
	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

## TABLE OF CONTENT

1. OBJECTIVE .....	2
2. GENERAL CONDITIONS .....	2
2.1 PRIOR CONSULTATION OBJECTIVES .....	3
2.2 GUIDING PRINCIPLES OF THE PRIOR CONSULTATION .....	3
2.3 PRIOR CONSULTATION ACTORS .....	4
2.4 ACTIONS PRECEDING THE DEVELOPMENT OF THIS PROCEDURE .....	4
3. DEVELOPMENT .....	10
3.1 FIRST STEP .....	10
3.2 SECOND STEP .....	13
3.3 THIRD STEP .....	15
3.4 FOURTH STEP .....	17
3.5 PROJECTS DERIVED FROM PRIOR CONSULTATIONS CARRIED OUT .....	18
3.6 PREMISES TO BE TAKEN INTO ACCOUNT IN CASES WHERE THERE ARE NO AGREEMENTS .....	19
4. CONTINGENCIES .....	19

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	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

## 1. OBJECTIVE

Define the guiding document for execution of Prior Consultation processes according to legal criteria and intended to ensure the due process and the respect for the fundamental right of the ethnic groups.

## 2. GENERAL CONDITIONS

The prior consultation is both a fundamental right and a legal mechanism intended to guarantee to the ethnic groups, in their capacity as collective subjects of rights and key actors in the country's cultural diversity, their fundamental right of participation, by means of appropriate procedures and through their representative Institutions regarding decision making when faced to the execution of projects that use natural resources in their territories or when necessary to implement legislative or administrative measures that can affect them, in order to determine if the interests of these groups will be harmed and to what extent, so as to reach an agreement or obtain their consent with respect to the proposed measures.


Ecopetrol is committed to the respect for the right of participation of the ethnic communities, through the exercise of the fundamental right to a prior consultation, through the Guideline for Human Rights and Business (SGR-G002) pursuant to the guiding principles of the United Nations on Businesses and Human Rights.

This document refers to the prior consultations that are necessary to undertake projects related to the use and benefit from renewable and non-renewable natural resources by Ecopetrol S.A. in ethnic group territories. The participation of the consulted ethnic groups is carried out through the joint structuring of environmental studies and it must be reflected on the following aspects of the Environmental Study: The construction of the Base Line and the zoning, the definition of the Impacts that can be caused by the project from the perspective of both, the community and the company and, lastly, the implementation of management measures for preventing mitigating, correcting or compensating the potential impacts identified with respect to biotic, abiotic, socioeconomic, and cultural aspects.

The prior consultation must be performed:

- When the Directorate of the Prior Consultation National Authority attached to the Ministry of Interior, (MI) or its equivalent agency, has determined the origin of the prior consultation for executing new projects, works or activities.
- When changes in an existing project affect an ethnic group and the origin of the prior consultation is determined by the MI.
- When there is a judiciary order that stipulates the Company's participation in a "post" consultation or repair process because it was considered that the prior consultation process was not implemented on time.

In cases in which the Company, during the execution of a project identifies the presence of an ethnic community that has not been previously certified by the MI, must undertake the identification and evaluation of potential impacts for the community in components related to territory, environment, health or social, economic or cultural structure, which may be derived from the continuation of the project, in order to request the determination or origin of a prior consultation and thus prevent impacts on the community and eventual legal or administrative actions.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

- The prior consultation processes are conducted by phases, which are:
  1. Pre-consultation
  2. Installation or Opening of the Prior Consultation Process
  3. Workshop for Identification of Impacts and definition of Management Measures
  4. Formulation of agreements or Pre-agreements
  5. Protocolization
  6. Follow up on fulfillment of the agreements
  7. Closing of Prior Consultation

## 2.1 PRIOR CONSULTATION OBJECTIVES

- That the community has full knowledge and understanding of the technical, environmental and social aspects of the project: its mechanisms, procedures and activities for execution.
- That the community can freely assess the pros and cons of the project for the community and its members; that attention is paid to their concerns and pretensions and that they have the chance to comment on its viability.
- Guarantee an active and effective participation of ethnic groups in the decision making to be adopted by the competent authority.
- Promote knowledge and protection of the diversity and integrity of cultures.

## 2.2 GUIDING PRINCIPLES OF THE PRIOR CONSULTATION

**Good faith:** It will be ensured that the parties are informed about all aspects that could affect them and could influence in the form of a decision, so that the right to the country's economic development and the special rights of the indigenous peoples and tribes can be reconciled.


**Legitimacy:** Ensure that the authorities that represent them and will make decisions are those traditionally and legally recognized in their organizational structure as follows: Own Authorities, (Werjayás, Caciques, Captains, Major Cabildos, Minors, Eldest Councils, Community Councils, Leaders, Assembly and Community). The Organizations of local ethnic communities, whether regional and/or national, can participate in the consultation if deemed appropriate by the community.

**Intercultural understanding and bilingualism:** The prior consultation will be carried out within the community territory, with translation into their language, using their protocols and ways of management that guarantee an effective communication, considering their verbal and written practices.

**Due diligence:** The company will promote the identification, prevention, mitigation and repair of negative impacts on human rights caused by the execution of direct and contracted operations.

**Opportunity:** The consultation process will be prior. It must guarantee the possibility of transforming, conditioning and/or complementing the information contained in the project studies, taking into account the information contributed by the consulted community.

