



BEFS

Bioenergy and Food
Security Projects

Sierra Leone Guidelines for Sustainable Bioenergy Investment

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FAO

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Outline

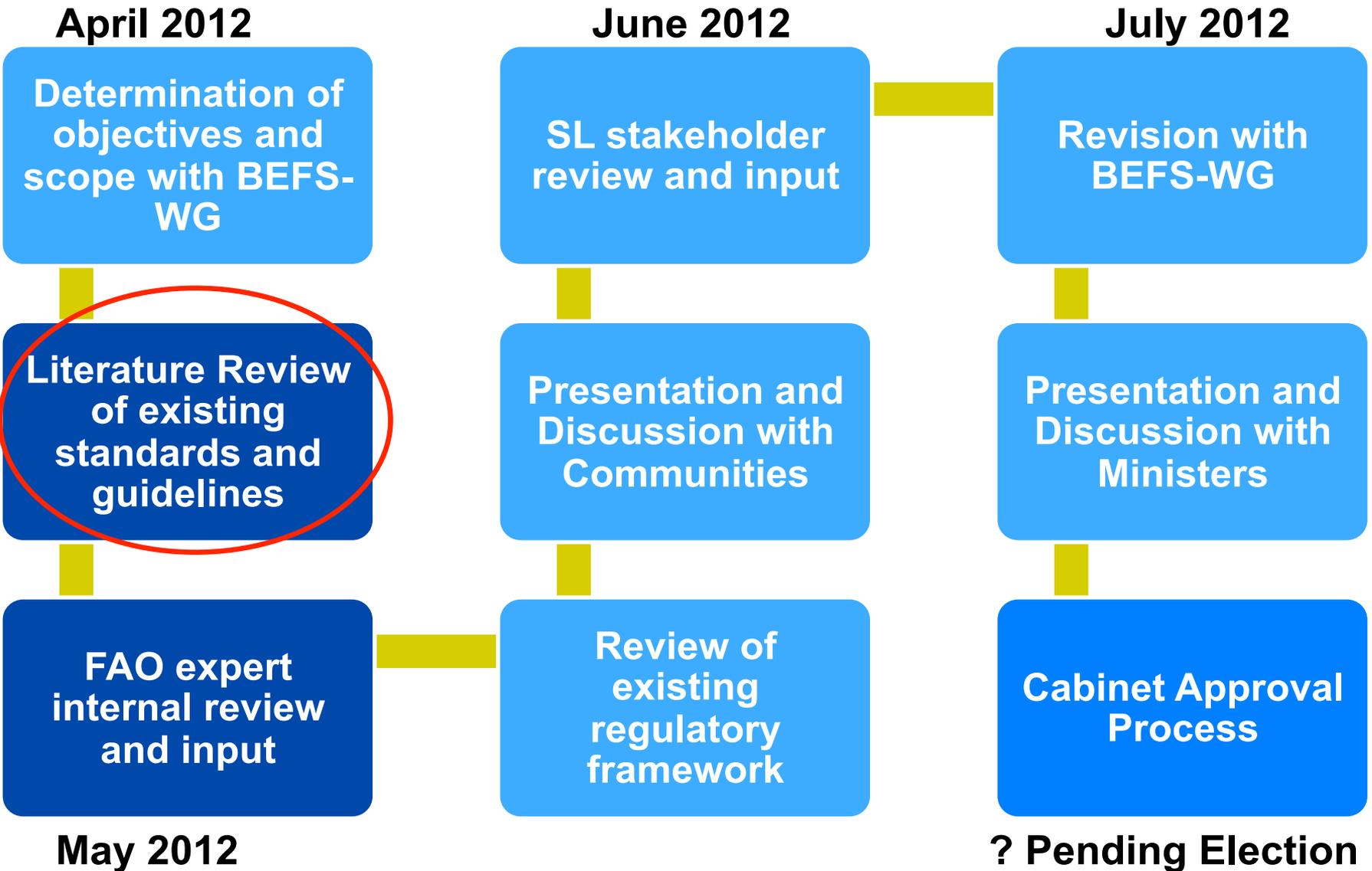
- Why Guidelines?
- Process of Development
- Scope and Structure
- Institutional Framework
- Issues
- Next Steps

Why Guidelines?

