an interest in joint ventures and when the Government promotes the lease of a particular parcel of Government land. (Note that possible project sites are often identified by investors without input from SLIEPA or other government agencies.).
- E** Within three (3) working days of receiving an investor's expression of interest, SLIEPA notifies district officials and other local and community stakeholders that an investor has expressed interest in their area and introduces the investor to them. In this initial meeting, the potential investor should present at least a preliminary investment proposal, including discussion of the potential benefits and risks and begin consultations with all affected stakeholders at the community level. Please see the SLIEPA Consultation Guide for guidance on conducting consultations, including the requirement to obtain the Free, Prior and Informed Consent of the affected community.
- F** At this point and throughout the process communities can have the legal and technical support of NGOs, CSOs and others to assist in consultations with the investor or government.
- G** Within twenty-one (21) working days of the completion of the investor's first visit or visits, SLIEPA notifies district officials and other local and community stakeholders to engage in internal consultations and then to respond preliminarily whether it is possible that they might welcome the investment.
1. SLIEPA may help to form a committee with representatives from all community stakeholder groups and facilitate meetings with the investor.
 2. The community can say no at this stage or at any time in the process. An agreement to proceed means only that the community agrees that the process can continue.
 3. The community should express its preliminary agreement in writing and the investor should provide the document to SLIEPA.
- H** Parcels of possibly suitable land could be preliminarily identified in this stage but that will vary from case to case.



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**
Ministry of Trade & Industry - **MTI**
Ministry of Agriculture and Forestry - **MAF**
Corporate Affairs Commission - **CAC**
Ministry of Lands, Housing and Country Planning - **MLHCP**
Ministry of Finance - **MoF**
Ministry of Environment - **MoEnv**
Human Rights Commission of Sierra Leone - **HRC**

Environment Protection Agency - **EPA**
Sierra Leone Local Content Agency - **SLLCA**
Member of Parliament - **MP**
District and Chiefdom councils
And other agencies as requested or required depending on the discussions with the potential investor.
Landowners/Land owning families/Land users and other members of the communities.
Civil Society Organizations - **CSOs**
Non-Governmental Organizations - **NGOs**

Stage 3

Potential Investor Proceeds or Withdraws



Process Stages

- A** In this stage, the investor reacts to the community's initial response to the potential project and the investor's own assessment of the viability of the project and potential site. If the investor decides to withdraw the process stops. If the investor wishes to consider a different location within the country the process reverts to Stage 2.
-
- B** The process also ends if the community decides not to proceed. SLIEPA immediately notifies the investor if the community decides not to proceed with the investment.
-
- C** If the potential investor decides to proceed and the community is supportive the investor should engage further, build relationships with the community and get them fully involved. The investor and the community, with legal assistance, should begin to discuss a community engagement plan to guide the ongoing consultations.
-
- D** Within four (4) working days of receiving notice that the community is willing to proceed, SLIEPA notifies the investor of that decision and sends a written reminder that the investor should continue consultations, begin participatory land mapping (where relevant), commit to preparing a feasibility study, business plan, Environmental Impact Assessment (EIA) as defined in Stage 5, and community engagement plan and make the required payment into the Community Justice Fund. The investor should make such commitments and begin making plans to comply.
-
- E** In most cases this would be the time to carry out participatory land mapping to identify legitimate land tenure right holders, including women and vulnerable groups, with the support of MLHCP. (This is likely to be a long process and may be carried out in several steps.).



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**
Ministry of Agriculture and Forestry - **MAF**
Ministry of Lands, Housing and Country Planning - **MLHCP**
Ministry of Environment - **MoEnv**
Environment Protection Agency - **EPA**
Sierra Leone Chamber for Agribusiness Development - **SLeCAD**
Human Rights Commission of Sierra Leone - **HRCSL**
District and Chiefdom councils
Member of Parliament - **MP**
Civil Society Organizations - **CSOs**
Non-Governmental Organizations - **NGOs**
Landowners/Land owning families and Land Users

Stage 4

Investor incorporates in Sierra Leone and enters into a MoU²



Process Stages

A The investor incorporates with the CAC.

B SLIEPA does more in-depth due diligence on the investor (i.e., additional information on financial capability, operational activities in other jurisdictions, any litigation, disputes/conflicts - and how they were resolved, etc.). SLIEPA shares additional due diligence findings with other stakeholders including MAF, MTI, local council, the local community, etc.