**Proportionality:** The prevention, mitigation, correction, and compensation measures agreed in the consultation must be proportional to the magnitude and potential effects of the project or activity with respect to impact on ethnic integrity.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

**Juridical Pluralism:** For purposes of decision making and implementation of management measures, it is necessary to take into account the law regulatory systems pertaining to the communities, the indigenous legislation, and the Political Constitution.

**Interculturality:** This means the respectful dialogue and interaction of cultures that recognize their differences but still find a common language to communicate. The outcome of the consultation must reflect respect and appreciation for the difference and peaceful coexistence within diversity.

## 2.3 PRIOR CONSULTATION ACTORS

The parties in the consultation process are:

- The ethnic communities with which the prior consultation is pertinent, represented by their legal, traditional authorities, and the assembly.
- The company, in its capacity as project executing party. The project leader is accountable for defining the team that will represent the project interests in the consultation process. Ecopetrol's prior consultation leader will coordinate the team and the consultation strategy.
- The Colombian government, through the Directorate of Prior Consultation Authority of the MI, or its equivalent body.

Furthermore, other agencies intervening, according to their competence and with prior invitation by the MI, are the competent environmental authority, the State control and monitoring bodies and the territorial authorities. The ethnic group organizations may participate also, as per request of the communities.

## 2.4 ACTIONS PRECEDING THE DEVELOPMENT OF THIS PROCEDURE


Prior to the acquisition of a new block or the extension of operation areas, it is necessary to conduct a review of the presence of ethnic communities to identify the possibility of a prior consultation process. Should there be any doubts regarding the presence of communities, a verification visit to the area must be performed.

All parties involved in a project that requires prior consultation must be familiarized with this document in order to define schedules and budgets in agreement with the needs that are identified.

### 2.4.1. Request of Prior Consultation Origin

#### 2.4.1.1. Definition of project's area of influence

In order to establish the coordinates of the boundaries in areas that are to be certified, the team in charge of obtaining the project's social and environmental viability must define the area of influence, based on the technical interest, the criteria of the technical, social and environmental components, and the terms of reference of the environmental authority. In the definition of the area of influence, it is necessary to also take into account the water intake and discharge points, the access roads, the camps, and any other activity associated with the project, even in cases where it is performed out of the Block polygon, the Exploration Drilling Area - EDA, or the buffer defined as the intervention area for a line project or Production Field.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

#### 2.4.1.2. Request for processing

The following information must be delivered to the environmental viability professional who will in turn submit the information to the competent authority:

- **Cartography in Shape and PDF files.** The maps must show the area of influence and contain as much details as possible pertaining to the political-administrative distribution, hydrography, roads, terrain geography, reservation areas, indigenous reservations, group property titles of black communities, in accordance with Ecopetrol's mapping guidelines.
- **Description of authorities that make up the project, work or activity.** This document must follow the guidelines set out by the Directorate of Prior Consultation National Authority, or its equivalent body.

#### 2.4.1.3. Follow up and Closing of Processing


The prior consultation professional or his alternate shall follow up the certification processing. Once the certification has been obtained, the project must determine if the answer requires replacement or clarification. To such end, the deadline is five (5) business days.

- If the certification is positive, the planning of the prior consultation process should be started to later request formally the procedure for coordinating the prior consultation with the MI.
- If the certification is negative, the preparation and processing of the required environmental permits can be started; however, it should be borne in mind that there may be presence of ethnic communities that are not registered with the MI and, hence, were not included in the certification. When such situation is identified, the project may assess the potential impact of the project activities on such communities and report to the MI the outcome of the analysis. The outcome of the analysis performed by the MI may imply a prior consultation.
- Modifications in the project areas:
  - Should there be a change in the project after having requested the aforementioned certifications, the project leader must file a new request for certification to the socio environmental viability professional, with approval of the technical area, and then repeat the procedure, according to the guidelines of the MI.
  - The project schedules must be adjusted, making the applicable control changes, given that this implies the start of new processing.

#### 2.4.2. Planning of the Environmental Study with Prior Consultation

The analysis of the setting and project conditions helps to plan the timing and necessary budget, as well as to identify other social, environmental and technical conditions that may require engagement strategies in addition to the prior consultation process.

The Territorial Diagnosis (See GDE-G-003 Guide for execution of territorial diagnoses within the framework of the Environment Management process), and the characteristics and scope of the project are a fundamental input for planning the necessary timing and budgets. The Territorial Strategy and

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

the Environment Plan must consider all relevant aspects for management, engagement and communications necessary for the Prior Consultation process.

#### **2.4.2.1. Review of Antecedents**

**Carrying out Scouting or Verification of the area:** These are walk-throughs on the territory that are performed to obtain primary data that will enable the definition of the areas of influence of the projects in regions where it is known that ethnic groups have traditionally lived there.

**Review of request for prior consultation origin certification:** It is necessary to ensure that the coordinates certified by the Ministry do not require changes associated with technical or environmental aspects. In case of changes in the coordinate of project, a new certification may be necessary.

**Verification visits by the MI:** It should be confirmed whether the MI performed or not certification at the field. When the MI does not visit the area, it is likely to find new communities. When communities are identified in the area, the project must assess the potential impact of the project activities on such communities and report to the MI the outcome of the analysis. The outcome of the analysis performed by the MI may imply a prior consultation.

