Explanatory memorandum with respect to the

Agenda item:

Consideration and approval of the instruction to the Board of Directors of Ecopetrol S.A., including the Board elected at this meeting, to harmonize the Succession Policy for members of the Board of Directors and the other internal corporate-governance instruments with the amendment to Article 20 of the Bylaws; and a determination that, until such harmonization takes place, internal provisions that are incompatible with amended Article 20 shall not apply and shall not constitute a prerequisite, suspensive condition, or impediment to the election of the Board of Directors as a whole provided for in item 11 of this Agenda.

I. Purpose of the Proposal

The purpose of the proposal submitted for consideration by the General Shareholders' Meeting is to ensure consistency between the amendment to Article 20 of the Bylaws and the Succession Policy for members of the Board of Directors, as well as with the other internal corporate-governance instruments that regulate or govern the nomination, evaluation, composition, renewal, and election of that body.

The amendment to the Bylaws previously submitted to the General Shareholders' Meeting for consideration modifies the current rule under which every slate must include at least three current members of the Board of Directors, excluding candidates in the eighth and ninth positions from such calculation. The proposed text retains continuity as a criterion that may be useful, but expressly provides that the inclusion of three current members does not constitute a requirement for the constitution or validity of the slate; nor does it limit the electoral authority of the General Shareholders' Meeting or prevent the full renewal of the Board of Directors, as permitted under the laws currently in force.

The current Succession Policy, however, reproduces the previous rule and incorporates it as one of the requirements for the composition of the Board of Directors, as a basis for staggered renewal, and as a condition that the slates submitted for consideration by the General Shareholders' Meeting must satisfy. The Policy characterizes the inclusion of at least three current members as a "requirement," excluding the eighth and ninth positions from the calculation, and provides that observations may be made regarding slates that do not meet the conditions established therein.

Consequently, approval of the amendment gives rise to an incompatibility between the amended Bylaw provision and certain provisions of the Succession Policy, as well as other instruments that reproduce or implement the previous rule. The proposal seeks to resolve this incompatibility in a legally orderly manner, respecting the allocation of authority under the Bylaws, ensuring the immediate application of the amendment, and preventing the formal updating of the internal instruments from becoming an obstacle to holding the election of the Board of Directors as a whole, provided for at the same meeting.

II. Need to Preserve the Coherence of the Corporate Governance System

The Bylaws, the Succession Policy, the Competencies Matrix, the Internal Regulations of the Board of Directors, and other corporate instruments relating to the composition and functioning of the Board collectively form a single corporate governance system. Their interpretation and application must be consistent and harmonious, so that each instrument fulfills the function assigned to it within the corporate structure.

The Bylaws contain the Company's fundamental rules of organization, allocate authority among its governing bodies, determine the composition of the Board of Directors, and establish the essential conditions for its election. The policies, regulations, matrices, and internal procedures develop those provisions, organize their implementation, assign operational responsibilities, and provide shareholders with the information necessary to make informed decisions.

This complementarity does not mean that all such instruments have the same hierarchical status. Internal implementing provisions must comply with the law and the Bylaws and may not introduce restrictions that contradict a statutory provision in force, undermine an amendment approved by the General Shareholders' Meeting, or convert a guiding criterion into a mandatory requirement that the Bylaws have expressly eliminated.

Maintaining simultaneously a statutory provision that permits a different composition of the Board of Directors and a Policy that continues to require the mandatory retention of three current members would create uncertainty as to the applicable rules, expose the submission of slates to contradictory objections, and allow an implementing provision to prevent the effective application of the amended Bylaws. The proposal seeks to avoid this outcome and preserve the normative coherence of the corporate governance system.

III. **Statutory Recognition of the Succession Policy**

The Succession Policy for members of the Board of Directors is not an ordinary administrative guideline or a document whose existence, approval, amendment, or repeal depends exclusively on the will of management or the Board of Directors itself. Its existence and the allocation of authority for its formulation, approval, and implementation are expressly established in the Bylaws.