- No defined process, procedures, timeframe for investors, so approval is happening in an **ad hoc** manner creating frustration for investors and the public
- **Outdated** regulatory framework
- Land leasing with **low to no benefits** being transferred to landowners and users (e.g. \$12 hectare for land lease)
- **Low understanding** of the risks and benefits of bioenergy investment



Process of Guidelines Development



? Pending Election





Literature Review

Import Regulations

- The European Union's Renewable Energy Directive;
- The United States Renewable Fuels Standard

Financing Requirements

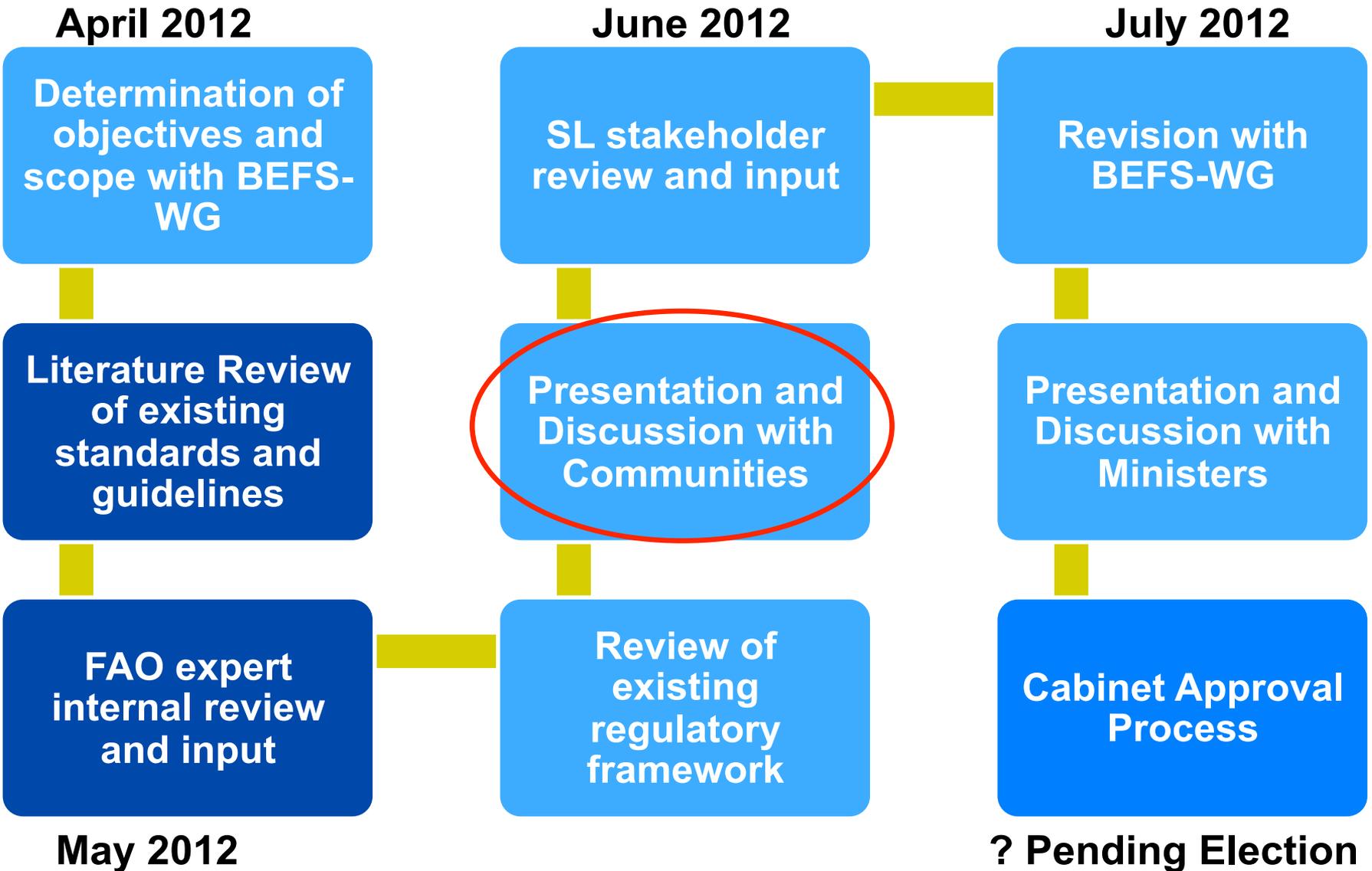
- International Finance Corporation's Performance Standards
- African Development Bank's Environmental and Social Safeguards