**Antecedents of the industry in the area:** These are walk-throughs on the territory that are performed to obtain primary data that will enable the definition of the areas of influence of the projects in regions where it is known that ethnic groups have traditionally lived there.


**Commitments with the National Hydrocarbons Agency (ANH):** The contractual activities and timings agreed on with the National Hydrocarbon Agency may be affected by the prior consultation timing; therefore, the ANH must be advised about every activity carried out, in particular those that may cause delays.

**Information regarding the ethnic communities to be consulted:** To have prior knowledge about the characteristics of the communities to be consulted, secondary data of an ethnographic nature must be collected to enable planning the strategy for approaching each community. The foregoing is because each ethnic group has its own cultural characteristics, different practices and habits, forms of government and use of the territory, which necessarily influence the definition of the methodological route (see numeral 3.1.3 on Pre-Consultation).

#### **2.4.2.2. Preparation**

**Project Technical Definition:** In order to define the scope of the prior consultation, the point of departure should be the technical definition of the project (location of the seismic lines, number of wells to be drilled, pre-operational activities, access roads, environmental resources requirements, camps, possible equipment to be used, etc.) in order to design the visual material and documents that enable an accurate presentation of each of the activities, in a clear language and explaining the technical terms.

**Planning of the environmental study with prior consultation:** A team with exclusive dedication to the consultation process must be hired, which must be made up of at least a social professional with experience in prior consultation, an environmental professional, and a logistics person to carry out field activities. The team will accompany the prior consultation meetings and the field phases, ensuring the coordination of the prior consultation outcome with the environmental study, according to Ecopetrol

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

guidelines. Other environmental study professionals must coordinate the gathering of information with these professionals to fulfill the requirements of the environmental study. In no case will this team replace Ecopetrol professionals in either the meetings or the engagement.

**Team Training:** both the team of the consulting firm hired for the environmental study, as well as that of Ecopetrol, must know the prior consultation process, the regulations, and other Ecopetrol documents for its engagement with ethnic groups, as well as cultural aspects of the community to be consulted. The training will be managed by the prior consultation area.

**Advanced logistics:** Prior Consultation processes require logistics planning and its specialized implementation at the field. Their progress depends on the success of the meetings held with the communities, so logistics plays a fundamental role. It is necessary to carry out advanced logistics at the field to enable the planning of all aspects depending on the particular characteristics of the ethnic community, namely, their eating habits and ways of meeting. The location of the project and the availability of resources in the area also influence logistics, which may include the establishment of camps, electricity, food supplies, drinking water, waste disposal plans, vehicles, gasoline, translators, HSE plans, satellite communications, etc.


**Communication plan:** The communication plan has two components. The first one defines the project script and communication pieces such as booklets, banners, videos, presentations, translated into the language of the people with whom the consultation is carried out, explaining the consultation process and the project, which result from the project's technical definition.

The second one is the audiovisual and photographic monitoring of the prior consultation process aimed at collecting the evidence. For purposes of a film and photo record, the MI must request authorization from the community and only after it is obtained, it is possible to start making records of the consultation meetings. In the meetings where the MI is not participating, authorization must also be requested from the community authority for audiovisual recordings.

The translation of the communication pieces and of the meetings is of great importance as it ensures that the message conveyed to the communities is correct. The community may select a translator, but it is also possible to have one hired by the Company. It must be ensured that the translator is knowledgeable of the technical terms, understands the project stages, the intended methodology, and the steps of the Prior Consultation so that all of it can be conveyed to the community.


**Script:** The presentation of the project to the community is of great relevance, as any modification thereof implies lagging behind in the prior consultation process; therefore, a script is necessary, which must describe all project phases, including its activities and scope. This enables having clarity and better definition of the impacts and management measures that will be consulted with the community. It must include the answers to possible questions that may arise.

**Engagement Manual:** It is important to be familiarized with the practices and habits of the communities to be consulted in order to avoid actions that could affect the engagement with them; hence, an engagement manual must be prepared that is applicable to all phases of the consultation process. Initially, it may contain basic premises to be established with the help of the social team, but which during the execution of the prior consultation must have the input of community opinions, in order to have a mandatory document to be complied with throughout the project's execution.


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	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

**Environmental Study Document:** Every project requires the preparation of a document that must meet the requirements of the environmental authority that will assess its viability. The ethnic component must be included within the environmental study document, taking into account the following basic premises:

<b>ENVIRONMENTAL STUDY CHAPTER</b>	<b>CONTENT REFERRING TO THE PRIOR CONSULTATION</b>
Executive Summary	<ul style="list-style-type: none"> <li>Brief summary of each phase of the Prior Consultation process.</li> </ul>
General Aspects of the Project	<ul style="list-style-type: none"> <li>Analysis of the current regulatory framework in the light of the project's particular features, taking into account the special management areas and the communities settled in the territory of the local area of influence, from the participation perspective conferred thereto by the National Constitution, Law 99 of 1993, Law 70 of 1993, Law 21 of 1991 and other applicable laws.</li> <li>Identification of communities and mechanisms used to inform and/or consult them, in accordance with the Law, with respect to the These processes must be recorded in the respective Minutes with the communities.</li> </ul>
Characterization of the area of influence of the project	<ul style="list-style-type: none"> <li>Baseline of ethnic aspects and socioeconomic, biotic, abiotic and cultural issues, based on the implementation of Annex 1 to this document.</li> <li>Zoning maps of reservations or communities, showing the information obtained for all of the components.</li> </ul>
Utilization and benefit from resources	<ul style="list-style-type: none"> <li>When the need of usage of natural resources implies the direct impact on the ethnic community, it is necessary to carry out the characterization of the sites where such usage and/or benefit from resources, with participation of the community and conduct the analysis of facts from the specific activity within the prior consultation process with the aim of agreeing upon the necessary management measures with the community.</li> <li>Determining the possible current or potential conflicts with the ethnic communities regarding the use of water and other resources.</li> </ul>
Management Zoning	<ul style="list-style-type: none"> <li>Based on the environmental zoning of the direct area of influence and taking into account the evaluation of impacts performed with the ethnic community, it is necessary to determine the environmental management zoning for the various Project activities within the direct area of influence.</li> </ul>
Environmental Management Plan	<ul style="list-style-type: none"> <li>The EMP must be presented in specific data sheets as regards ethnic aspects, which must detail, at least: objectives, goals, stages, impacts to be monitored, type of measure, actions to be carried out, site of application, population to be benefited, participative mechanisms and strategies, required personnel, tracking indicators (qualitative and quantitative) and monitoring, accountability for execution, schedule and estimated budget.</li> <li>The EMP programs must correspond to each of the impacts identified the consultation process.</li> <li>In case of requiring usage of natural resources within the</li> </ul>

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	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

	<p>reservations and/or out of them, but still located in areas used by the community, specific management data sheets must be prepared with the communities, in accordance with that agreed in the Prior Consultation.</p> <ul style="list-style-type: none"> <li>There must be a sheet prepared on follow-up and closing meetings of Prior Consultation with participation of the MI.</li> </ul>
Tracking and monitoring	<ul style="list-style-type: none"> <li>The Tracking and Monitoring Program must be related to the programs and data sheets of the ethnic aspects proposed by the EMP as a result of the consultation process, including future tracking and monitoring activities agreed in the consultation process.</li> </ul>
Contingency Plan	<ul style="list-style-type: none"> <li>NOT APPLICABLE, unless any aspect was established in the Consultation process.</li> </ul>
Abandonment and Final Restoration Plan	<ul style="list-style-type: none"> <li>NOT APPLICABLE, unless any aspect was established in the Consultation process</li> </ul>
1% Investment Plan	<ul style="list-style-type: none"> <li>NOT APPLICABLE, unless any aspect was established in the Consultation process</li> </ul>
Prior Consultation	<ul style="list-style-type: none"> <li>This chapter must present the full description of the consultation process performed, including all supporting documents. The following content is suggested: <ul style="list-style-type: none"> <li>Legal framework</li> <li>Prior Consultation Antecedents: request for certification, verification visit, if any, certification (annexes).</li> <li>Description of the consulting firm's team appointed to conduct the environmental study</li> <li>Description of the Prior Consultation process (for each of the consulted communities) and of each of the process meetings: <ol style="list-style-type: none"> <li>Approaching the area</li> <li>Description of each prior consultation meeting.</li> <li>Call</li> <li>Dates of performance</li> <li>Attendance (institutions, community, Company)</li> <li>Agenda</li> <li>Interventions of the community registering their participation and their opinions about the process or the project.</li> <li>Meeting Commitments</li> <li>Meeting Conclusions</li> <li>Photographic Record</li> <li>Attachments: Registered calls, minutes of the meeting with all the signatures, attendance lists, photos, and videos of each meeting.</li> </ol> </li> <li>Description of the Workshops on Impact and Management Measures: In addition to the foregoing information, it is necessary to describe at this point the methodology used in the meeting, the matrix of impacts and measurements used with the community, and the management measures proposed by them that will be taken into account for the project. Reference should be made to the prior execution of the participative baseline carried out with the community.</li> <li>Description of the pre-agreements meeting; in addition to the foregoing information, it is necessary to describe at this point the</li> </ul> </li> </ul>

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

	measures that are pre-agreed with the community, mentioning the related impact. <ul style="list-style-type: none"> <li>• Description of the protocolization meeting: In addition to the foregoing, the defined agreements are described, as well as the follow-up committees, mentioning the EMP data sheets were these are registered.</li> </ul>
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### 3. DEVELOPMENT

The environmental study with Prior Consultation must be developed in four stages, which are described below. Each one contains one or several phases of the Prior Consultation and the documents resulting from each phase are the supports of the activity performed and that fulfillment of the due process. These must be attached to the Environmental Study.

#### 3.1 FIRST STEP

##### 3.1.1. Approaching the community to be consulted

Before planning this meeting, the guidelines for the above items must be ensured. In the approach meeting, the presence of the MI is not mandatory; however, it can be requested if the community so requests or if there is evidence of internal conflicts that require a solution before commencing the process.

The purpose of the approach meetings is obtaining greater knowledge about the community and the setting, identifying its representative authorities, the logistic needs, and adjusting the engagement strategy. Sometimes it is necessary to have an approach stage with a broader scope, in particular when the community opposes the consultation process and a greater informative process is necessary or when there are disagreements related to previous processes or to existing operations and it is necessary to close previous commitments.