C The investor coordinates with SLIEPA to conduct additional site visits. Consultations with the community continue and a community engagement plan may be agreed to at this point. If so, the investor should provide a copy to SLIEPA.

D If the proposed project requires it, discussions on a land lease for a designated parcel of land may begin or continue, depending on the state of consultations with the community.

If all parties continue to be generally supportive of the proposed project, discussions begin about an MoU. SLIEPA provides the investor with an MOU template and requests a meeting with the investor to discuss the MOU within three (3) working days of the end of Stage 3. The MoU should reflect the understandings of the investor, SLIEPA and the community regarding:

E

1. The characteristics of the project
2. How much land is required and for how long
3. Benefits that may accrue to the community
4. Commitments to ongoing consultation, preparation of an ESIA, etc.
5. An expected timeline for continuing the project.

F The MoU is not legally binding on any party and does not require approval of any government institution or agency other than SLIEPA. SLIEPA makes best efforts to conclude negotiations on the MOU within fourteen (14) working days of the first meeting (recognizing that the timing will be substantially affected by the investor's availability).



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**
Ministry of Agriculture and Forestry - **MAF**
Ministry of Trade & Industry - **MTI**
Ministry of Finance - **MOF**
Human Rights Commission of Sierra Leone - **HRCSL**
Ministry of Local Government and Rural Development - **MLGRD**
Office of the Attorney General and Minister of Justice - **AGMoJ**

Member of Parliament - **MP**
Corporate Affairs Commission - **CAC**
Ministry of Lands, Housing and Country Planning - **MLHCP**
Ministry of Gender and Children's Affairs - **MGCA**
Landowners and Land Users
Civil Society Organizations - **CSOs**
Non-Governmental Organizations - **NGOs**

² Memorandum of Understanding ("MoU") with SLIEPA and representatives of the affected communities

Stage 5

Investor completes and shares a Feasibility Study (FS), Business Plan and an independent EIA³



Process Stages

Feasibility study and business plan (which could be incorporated into one document).

- A**
1. Upon completion, these documents should be submitted to SLIEPA for use in its due diligence analysis which SLIEPA completes within seven (7) working days of receiving the feasibility study and business plan and any supplementary information it requests from the investor. (Proprietary and other legitimately confidential information may be omitted or redacted.) SLIEPA may request assistance from other government institutions in reviewing these documents, along with other documents provided in Stage 5.
 2. Within three (3) working days of receipt, SLIEPA provides the feasibility study and non-proprietary portions of the business plan to local stakeholders, especially members of the affected local community.

Independent consultant hired by investor completes Environmental Impact Assessment (EIA) and Environmental Management Plan (EMP).

- B**
1. Representatives of the local community should be involved in designing and conducting the EIA and have the opportunity to review and provide input on the preliminary results. Their comments on the preliminary results should be reflected in the final document.
 2. The EIA and EMP should specifically assess and address the potential impact on land tenure rights, human rights, food security, livelihoods, economic empowerment, labour rights and the environment, disaggregated by gender.
 3. The EPA is responsible for reviewing and determining whether the results of the EIA are acceptable such that the project can proceed. SLIEPA and EPA can assist the investor in modifying the project to address defects identified in the EIA. If EPA does not approve of the EIA the project cannot proceed to Stage 6.
 4. Findings of the EIA must be incorporated into the project design and business plan to avoid negative impacts on tenure rights, human rights, food security, livelihoods, economic empowerment, labour rights and the environment.
 5. SLIEPA ensures that the final EIA and EMP is provided to the local community. The community continues to receive legal and other support to review and understand the various plans and reports produced, engage further with the investor and participate in the EIA process.
 6. EPA makes its determination whether the EIA is acceptable and notifies the investor within 30 days of receiving it.

- C** If not already completed, a community engagement plan should be finished in this stage.

- D** Land lease discussions can continue (if begun in a previous stage) or begin. Leases should not be finalized and signed until Stage 6.