Subparagraph r) of Article 15 of the Bylaws grants the General Shareholders' Meeting the authority to approve the Succession Policy for members of the Board of Directors. In turn, paragraphs 7 and 8 of Article 23 assign to the Board of Directors the responsibilities of proposing the Succession Policy for approval by the General Shareholders' Meeting, organizing and coordinating the succession process for its members, providing complete and relevant information regarding the persons nominated, and ensuring compliance with the applicable profiles, requirements, and conditions.

The Policy itself reflects this allocation of responsibilities. It provides that the General Shareholders' Meeting is responsible for approving the Policy proposed by the Board of Directors and that the Board of Directors is responsible for organizing and coordinating the succession process, providing information on the candidates, and ensuring compliance with the conditions established by law, the Bylaws, the Competencies Matrix, and the internal regulations. The Policy further provides that its provisions apply to Ecopetrol, its shareholders, the Board of Directors, and its members.

This statutory recognition gives the Policy substantial corporate force. Its binding nature does not derive solely from an administrative decision of the Board of Directors, but rather from an authority to approve it that the Bylaws expressly reserve to the highest corporate body. While it remains in force, the Policy must be observed by those to whom it applies and may not be disregarded in its entirety, informally suspended, or unilaterally amended by a body lacking the authority to do so.

Thus, the Policy has a statutory basis and binding force, but it cannot prevail over a subsequent amendment to the Bylaws; nor can it continue to impose as mandatory a requirement that the amended Bylaws no longer treat as binding, or suspend the application of a decision validly adopted by the General Shareholders' Meeting.

IV. **Consequences of the Statutory Recognition of the Policy**

The Policy's special legal status has several consequences for the proposal submitted for consideration by the General Shareholders' Meeting. First, the highest corporate body should not treat it as a merely operational document whose amendment may be entrusted entirely to management. Any update to the Policy must follow the procedure established in the Bylaws, namely, the Board of Directors must prepare and propose the amendment, and the General Shareholders' Meeting must approve the harmonized text.

Second, the Board of Directors may not unilaterally amend the Succession Policy approved by the General Shareholders' Meeting. The instruction contained in item 9 neither transfers such authority to the Board of Directors nor authorizes it to unilaterally replace the current text. Accordingly, the Board's obligation will be to prepare the harmonization proposal, carry out any necessary technical and corporate reviews, and submit the revised text for consideration and approval by the General Shareholders' Meeting.

Third, the Board of Directors may directly amend those regulations, methodologies, protocols, matrices, or implementing instruments whose issuance and approval fall within its own authority. The instruction must therefore be implemented in a differentiated manner: the Policy will be the subject of a proposal and subsequent approval by the General Shareholders' Meeting, while the other internal instruments may be adjusted directly by the competent body when permitted by the Bylaws and the applicable corporate regulations.

Fourth, the amendment to Article 20 does not repeal the Policy in its entirety or eliminate its general binding force. The incompatibility is limited to provisions that reproduce, develop, or presuppose the mandatory nature of including three current members, as well as those that attribute to that rule effects relating to admission, validity, objections, or electoral impediments.

Fifth, the other provisions of the Policy remain fully in force. Accordingly, the rules concerning the composition of the Board of Directors by nine members, the majority of independent members, the minimum participation of women, the presence of a financial expert, the individual and collective requirements, the Competencies Matrix, the special mechanisms applicable to the seventh, eighth, and ninth positions, the submission of information, the review of candidacies, and the transparency of the process will continue to apply.

Sixth and finally, approval of the amendment gives rise to a duty of harmonization on the part of the corporate bodies. The Board of Directors does not have discretionary authority to decide whether or not to propose the update. This is because allowing a contradiction between the Bylaws and a Policy approved by the General Shareholders' Meeting to persist indefinitely would undermine legal certainty in the succession process and the coherence of the corporate governance system. Accordingly, the instruction is binding insofar as it requires the Board to prepare and submit the corresponding amendment for approval.