This meeting is supposed to reach an agreement on the Methodological Route, which gathers activities, costs and timing required to conduct the prior consultation. Given the particular features of each ethnic group and the characteristics of the territory and the project, this route varies as related to timing and costs in each consultation process. The costs of the methodological route must be borne by the project and the timings defined with the community must be integrated into its planning. This cost DOES NOT correspond to costs generated from the implementation of the measures for managing prevention, mitigation, correction or compensation to be implemented

##### Inputs:

- MI certification defining the origin of the prior consultation.
- Project script.
- Estimated budget for the logistics and methodological route.

##### 3.1.2. Request to MI for coordination of the prior consultation

A communication must be sent requesting coordination of the prior consultation only after having progressed in the planning of the field work, which includes approaching the community.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

The MI will call a prior consultation Coordination meeting, for the Company to present the project to the MI and explain the methodology that will apply for explaining the project to the community, as well as the expected schedule of the prior consultation.

In cases in which the project has technical complexities is important to benefit from the coordination space to clarify technical opinions and expectations or assumptions on the activity impacts that may exist at the MI.

### Supporting Documents:


- Definition of basic rules for engagement and interlocution.
- Definition of logistic costs to be provided by the community for the meetings.
- Meeting location.
- Attendees and requirements for their transportation.
- Possible dates for pre-consultation.
- Accommodation for the team of the company and the accompanying institutions, if required.
- Identification of possible internal conflicts of the community or with the company.
- Visit to local entities to define spokespersons and attendees to the meetings.
- Determination of additional costs if the community request contracting of advisers, internal meetings and performance of rituals for development of the process.
- Minutes of the coordination meeting with the MI

### 3.1.3. Pre-consultation

The objectives of the pre-consultation meeting are, on the one hand, for the MI to explain to the communities the opinion and scope of the prior consultation and, on the other, knowing the process spokespersons. The prior call to the stakeholders is a requisite necessary for this meeting.

The MI must propose an agenda for approval by the parties; in any event, the agenda must meet the following objectives:

1. Explain to the community the activities of the project that is the object of the prior consultation.
2. Explanation by the MI of what is the Prior Consultation and the role of the MI therein.
3. Presentation of the community about their history, characteristics of their culture, and their legal and legitimate authorities.
4. The company must present the project's overall policies, objectives, stages and activities.
5. Agree on the methodological route: Presidential Instruction 10 of 2013 stipulates what is to be agreed during the pre-consultation and the methodology for the development of the consultation. This includes the definition of the venue for the meeting, participants, costs and other meetings additional to the Prior Consultation phases, such as rituals, workshops and training community internal spaces, and visits to other operating areas. The minutes of the pre-consultation meeting must establish accountability, costs and dates for each activity. When not possible to reach an agreement on the methodological route, the company and community proposal must be registered and, further, a date prior to the opening stage to reach an agreement, which may be an internal meeting of the company and the community or a new pre-consultation meeting called by the MI.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

6. In the event of not reaching an agreement on the costs and activities of the methodology route, its definition must be requested by the MI, in accordance with the current regulations.
7. In cases in which the methodological route cannot be agreed because of the non-acceptance of the project by the community, the procedures established by the Authority for these cases must be applied. Nonetheless, the project must carry out an analysis of the activities, the possibilities of modifying it and the risks to start a project in a territory with influence of the ethnic groups, which must be documented for decision making purposes and processing before the Environmental Licenses National Authority.

**Company participants:** At least one person of the project team with authority to take economic decisions, a social professional, and an environmental professional. On the part of the consultant firm, the person in charge of coordinating the Prior Consultation component in the environmental study must participate.

**Inputs:**

- Audiovisual aids to present what is Ecopetrol, the hydrocarbon chain and a description of the project phases and activities.
- Budget for the definition of the methodological route.

**Supporting Documents:**


- Call for the meeting
- Minutes of Pre-Consultation signed by the MI, the legal representative of the community validated by the MI, and the company representative. The minutes must include the agreements on the methodological route.
- Attendance list
- If the community has authorized video and photo recording, this will be another of the deliverables.

**3.1.4. Installation or opening**

With this meeting, the Prior Consultation process is formally opened. The MI must propose an agenda for approval by the parties; in any event, the agenda must meet the following objectives:

- 1) Detailed presentation of the project, its stages and activities. Even if this has already been done during the pre-consultation, it is worth reinforcing the message and clarifying any doubts that the community may have.
- 2) Introduce the team that will prepare the base line for the environmental study, inasmuch as these are persons from outside the community who will be moving throughout the territory.
- 3) Propose a methodology for field work: Dates for the determination of the baseline, people from the community that will participate.

**Company participants:** At least one person of the project team with authority to take economic decisions, a social professional, and an environmental professional. On the part of the consultant, the person in charge of coordinating the prior consultation component in the study must participate in order to present all that related to the collection of data for the baseline.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

#### Inputs:

- Printed cartography in large format of the area of influence of the project and its activities, with the greatest possible detail, in order to explain to the community that the purpose of the base line is to be able to locate the project activities, recognizing the social, environmental and cultural restrictions that are evidenced during the field work.
- Presentation used in the pre-consultation regarding the project stages and activities, as well as the applicable environmental regulations. The images to be used by the teams must correspond to reality, inasmuch as the communities have great recall of audiovisual messages.
- Presentation of the human team in charge of consolidating the baseline, with the description of the activities to be performed by each professional, depending on the component for which they are responsible and including images of the instrumentation and techniques to be used, as well as the purpose of the data to be collected.