Voluntary Standards

- The Principles for Responsible Agricultural Investment;
- The Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests;
- The Global Bioenergy Partnership;
- The Roundtable on Sustainable Biofuels



Process of Guidelines Development



? Pending Election



Process: Presentation and Discussion with Communities



-175 representatives of **30 affected communities** Addax, sugarcane

-72 representatives from the **24 affected communities**, SOCFIN, oil palm

Process: Presentation and Discussion with Communities



Community Concerns Addressed in Guidelines

No Free, Prior, Informed Consent

Unclear Communication

Weak participation of women and youth

No independent legal representation

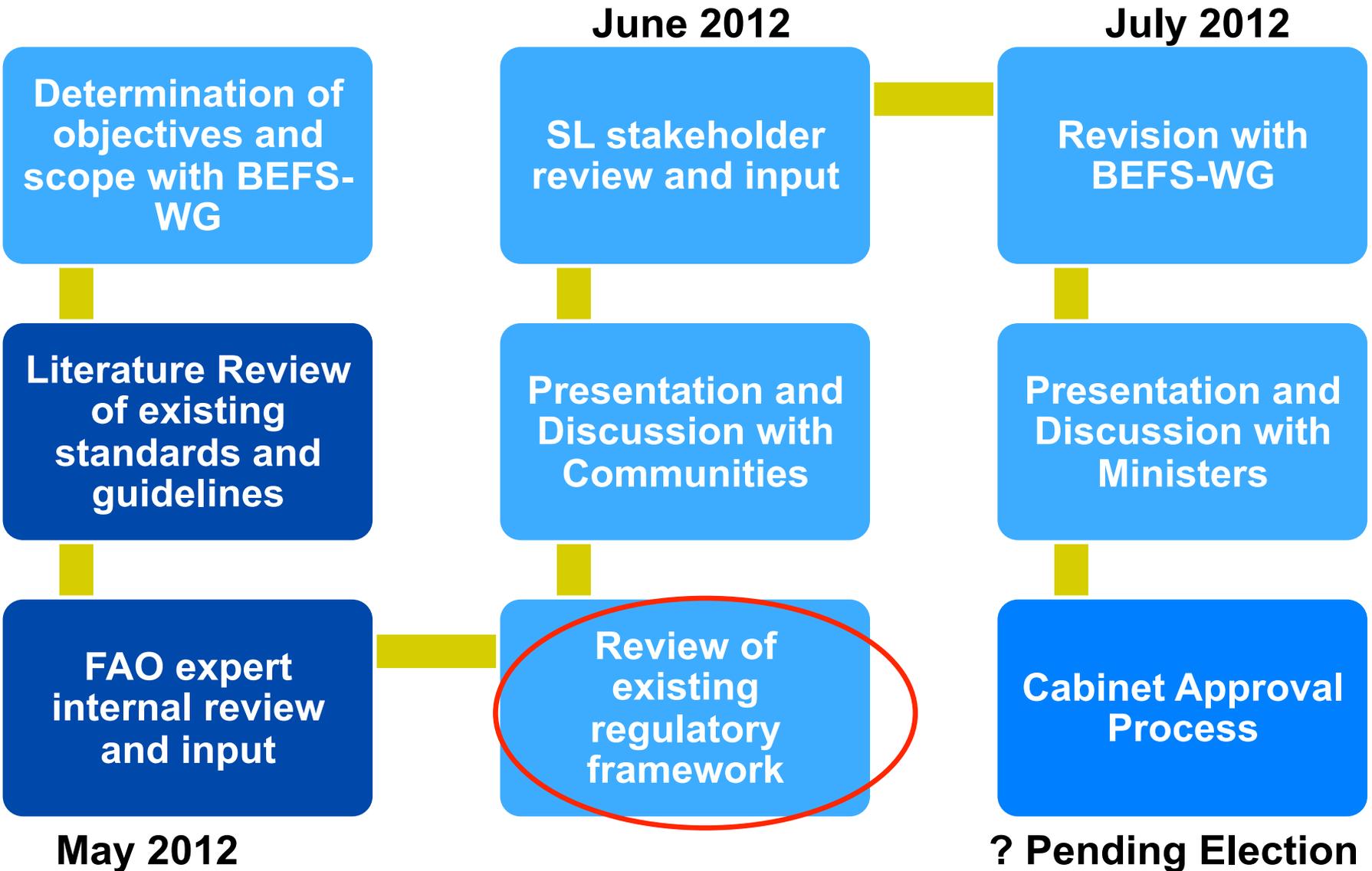
Unfair compensation structure and amount

