



**SIERRA LEONE AGRIBUSINESS**  
**INVESTMENT APPROVAL PROCESS**  
**(AIAP)**  
**CONSULTATION GUIDE**

## INTRODUCTION

A robust process of consultation with affected stakeholders is a core element of Sierra Leone's new Agricultural Investment Approval Process (AIAP). The AIAP requires investors to establish that they have obtained the free, prior and informed consent of members of the community where their investment is located. An ongoing process of consultation is essential to meeting this requirement. This guide aims to help investors do so.

## CONSULTATIONS AND FPIC

Failing to consult with stakeholders likely to be affected by an investment prevents investors from realistically assessing the project viability and from identifying effective and context-specific response measures. Inclusive and fully transparent consultations can lower transaction costs, reduce opposition and create trust among stakeholders. It is not only required by the AIAP; it is also an essential element of a responsible investment—one that is socially sustainable and likely to result in a reasonable risk-adjusted return on investment.

Free, Prior and Informed Consent (FPIC). FPIC means that a community has the right to give or withhold its consent to proposed projects that may affect the lands or natural resources they own, occupy or use. FPIC is a mechanism to allow communities to reach consensus and make decisions according to their own customary systems of decision-making. It gives them a veto – the right to say no – to a project being implemented in their territory. This power extends over the lifetime of the project if the nature or scope of the investment changes over time.

FPIC consists of four elements:<sup>1</sup>

It is useful to look more closely at each of the four elements of FPIC, as outlined by FAO, 2014b:

- Free. Those deciding whether to consent to a project should do so without “coercion, intimidation or manipulation”.
- Prior. Consent must be sought well before any authorization or the beginning of project activities. The timetable must allow sufficient time for culturally appropriate consultation and for completion of local decision-making processes.
- Informed. People receive all relevant information about the project. The information provided must be “objective, accurate and presented in a manner or form that is understandable to” those receiving it.
- Consent. The people have agreed to the activity that will take place on their land. The right to consent includes the right to say no to the project or to offer to consent only under certain conditions.

Investment activities requiring consultation include any negotiated agreement, compensation, acquisition, or voluntary relinquishment of rights by land users or owners. The principles of FPIC should be applied throughout the life of the enterprise, in all activities concerning communities.

How to consult while seeking to obtain FPIC. Precisely how to consult with stakeholders will vary depending on the setting. However, the following approaches and activities<sup>2</sup> often will be useful:

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<sup>1</sup> This section is derived primarily from “Respecting Free, Prior and Informed Consent”, FAO 2014 (<http://www.fao.org/publications/card/en/c/e5e9c08e-ff02-5509-8929-6f6537883f7b>).

<sup>2</sup> Derived from the OECD-FAO Guidance for Responsible Agricultural Supply Chains (<https://www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm>).

- Agree with affected stakeholders on a consultation process for working towards seeking FPIC. This should identify the specific current and future activities where consent should be sought. In some cases, it might be appropriate to commit to this process through a formal or legal agreement. The process should always be based on good faith negotiation free of coercion, intimidation or manipulation.
- Consult and agree on what constitutes appropriate consent for each stakeholder group in accordance with their governance institutions, customary laws and practices. Seek to ensure that each group participates through their own freely chosen representatives and institutions.
- Engage in the process of seeking consent as soon as possible during project planning, before activities for which consent should be sought are commenced or are authorized.
- Develop and implement a stakeholder engagement plan tailored to the risks, impacts and development stage of the operations and to the characteristics and interests of affected communities.
- Include differentiated measures to allow effective participation of disadvantaged and marginalized group's (e.g. women, youth, landless, disabled, elderly) participation in the consultation process. Such measures may include separate meetings for such groups.
- Recognise the process of seeking FPIC as iterative rather than a one-off discussion. Continuous dialogue with the local community will lead to a trust relationship and a balanced agreement that will benefit the investment across all phases of the project.
- Provide all information relating to the activity to affected communities in a manner that is timely, objective, accurate and understandable to them. Consultations should be conducted in the local dialect and in keeping with the cultural norms of the community.
- Document commitments/agreements that have been reached, including, as relevant, specification of what activities consent has been granted for or withheld, any conditions of consent, and areas of ongoing negotiation and share them with the affected community in a form and language they can understand and in a timely manner.
- When carrying out impact assessments, establish mechanisms for the participation of the communities, including vulnerable groups, in designing and conducting the assessments.