#### Supporting Documents:

- Call for the meeting
- Minutes of Pre-Consultation signed by the MI, the legal representative of the community validated by the MI, and the company representative. The minutes must include the agreements on the methodological route.
- Attendance list
- If the community has authorized video and photo recording, this will be another of the deliverables.


## 3.2 SECOND STEP

### 3.2.1 Preparation of the base line

Even though the MI does not consider in its Presidential Directive 8 of 2020 the preparation of the Base Line a formal part of the Prior Consultation, this exercise is the fundamental base for identifying impacts and building management measures. The base line prepared with the participation of the ethnic communities must contain the biotic, abiotic, socioeconomic and cultural components, and must be included in the environmental study document in accordance with the applicable terms of reference. A methodology is to be established that helps identify the potential impact according to the intended project. **In Annex 1. Guidelines for preparing the participative base line with ethnic groups within the framework of environmental studies with Prior Consultation**, describing the aspects to be taken into account for gathering field data, which are supplementary to the terms of reference set out by the Environmental Authority in each case.

**Participants from Ecopetrol:** This stage is managed by the team of the consulting firm appointed to perform the environmental study; however, it may be accompanied by a delegate from the company. The MI does not participate in this stage.

**Inputs:** According to the methodology defined for the collection of information, the professional team must have instruments validated by Ecopetrol S.A. and **Annex 1 Guidelines for preparation of the participative base line with ethnic groups within the framework of environmental studies with Prior Consultation**.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

**Supporting Documents:** The information obtained at the field must be included in the chapter of the Environmental Study related to the characterization of the area of study. Nevertheless, as an input for the next phase of the Prior Consultation, the most relevant data must be consolidated as well as the printed map showing the visited sites and their description. This will enable to dimension the impacts in the following stage of the prior consultation.

### 3.2.2 Workshop for identifying impacts and proposing management measures


The impact identification and management measures workshop must be called by the MI, where attendance by the Environmental Licenses National Authority - ANLA is mandatory. The results of the base line and the assessment of impacts without a project must be presented in this meeting. Subsequently, the matrix describing the impacts and the management measures related to each project activity must be filled out together with the community.

**Participants from Ecopetrol:** The professionals who were involved in collecting the base line data must participate, as well as those who are fully aware of how the project will be executed in order to provide the necessary technical explanations. Professionals from the social and environmental areas of Ecopetrol also participate.

**Inputs:** The matrix of impacts and measures is the input built from the base line information and the exercise of identifying impacts without the project, and those accountable for the technical, environmental, financial HSE, legal and social areas must participate. Each area must participate in the definition of the impact and the management measures that may be proposed from their role. This will be based on the typical impacts according to the characteristics of the project, but these must be complemented with the potential impacts identified from the baseline. The suggested matrix model is as follows; however, it must conform to the requirements of the environmental authority and may, at the same time, incorporate other columns suggested by the community:

PROJECT PHASE	ACTIVITY	IMPACTS IDENTIFIED BY THE COMPANY	MANAGEMENT MEASURES PROPOSED BY THE COMPANY	TYPE OF MEASUREMENT (PREVENTION, CORRECTION, MITIGATION, COMPENSATION)	IMPACT IDENTIFIED BY THE COMMUNITY	MEASURE IMPOSED BY THE COMMUNITY	MEASURE AGREED BETWEEN THE COMMUNITY AND THE COMPANY
PRE-OPERATIONAL	All technical, social, environmental and property-related activities are presented.	The pre-identified impacts are presented identified.	The proposed management measures are presented.	The type of measurement is defined.	During the workshop, the community presents other impacts it has identified.	During the workshop, the community proposes measures that can translate into projects or activities that must be assessed.	During the workshop, and agreement is made on measures expressed by the community and by the Company.
OPERATIONAL							
POST-OPERATIONAL							

During the identification of impacts, the ethnic community consulted can argue cultural impacts inherent in their culture, such as:

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

- Impact on spiritual beings
- Impact on the cosmogony order
- Impacts on their medicinal plants and their ability for using and locating them
- Impacts on their sacred places
- Impact on their hunting activity.

In a respectful manner, the community should be asked about the nature, causes and consequences of those impacts and the prevention measures that could prevent their materialization. It is worth knowing the community has done when said impacts have occurred in absence of the project. In any event, it is relevant that, as part of the project's management measures, the carrying out of rituals or ceremonies that some communities consider to be of harmonization or payment should be proposed in order to make sure that the community feels at ease with respect to the obligations derived from their beliefs.

Another preventive management measure against impacts, such as conflicts that may be caused by the presence of strangers in the ethnic territory, ignorance of their practices and customs, the alteration of sacred sites or the daily dynamics of the community, is the development of an Engagement Manual, which sets out the rules under which the ethnic territory will be entered, the regular channels, the restrictions set out in the management plan, the prohibitions, as well as the most relevant cultural characteristics and current regulations for ethnic groups. The engagement manual must be socialized with all project parties, who must commit to comply with it.

As regards the agreements established and that required work from community members, for example the elderly, guides, medical plants experts, it must be clear the HSE matters are not negotiable. In any event, the management measure that suppose the execution of projects must benefit the communities and cannot be jeopardizing for their cultural integrity.

As regards the definition of personnel who might work for the project, the labor participation regulations and the provisions of ILO's Covenant 169 must be complied with.