Labour conditions and communication

Unclear grievance mechanisms

No monitoring and enforcement

Process of Guidelines Development





National legal framework

- Most legislation dates before the **1991 Constitution** and is **not enforced**
- There is a combination of **common law** and **customary law**
 - Nearly all of the land suitable for agriculture is in the Provinces, under customary law
 - Communal ownership (ancestral landholding)
 - Individual rights of occupation under supervision of elders
- There is a tendency to **use policies as regulatory instruments** (e.g Local Content Policy).
- Authorization for agricultural investments is subject to:
 - An agreement on a **Land lease** (community consultation)
 - Environmental and Social Impact Assessment (**ESIA**)
 - Agricultural investments over 5000 ha need approval by the Parliament
- There is recent detailed **legislation on the environmental and social implications/procedures** of mining resources (gold and diamonds)



Scope

- Guidelines apply to all private and public sector investments with ANY bioenergy component
- Guidelines serve as a:
 - Screening tool
 - Checklist for approval
 - Monitoring framework
- *Under discussion:*
 - Differentiated requirements for small and large scale investments
 - **Apply to all agribusiness investments**



Structure

- **Institutional Framework** defines roles and responsibilities within Government, by the Investor, and by civil society
- **Process and Procedures** describes the steps and stages required for investment approval
- **Issues** including a description, the minimum criteria, good practices, and exemplary performance actions, information required to prove compliance, government authority, and existing regulatory framework
- **Annexes** include templates for all required forms stipulated in the process and procedures



Structure

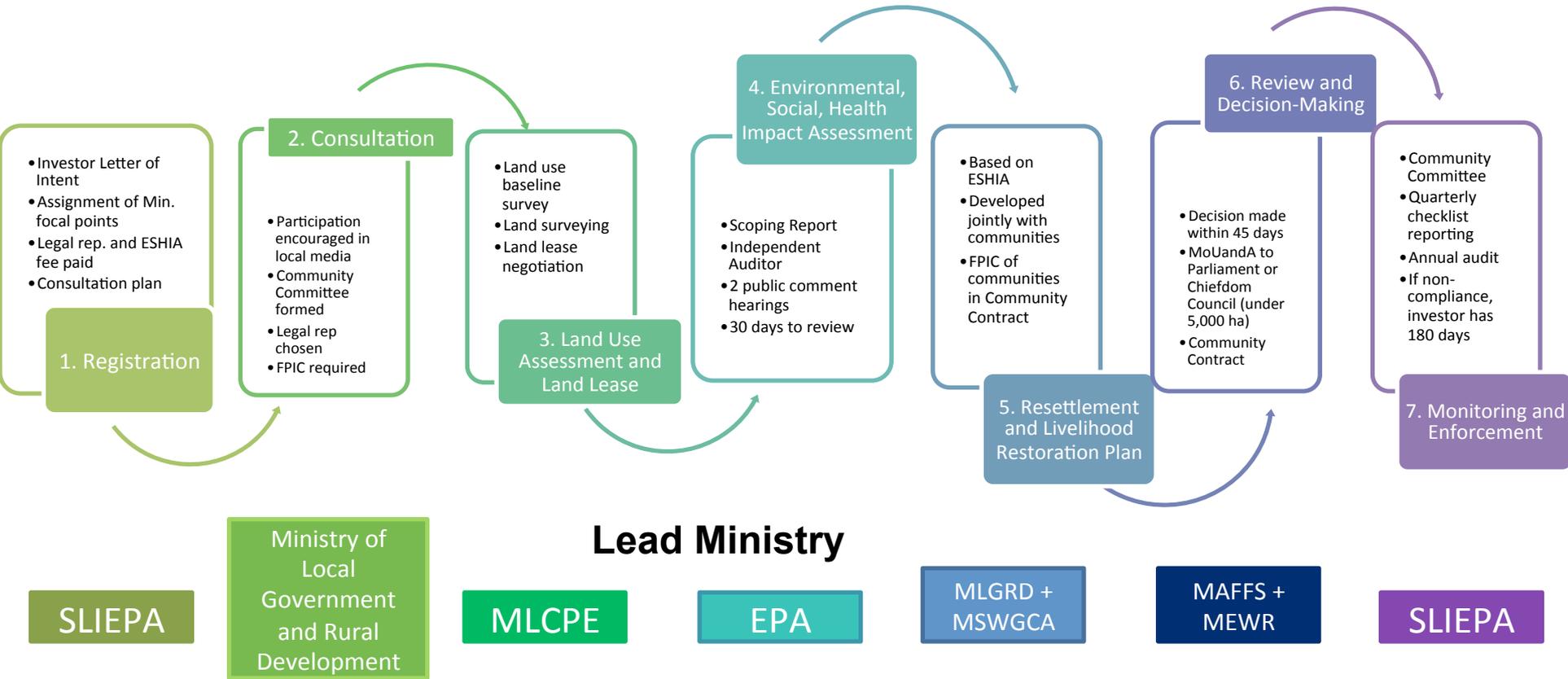
- Guidelines include a **rating system** with:
 - Minimum criteria (required for investment approval)
 - Good Practices (1 point each)
 - Exemplary Performance Actions (2 points each)
- *Under discussion:*
 - Weighting of specific issues (e.g. land tenure)