#### POTENTIALLY AFFECTED STAKEHOLDERS IN SIERRA LEONE

The following graphic identifies local level stakeholders affected by or related to agricultural investment in Sierra Leone<sup>3</sup>.

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<sup>3</sup> The potentially affected stakeholders will be aligned with the Customary Land Rights Bill that is expected to become Law

District	Chiefdom/Village	Section/Ward
<ul style="list-style-type: none"> <li>•Chairperson</li> <li>•Chief Administrator</li> <li>•Council Agricultural Committee</li> <li>•Other council members</li> </ul>	<ul style="list-style-type: none"> <li>•Paramount Chief</li> <li>•Section Chief</li> <li>•Religious leaders</li> <li>•Women's leaders</li> <li>•Youth leaders</li> </ul>	<ul style="list-style-type: none"> <li>•Individual landowners</li> <li>•Land-owning families</li> <li>•Land users</li> </ul>

#### WHEN AND WITH WHOM TO CONSULT UNDER THE AIAP

The AIAP requires ongoing consultation throughout the investment process. Ultimately, the investment may not proceed without the FPIC of affected communities. The following table provides guidance on when and with whom to consult in each stage of the process.

### **SIERRA LEONE AGRIBUSINESS INVESTMENT APPROVAL PROCESS**

Consultation Requirement by Process Stage	With Whom to Consult	Notes
<b>Stage 1: Initial Inquiries &amp; Know Your Customer (Due Diligence) Assessments</b>	No consultation in Stage 1	
<b>Stage 2: Information Exchange &amp; Site Visits</b> <ol style="list-style-type: none"> <li>1. SLIEPA arranges country and site visits; shows potential sites for a project to the investor and notifies district officials and other local stakeholders that an investor has expressed interest in their area.</li> <li>2. Potential investor meets with community and at some time in Stage 2 presents at least a preliminary investment proposal, including discussion of the potential benefits and risks to the community and what the investor may expect from the community.</li> </ol>	Local Government  Chiefdom/Village leaders  Section/Ward stakeholders  CSOs and NGOs (if requested by other stakeholders)  Representatives of land-owning families and other landowners.	Stage 2 includes the initial visit by the investor to the proposed project area. It may be wise to ask SLIEPA to help to form a committee with representatives from all community stakeholder groups to facilitate meetings with the investor.  More broadly, the investor should ensure that all affected

<p>3. Before the end of Stage 2, the community should be asked to respond generally and preliminarily whether it is possible that they might welcome the investment.</p>		<p>stakeholders are included in the initial meetings. It may be useful to undertaking a stakeholder mapping exercise to ensure that no affected groups are left out.</p> <p>Separate meetings with some groups (such as women or youth) may be necessary.</p> <p>Investor should avoid situations where only Paramount Chiefs, their representatives or other community leaders speak on behalf of the community.</p>
<p><b>Stage 3: Potential Investor proceeds or withdraws</b></p> <p>A. If the potential investor demonstrates serious interest in proceeding and the community is supportive the investor continues to consult with the community.</p> <p>B. Investor engages in participatory land mapping to identify legitimate land tenure right holders, including women and vulnerable groups. This is likely to be a long process and may be carried out in several stages.</p> <p>C. The investor and the community should also begin to discuss a community engagement plan to guide the ongoing consultations.</p>	<p>Local Government</p> <p>Chiefdom/Village leaders</p> <p>Section/Ward stakeholders</p> <p>CSOs and NGOs (if requested by other stakeholders)</p> <p>Representatives of land-owning families and other landowners.</p>	<p>In stage 3 consultations continue, perhaps with the stakeholder committee formed in stage 2.</p> <p>Local Government officials may or may not be actively involved but they should be kept generally informed of investment-related activities.</p>
<p><b>Stage 4: Potential investor incorporates in Sierra Leone and negotiates and enters into a Memorandum of Understanding (“MoU”) with SLIEPA and representatives of the affected communities.</b></p>	<p>Local Government</p> <p>Chiefdom/Village leaders</p> <p>Section/Ward stakeholders</p>	<p>The consultation process may intensify in Stage 4 as this stage may result in a Memorandum of Understanding between the investor and the government. The affected communities will be asked to indicate</p>