#### **Supporting Documents:**


- Signed minutes of the workshop for identifying impacts and management measures
- Impact matrix filled out
- Attendance list
- Filmed and photographic record

### **3.3 THIRD STEP**

Decision making is of great relevance in the third step. In these meetings, it is necessary to bear in mind the project's budget and the viability of projects requested by the community. It may be important to hold an internal meeting with the community to propose the projects defined in the management measures.

#### **3.3.1 Meeting for Formulation of Agreements or Pre-agreements**

In the meeting for formulation of agreements, it is necessary to fully complete the matrix on impact and management measures that were worked out in the previous workshop. Minutes must be

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

prepared, which describes the agreed management measures that are set out as part of the pre-agreements. The measures defined must be of a collective nature and address the impact that gives rise to them and be viable for their execution.

**Participants from Ecopetrol:** A project professional with technical and economic decision-making capacity must participate, together with the social and environmental professionals from Ecopetrol. In representation of the consulting firm appointed to carry out the environmental study, the social professional of the prior consultation and the logistics professional must be present.

**Inputs:** Once the workshop on impact and management measures has ended, the matrix on impacts should be reviewed to assess the management measures agreed and to project the costs and implications that such measures can imply for the project. The management measures agreed will be the pre-agreements so their wording must be reviewed. The implications for the project must be assessed and their costs should be included in its planning. The cost of executing and managing resources must be included

#### **Supporting Documents:**

- Signed minutes of the pre-agreement minutes
- Matrix filled out
- Attendance list
- Duly authorized film and photo records.


### **3.3.2 Protocolization Meeting**

The Protocolization meeting seeks to reach agreed management measures during the Prior Consultation, including the costs and timing for implementation of the measure. The pre-agreements are read during this meeting to verify their scope and wording, and the formalized agreement is registered in the Minutes. However, this is an opportunity in which the communities can request changes. In the formalization minutes there should be clear wording stating that the Prior Consultation process was carried out, including the dates of the meetings, the fact that the community is aware of the project and its activities, that it has accepted the management measures agreed upon and that with the signing of the Minutes, they accept the execution of the project in their territory. Similarly, a procedure must be proposed in the event of not executing the project: how is this communicated and what are the applicable management measures, making it clear that the compensation of impacts is caused only when these are materialized.

In the Minutes, the MI must define a group for monitoring the agreements, including members from the community, the Company, the control bodies and the MI. Once the agreement has been officialized, the Environmental Study must be supplemented with information derived from the officialization and the pertinent document must be presented to the environmental authority. The officialization of the Consultation enables the startup of the project and, should it be appropriate, the filing of the Environmental Study with the competent authority.

In this meeting, a monitoring group is established to track the agreements, made up by the MI, the company and the members delegated by the community.

**Participants from Ecopetrol:** A project professional with technical and economic decision-making capacity must participate, together with the social and environmental professionals from Ecopetrol. In

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

representation of the consulting firm appointed to carry out the environmental study, the social professional of the prior consultation and the logistics professional must participate.

**Inputs:** impact and management measures matrix, and estimated cost of management measures in order to agree on them, budget of the project for execution of the management measures.

#### **Supporting Documents:**

- Protocolization Meeting Minutes
- Matrix filled out
- Attendance list
- Duly authorized film and photo records.

### **3.4 FOURTH STEP**

Once the execution of the project has started, the MI should be requested to carry out the meetings to follow up the Prior Consultation agreements. A meeting is to be held before by the community and the Company to define how the commitments are to be fulfilled. Similarly, prior to entering, the contractual mechanism through which the prior consultation obligations will be fulfilled must be ensured, as well as the hiring of the professionals that will be in charge of the monitoring and fulfillment of the commitments.

#### **3.4.1 Follow-Up Meeting**

The purpose of these meetings is to review the agreement or officialization records and to define the mechanisms for their fulfillment. It is likely that at the time of executing the project it will be necessary to adjust or change the scope of some agreements from the consultation. This situation must be registered in the monitoring minutes, justifying such change, always bearing in mind that the new agreement must respond to the impacts identified

**Participants from Ecopetrol:** The professionals in charge of the development of the project must participate.


**Inputs:** Impact Matrix and management measures, minutes of officialization and supports of progress in fulfillment of the agreements.

#### **Supporting Documents:**

- Signed minutes of the monitoring meeting,
- Minutes of monitoring meeting with the completed matrix showing progress of fulfillment.
- Attendance list
- Authorized film and photo records.

#### **3.4.2 Closing Meeting**

Once all commitments have been fulfilled, the MI should be requested to call a Prior Consultation closing meeting. In this meeting it should be demonstrated that the agreement has been fulfilled properly.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management Sustainable Development Vice Presidency</b>		
	<b>CODE GDE-P-008i</b>	<b>Prepared 16/12/2020</b>	<b>Version: 2</b>

A closing meeting can also be called when the Company decides to not execute the project. To such end, a previous informative meeting must have been held with the consulted community, and have completed the process set forth in the officialization minutes for these cases.

**Participants from Ecopetrol:** The professionals in charge of the development of the project must participate.

**Inputs:** Minutes of follow-up meeting with the completed matrix showing progress of fulfillment. All documents and records that support fulfillment of the agreements as regards scopes and costs.

**Supporting Documents:**

- Signed minutes of closing meeting,
- Follow up matrix of the agreements, filled out with 100% fulfillment.
- Attendance list.