V. Allocation of Authority between the General Shareholders' Meeting and the Board of Directors

The proposal respects the allocation of authority established in the Bylaws and clearly distinguishes the functions of each corporate body.

The General Shareholders' Meeting has the authority to amend the Bylaws, approve the Succession Policy, elect and remove members of the Board of Directors, and adopt any measures required in the interest of the Company. The Board of Directors, for its part, is responsible for proposing the Policy and organizing and coordinating the succession process, without prejudice to the exclusive authority of the General Shareholders' Meeting to determine the composition of the Board.

The harmonization instruction does not encroach upon the Board's authority to propose the Policy. In item 9, the General Shareholders' Meeting is not approving a definitive text amending the Policy, nor does it intend to replace the technical analysis that the Board of Directors is responsible for carrying out. Rather, it is establishing the statutory framework with which the Policy must be aligned and instructing the competent body to prepare and submit the corresponding amendment.

The Board will retain the technical discretion to review the wording, reorganize the procedures, identify the affected provisions, and prepare the draft update. However, the Board may not disregard the substantive content of the amendment or reestablish, through regulations or a new Policy proposal, the obligation to include three current members as a condition for the constitution or validity of the slates.

The instruction expressly applies to the Board of Directors elected at the same meeting because it is addressed to the Board as a corporate institution and not merely to the individuals who comprise it at the time of the General Shareholders' Meeting. The election of the Board of Directors as a whole does not extinguish the obligation imposed by the highest corporate body, nor does it permit the new Board to reopen the decision already adopted regarding the scope of the amended Article 20.

VI. **Incompatibility Arising between the Amended Bylaws and the Current Policy**

The current Succession Policy establishes that the composition of the Board of Directors must include at least three current members, excluding candidates in the eighth and ninth positions from the calculation. This condition is incorporated into the set of "Requirements," serves as the basis for staggered renewal, and is again required as part of the procedure for the submission and evaluation of slates.

The amendment to Article 20 specifically modifies that rule. Under the amended provision, the objective shall be to maintain at least three current members, but their inclusion shall not constitute a requirement for the constitution or admission of a slate, a prerequisite for the validity of the election, a limitation on the authority of the General Shareholders' Meeting, or a prohibition on the full renewal of the Board.

The incompatibility cannot be resolved by applying both provisions simultaneously, because one establishes an obligation while the other expressly provides that the same circumstance does not constitute a requirement. Nor can it be maintained that, because the Policy was previously approved by the General Shareholders' Meeting, it should temporarily retain the previous rule until its formal amendment is approved. Such an interpretation would allow an implementing instrument to prevail over the Bylaw provision on which it is based.

The legally correct approach is to recognize that, upon approval of the amendment, the previous Bylaw provision ceases to provide a basis for incompatible internal rules. The Policy remains generally in force, but provisions that depend on the mandatory nature of the requirement that has been eliminated must be interpreted in accordance with amended Article 20 or, where such an interpretation is not possible, must cease to apply to the electoral process in question.

VII. **Immediate Effectiveness of the Amendment to the Bylaws**

The formal harmonization of the Policy constitutes a subsequent regulatory-updating action. It may require the Board of Directors to prepare a proposal, the involvement of its committees, a legal review of the texts, and a new decision by the General Shareholders' Meeting.

That subsequent procedure does not suspend the effectiveness of the amendment as between the shareholders.

In accordance with Article 158 of the Commercial Code, amendments to the Bylaws take effect as between the shareholders from the time they are adopted in accordance with the Bylaws, without prejudice to their subsequent formalization and registration for purposes of enforceability against third parties. Consequently, once the amendment to Article 20 has been approved, the General Shareholders' Meeting may adopt the subsequent corporate decisions provided for at the same meeting on the basis of the amended provision.

It would be inconsistent for the General Shareholders' Meeting to approve an amendment intended to remove an electoral restriction and then, immediately thereafter, be prevented from applying it because the Policy still retains its previous wording. Updating the Policy is a consequence of the amendment, not a condition for its effectiveness.