<p>A. The potential investor coordinates with SLIEPA to conduct additional site visits.</p> <p>B. Consultations with the community continue and a community engagement plan may be agreed to at this point. If so, investor should provide a copy to SLIEPA.</p> <p>C. If the proposed project requires it, discussions on a land lease for a designated parcel of land may begin, depending on the state of consultations with the community.</p> <p>D. If all parties continue to be generally supportive of the proposed project, discussions begin about an MoU.</p> <p>E. MoU is drafted and signed.</p>	<p>CSOs and NGOs (if requested by other stakeholders)</p> <p>Representatives of land-owning families and other landowners.</p>	<p>that they continue to be generally supportive of the proposed project. SLIEPA must be able to confirm this before an MOU can be signed. Local government officials should be kept informed.</p> <p>Note that at this stage or even earlier, the community is provided by SLIEPA with a list of Lawyers and justice organisations to choose from for legal and/or paralegal assistance. Investors should respect and engage with any such community representatives.</p>
<p><b>Stage 5: Investor completes and shares a Feasibility Study, Business Plan and an independent Environmental and Social Impact Assessment (ESIA).</b></p> <p>A. SLIEPA shares feasibility study and business plan with local stakeholders.</p> <p>B. Independent consultant hired by investor completes Environmental and Social Impact Assessment (ESIA) and Environmental Management Plan (EMP).</p> <p>C. If not already completed, a community engagement plan should be finished in this stage.</p> <p>D. The community continues to receive legal and other support from its lawyer, other experts and/or justice organisations to review and understand the various plans and reports produced, engage further with the investor and participate in the ESIA process.</p>	<p>Local Government</p> <p>Chiefdom/Village leaders</p> <p>Section/Ward stakeholders</p> <p>CSOs and NGOs (if requested by other stakeholders)</p> <p>Representatives of land-owning families and other landowners.</p>	<p>As part of the ongoing consultation, representatives of the community should be involved in designing and conducting the ESIA 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.</p> <p>Consultations can include agreement on a community engagement plan to guide ongoing communications if the investment proceeds.</p>

<p>E. Land lease discussions can continue (if begun in previous phase) or begin. Leases should not be finalized and signed until Stage 6.</p>		
<p><b>Stage 6: The parties enter into final agreements, if such is the result of the previous stages.</b></p> <p>A. The final agreement is likely to be contained in several individual agreements.</p> <p>B. The relevant members of the local community must give their free, prior and informed consent (FPIC) to the package of agreements, even where they are not actual parties to a particular agreement.</p>	<p>Local Government</p> <p>Chiefdom/Village leaders</p> <p>Section/Ward stakeholders</p> <p>CSOs and NGOs (if requested by other stakeholders)</p> <p>Representatives of land-owning families and other landowners.</p>	<p>In stage 6 the investor must be prepared to establish that the affected communities have given their FPIC to the investment and this must be confirmed by SLIEPA. This may require enhanced consultations with each group leading to an indication of their assent. In most cases this should be in writing.</p>
<p><b>Stage 7: Investment is carried out and monitored.</b></p>	<p>Local Government</p> <p>Chiefdom/Village leaders</p> <p>Section/Ward stakeholders</p> <p>CSOs and NGOs (if requested by other stakeholders)</p> <p>Representatives of land-owning families and other landowners.</p>	<p>Possibly through the committee referred to in Stage 2, the community should be actively involved in the monitoring and SLIEPA should share the monitoring plan with representatives of the community and relevant local government entities.</p>

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