### 3.5 PROJECTS DERIVED FROM PRIOR CONSULTATIONS CARRIED OUT

Law 21 of 1991 stipulates that the ethnic communities have the right to receive fair compensation for any damage they may suffer as a consequence of the activities that the Company may carry out in their territories. Nonetheless, the aim is to establish prevention, mitigation, correction and compensation measures during the Prior Consultation to prevent the materialization of damage.

During the prior consultation processes, these measures must translate into projects. The first guideline for defining the measures is that these should address the impact agreed, that they are of a collective nature, that they are carried out in the community's territory and that these may be sustainable once the project is finished. When the consulted communities do not have a legally constituted territory, nor a collective property, it is not possible to carry out projects that imply permanent infrastructure. Therefore, measures should be sought that are intended for delivery of supplies, preparation of teaching material, holding of assemblies, all of which must correspond to the management measures identified during the prior consultation process.

In general, the management measures related to impact that are to be compensated must be aimed at cultural, environmental, organizational and/or productive strengthening for the community and its territory. These management measures are mandatory, and it is not possible to modify them unilaterally.

The ethnic communities registered with the MI can be executors of the projects derived from the prior consultation, as well as its organizations, provided it has been approved by the community assembly through its collective decision-making mechanisms, that they have the documentation that accredits them as the authority, and that they prove their competence and technical capacity. When necessary, to carry out projects for which it is not possible to prove the community's availability and capacity, a third party must be included to execute the project, supported by the community and the Company. The third party must be authorized by the community to enter the territory, so it must involve and keep the community advised regarding the election.

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

### 3.6 PREMISES TO BE TAKEN INTO ACCOUNT IN CASES WHERE THERE ARE NO AGREEMENTS

In Colombia, there is no right to veto by the communities regarding hydrocarbon projects, given that the Political Constitution of 1991 stipulates that the subsurface resources are the property of the State. Nevertheless, the Constitutional Court has established three causes for the right to veto:

- i) the movement or relocation of the indigenous people or tribe from their settlement location; ii) measure that imply a great social, cultural and environmental impact that puts their subsistence at stake; or iii) those related to the storage or deposit of hazardous material – toxic – in their lands and territories.

If the project to be carried out implies any of such impacts, the community's position related to the Project prevails over the company interest. In such event, its continuity must be evaluated.

In the event in which it is impossible to reach agreements during the prior consultation process, alternatives for the continuity of the Project must be evaluated, starting from the zoning derived from the base line built and the impacts identified. As a first option, the possibility of relocating the activities outside of the territory of the identified ethnic community should be assessed. If not possible, then the possibility should be reviewed of requesting the MI to perform a proportionality test, according to the procedure set out by the authority for such purpose.


It is necessary to assess the juridical viability and the risks implied in the request to the MI for executing a Proportionality Test, through which the MI, together with the environmental authority, the Ministry of Culture and the Ombudsman's Office and other entities deemed necessary, evaluate the project impacts on the community, in order to weight the impact at measures proposed by the community and the Company. The foregoing is aimed at establishing the possible development of the project, protecting the ethnic and cultural integrity of the community, to which end, it is possible to propose further management measures.

## 4. CONTINGENCIES

In cases in which the performance of a prior consultation process is required because of a judiciary order, the procedure must be reviewed in the light of the impacts already caused and the specific Judge orders.

### LIST OF VERSIONS

New Document		
Version	Date (dd/mm/yyyy)	Changes
1	09/01/2018	Preparation of document GDE-P-008i Procedure for Performance of Prior Consultations
		Document updated according to the provisions of Ruling SU-124 of 2018 - Action for the protection of the right to Prior Consultation and Decree 2353 of 2019, whereby the structure of the Ministry of Interior is modified and the functions of some departments are determined, including the Directorate of the Prior Consultation National Authority. The following numerals are adjusted: 1. Objective: The approach of the prior consultation is changed, no longer identifying the presence of ethnic communities but

	<b>Procedure for Conduction of Prior Consultations</b>		
	<b>Social Settings Management</b> <b>Sustainable Development Vice Presidency</b>		
	<b>CODE</b> <b>GDE-P-008i</b>	<b>Prepared</b> <b>16/12/2020</b>	<b>Version: 2</b>

2	16/12/2020	<p>rather the origin of the prior consultation as regards the materialization of impacts.</p> <p>2. 3.1 General Considerations The document is arranged according to the provisions of Ruling SU-124 of 2018 and of Decree 2353 of 2019.</p> <p>3. Development: The process for certification of presence of ethnic group communities is adjusted now for origin of the prior consultation.</p> <p>4. Contingencies: It is defined how to act with respect to consultations ordered by the Judges after the execution of a project.</p>
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**For further information contact:**

**Author(s):** Maria Marcela Pardo Jiménez

**Telephone:** 2343242 **email:** [maria.pardo@ecopetrol.com.co](mailto:maria.pardo@ecopetrol.com.co)

**Division:** Vicepresidency of Sustainable Development - Regional Operations Management

<b>Reviewed on line by:</b>	<b>Approved on line by:</b>
<p><b>ISABEL CRISTINA AMPUDIA RENDÓN</b>  <b>Settings Regional Manager</b>  <b>ID. No. 37.175.887</b>  <b>Sustainable Development Vice Presidency</b></p>	<p><b>DIANA PATRICIA ESCOBAR HOYOS</b>  <b>Sustainable Development Vice President</b>  <b>ID. No. 42.882.084</b>  <b>Sustainable Development Vice Presidency</b></p>

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