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**
Ministry of Environment - **MoEnvt**
Environment Protection Agency - **EPA**
Ministry of Agriculture and Forestry - **MAF**
Ministry of Lands, Housing and Country Planning - **MLHCP**
Human Rights Commission of Sierra Leone - **HRCSL**

Ministry of Gender and Children's Affairs - **MGCA**
Sierra Leone Local Content Agency - **SLLCA**
District and Chiefdom councils
Consultants/Company contracted by the investors to do the EIA, FS and/or other scoping activities
Member of Parliament - **MP**
Technical Working Group - **TWG**
Civil Society Organizations - **CSOs**
Landowners and Land Users
Non-Governmental Organizations - **NGOs**

³ Environmental Impact Assessment (EIA)

Stage 6

The parties enter into final agreements



Process Stages

The final agreement is likely to be contained in several individual agreements or could be combined into one document. While the precise requirements will vary from case to case, approved projects are likely to include some or all of the following:

1. Land lease agreement
2. Outgrower contract(s)
- A** 3. Community impact and benefit agreement
4. Consultation plan
5. Monitoring plan
6. Fiscal regimes agreement (providing investment incentives)
7. Inclusive, accessible and equitable dispute resolution mechanisms should be contained in appropriate agreements

- B** Within fourteen (14) working days of the end of Stage 5 and prior to any decision by the Technical Working Group referenced below, SLIEPA will determine whether the relevant members of the local community have given their free, prior and informed consent (FPIC) to the package of agreements, even where they are not actual parties to a particular agreement. The process may not proceed further if the community has not given its FPIC.

- C** Within thirty (30) working days of receipt of the agreements by SLIEPA and SLIEPA's determination that the community has consented, a Technical Working Group consisting of representatives from SLIEPA, MAF, EPA, MLHCP, MTI, MoF, AGMOJ, HRCSL and the potential investor reviews the package of agreements. The community's lawyer and/or CSO justice organisation review the package of agreements with the community. The TWG shall make a prompt determination whether to approve the agreements.

- D** The investor will also provide other plans and documents required by law, including, but not limited to:
1. Local Content Plan
 2. Environmental Management Plan
 3. Closure Plan.



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**
Ministry of Agriculture and Forestry - **MAF**
District and Chiefdom Councils
Ministry of Environment - **MoEnvt**
Environment Protection Agency - **EPA**
Sierra Leone Local Content Agency - **SLLCA**
Ministry of Trade & Industry - **MTI**
Human Rights Commission of Sierra Leone - **HRCSL**
Office of the Attorney General and Minister of Justice - **AGMoJ**

Ministry of Finance - **MOF**
Sierra Leone Chamber for Agribusiness Development - **SLeCAD**
Ministry of Lands, Housing and Country Planning - **MLHCP**
Ministry of Gender and Children's Affairs - **MGCA**
Land owners/Landholding families/Land users
Other members of local community
Member of Parliament - **MP**
Civil Society Organizations - **CSOs**
Non-Governmental Organizations - **NGOs**
Legal Aid providers

Stage 7

Investment is carried out and monitored



Process Stages

Although it actually occurs after the project is approved, monitoring is included to stress the importance of monitoring the impact of the project and resolving disputes that may arise. More specifically, monitoring should:

- A**
 1. Determine whether all parties are complying with the various agreements.
 2. Assess the impact on legitimate land tenure right holders, human rights, food security, the environment, etc., as provided in the monitoring plan and EMP.
- B** Possibly through the committee referred to in Stage 2 (G1), the community should be actively involved in the monitoring.
- C** SLIEPA should share the monitoring plan with representatives of the community and relevant local government entities. Results of monitoring should be shared with the investor and the community.
- D** Depending on the circumstances, MAF, MTI, SLIEPA, HRCSL and/or MOF may be responsible for monitoring.
- E** SLIEPA's Investor Aftercare programme is available to provide ongoing support and investment facilitation to investors after project approval.



Responsible Party

Sierra Leone Investment and Export Promotion Agency - **SLIEPA**

Environment Protection Agency - **EPA**

Ministry of Agriculture and Forestry - **MAF**

Ministry of Trade & Industry - **MTI**

Ministry of Finance - **MOF**

Office of the Attorney General and Minister of Justice - **AGMoJ**

Sierra Leone Chamber for Agribusiness Development - **SLeCAD**

Human Rights Commission of Sierra Leone - **HRCSL**

District and Chiefdom councils

Member of Parliament - **MP**

Land owners/Landholding families/Land users

Other members of local community

Civil Society Organizations - **CSOs**

Non-Governmental Organizations - **NGOs**

Legal Aid providers