Institutional Framework for Process and Procedures

- Seven Stages including 35 specific steps with **roles and responsibilities** of Ministries/Agencies defined:
 1. Registration
 2. Consultation
 3. Land Use Assessment and Land Lease
 4. Environmental, Social, Health Impact Assessment
 5. Resettlement and Livelihood Restoration Plan
 6. Review and Decision-Making
 7. Monitoring and Enforcement

Guidelines Process and Procedures



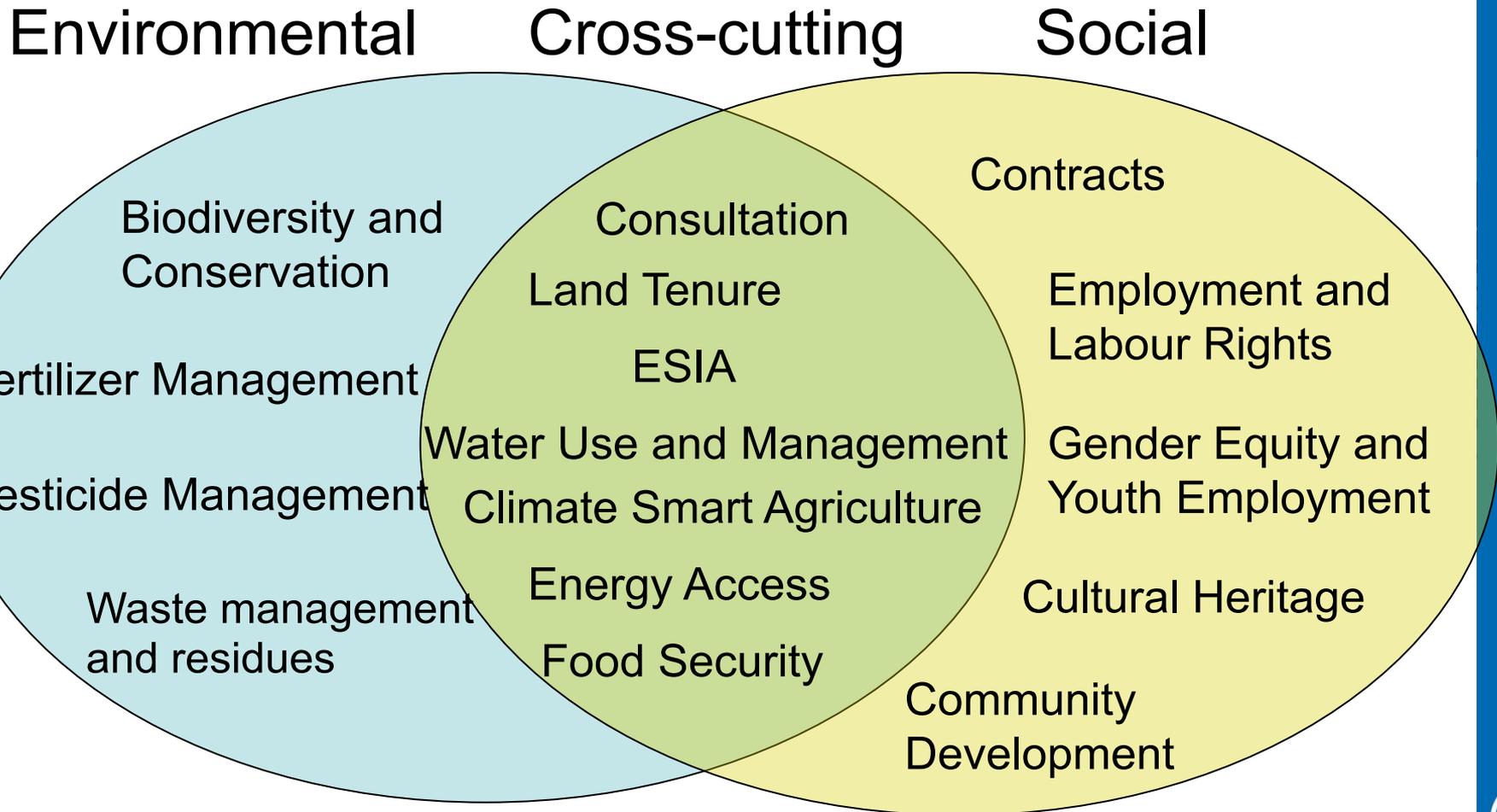


Process and Procedures Key Changes

- **Community Legal Representation Fund**, investor pays monthly fee for length of investment process
- Consultation records are kept by community and government
- **Land Use Assessment** prior to land leasing
- **Community Contract**, over and above the land lease agreement
- **Annual monitoring/auditing** of investors



Issues Addressed by the Guidelines





Issue: Land Tenure

Minimum Criteria (Required)

- *Land surveying is conducted prior to lease negotiation initiation*
- *At least two alternative project designs are explored to reduce land transfer and potential displacement*
- *No compulsory acquisition or involuntary physical resettlement of individuals*
- *Maximum net plantable area is 20,000 hectares*

Good Practices (1 point each)

- *Provision for rent review every 7 years with community representatives, included in land lease agreement*
- *Size of land transfer is reduced through incorporation of out-growers to meet production capacity*

Exemplary Performance Actions (2 points each)

- *Over 80% of feedstock is purchased from local cooperatives or local farmers*
- *Land lease agreement includes community equity stake in investment in addition to land lease value*





Guidelines Limitations

Guidelines are ‘**non-legally binding**’ regulatory documents that **give orientation** to a sector or an institution to achieve a purpose’

CAN:

- Provide a basis for regulated procedures, increase transparency, and clarify the role and responsibility of different institutions;
- Provide a useful step to consolidating a legally binding framework.