Requiring the harmonization to be completed before the election would effectively transfer to the Board of Directors, its committees, or Ecopetrol's internal departments the practical ability to suspend the effect of a Bylaw amendment and postpone the exercise of an authority that belongs to the General Shareholders' Meeting.

VIII. Authority of the General Shareholders' Meeting to Issue the Instruction

The General Shareholders' Meeting is expressly empowered to issue the harmonization instruction because it is also the body with authority to approve the amendment to the Bylaws, approve the Succession Policy, and elect the members of the Board of Directors.

The decision does not create any new authority or alter the Company's management structure. Rather, it constitutes a necessary measure to implement a duly adopted amendment and ensure that the corporate documents remain consistent with the higher-ranking statutory provision.

The instruction will be binding on the Board of Directors, including the Board elected at the meeting. The Board must identify the incompatible provisions, prepare the proposed amendments to the Policy, submit them to the General Shareholders' Meeting for consideration, and directly adopt the corresponding adjustments to the other instruments that fall within the scope of its authority.

The instruction does not require the Board to adopt an unlawful amendment, nor does it predetermine all the technical aspects of the new text. It does, however, establish a mandatory limit: under the Harmonized Policy, the inclusion of three current members may no longer be required as a condition for the composition of the Board of Directors, as a condition for the validity or admission of the slates, or as a condition for the General Shareholders' Meeting to exercise its authority to elect the Board.

IX. Nature of the Transitional Determination

Section 9 contains two interrelated but legally distinct decisions.

The first is to issue a binding instruction to the Board of Directors to undertake the formal harmonization of the Policy and the other internal instruments.

The second is to determine the rule applicable while that procedure is being completed, providing that internal provisions incompatible with the amended Article 20 will not apply and will not constitute a prerequisite, suspensive condition, or impediment to the full election of the Board of Directors.

The transitional determination does not constitute a direct and comprehensive amendment of the Policy. At this stage, the General Shareholders' Meeting is not replacing the statutory procedure under which the Board must propose and the General Shareholders' Meeting must approve the new provision. Rather, the decision resolves the regulatory conflict arising from the amendment and establishes how the internal framework is to be applied during the period between the approval of the amended Article 20 and the formalization of the harmonized Policy.

This solution allows the statutory recognition of the Policy, the Board of Directors' authority to propose amendments, the General Shareholders' Meeting's authority to approve them, and the immediate application of the higher-ranking Bylaw provision to be respected simultaneously.

X. **Limited Scope of Inapplicability**

The proposed determination does not suspend the Succession Policy in its entirety, nor does it authorize the indiscriminate disregard of the corporate governance instruments.

The inapplicability is limited to provisions that are materially incompatible with amended Article 20 and, in particular, to those that mandatorily require the inclusion of at least three current members; exclude certain slates for failing to meet that requirement; permit such slates to be definitively objected to on that basis; or make the holding or validity of the election conditional upon the continued presence of that number of directors.

The provisions relating to the nine members of the Board of Directors, the electoral quotient system, the institutional periods, the majority of independent members, the minimum participation of women, the financial expert, experience, suitability, integrity, disqualifications and incompatibilities, the Competencies Matrix, the special mechanisms applicable to the seventh, eighth, and ninth positions, and the information and transparency obligations will remain fully in force.

The proposal also does not prevent institutional continuity from being taken into consideration in determining the composition of the Board of Directors. Indeed, the amended Bylaws provide that the objective shall be to maintain at least three current members. What is eliminated is the possibility of turning that objective into a mandatory quota, an individual right to remain in office, or a condition for the validity of the slate. This elimination is fully consistent with the provisions of applicable law concerning the *ad nutum* removal of directors. Indeed, the provisions of the Commercial Code are intended to prevent directors from being irremovable and to allow their appointment, election, or removal at any time by the competent corporate bodies.

XI. **Impossibility of Making Harmonization a Prerequisite**

The formal updating of the Policy cannot be treated as a prerequisite for holding the full election of the Board of Directors.