CAN NOT:

- Modify legal mandates and ensure enforcement/coordination
- Create infringements, sanctions, remedies in case of non-compliance

Although Sierra Leone applies policies as regulatory instruments, this presents a risk for both investors and civil society, if the Guidelines are not translated into formal legislation





Next Steps – Pending Funding

- Re-visit communities to present how their suggestions were incorporated
- **Training of focal points** in each Ministry on implementation of the Guidelines
- Formalization of BEFS-WG
- Clarification and **harmonization of mandates** of various Ministries
- Establish special trust funds in each district for **community legal representation**
 - Develop terms of reference for release of funds to communities
- Update **natural resource compensation** formulas with MAFFS
- Create a **national database** of land use and livelihoods data



THANK YOU

<http://www.fao.org/bioenergy/foodsecurity/befs/76973/en/>

PLEASE DO NOT HESITATE TO CONTACT US

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Lessons Learned

- Timeframe
 - 4 months was extremely short, longer timeframe would allow for more substantial consultation
 - Election year, makes passing new policies difficult
 - Internal coordination with FAO experts also facilitated quick turn around
 - Necessary to have **full-time local focal point** as email and phone are not reliable
 - Relationships built over a year made quick timeframe possible
- Budget
 - Wider consultation would require substantial resources (e.g. land policy consultation has been supported by UNDP over 2 years)





Lessons Learned

- **Local Partners/Consultants**
 - Difficult to identify **unbiased** local NGO to partner with for community consultations, requires significant trust and neutrality
 - Gov't of SL (BEFS-WG) members are very committed and engaged but require **significant capacity building** and resources to take over implementation of project
 - Partners and consultants are **overcommitted** and it is difficult to accomplish activities on time and with high quality