The Policy has statutory recognition and must be amended through the corresponding procedure, but this circumstance does not give it the power to suspend the amended Bylaw provision. The Policy remains substantively subordinate to the Bylaws, even when its approval falls within the authority of the General Shareholders' Meeting itself.

If completion of the entire harmonization procedure were required first, the effectiveness of the amendment would depend on the time required by the Board of Directors, its committees, the administration, and the convening and holding of a new meeting of the General Shareholders’ Meeting. This would prolong the coexistence of incompatible rules and could prevent the election from being held at the meeting called precisely to restore the composition of the Board of Directors.

The determination that harmonization does not constitute a prerequisite ensures that the updating process can proceed without affecting the authority of the General Shareholders’ Meeting to decide immediately on the new composition of the Board of Directors.

XII. **Difference between Harmonization and Dispensation**

The decision provided for in item 9 must be distinguished from the potential dispensation contemplated in item 10 of the agenda.

Harmonization addresses a regulatory incompatibility between amended Article 20 and the internal provisions that reproduce the previous rule. Its purpose is to ensure the precedence of the amended Bylaws and to provide for the updating of the corporate instruments.

Dispensation addresses a different procedural situation: the potential inability to complete, within the timetable set forth in the notice of meeting, certain internal activities relating to the preparation of supporting materials, review, verification, supplementation, or assistance in connection with the candidacies.

The mandatory rule requiring the continued presence of three current members of the Board of Directors is not eliminated through the dispensation. It is eliminated through the amendment to the Bylaws and through the preferential application of amended Article 20. The potential dispensation cannot replace the amendment, nor can it alter substantive requirements or be used as a basis for modifying the mandatory composition of the Board.

This distinction ensures that each decision has its own basis, purpose, and effects and is deliberated and voted on independently.

XIII. **Protection of Shareholders' Rights**

The immediate application of amended Article 20 and the limited inapplicability of incompatible provisions do not diminish shareholders’ rights to information, deliberation, participation, or voting.

The proposed amendment, the comparative table, the explanatory memorandum, the harmonization proposal, the text of the transitional determination, the current Policy, the slates, the résumés, the letters of acceptance, and the other relevant documents must be made available to shareholders in accordance with the notice of meeting and the Internal Regulations of the General Shareholders’ Meeting.

The express inclusion of item 9 on the agenda allows shareholders to become aware in advance of both the harmonization instruction and the transitional rule governing its application. The decision will not be adopted as an implicit consequence of the amendment or as a matter outside the scope of the notice of meeting, but rather through a separate proposal that is deliberated and voted on independently. The agenda prepared for the meeting distinguishes four separate matters: the amendment to the Bylaws, harmonization, the potential dispensation, and the full election of the Board of Directors.

XIV. Conclusion

The Succession Policy holds a special legal position within Ecopetrol's corporate governance system. Its existence, approval, and allocation of powers for its formulation and application have an express statutory basis. This statutory recognition strengthens its binding nature, prevents it from being unilaterally amended by the Board of Directors, and requires that its updating respect the authority of the Board of Directors to propose amendments and of the General Shareholders' Meeting to approve them.

This strong corporate force does not, however, confer on the Policy a hierarchy equivalent to or higher than that of the Bylaws. The Policy develops Article 20 and must therefore be aligned with it when that Article is amended. A requirement that the General Shareholders' Meeting has decided to convert into a guiding criterion cannot be maintained as mandatory, nor can it suspend the immediate application of the higher-ranking Bylaw provision.

The proposed solution preserves both elements. On the one hand, it respects the statutory recognition of the Policy and provides that its amendment be carried out through the corresponding corporate procedure. On the other hand, it establishes that, during the harmonization period, incompatible provisions may not neutralize the amendment or prevent the election.

In this way, the General Shareholders' Meeting neither disregards nor informally amends the Policy. Rather, it issues a binding instruction for its updating, preserves the Board of Directors' authority to propose amendments, maintains the approval authority of the highest corporate body, and temporarily resolves the regulatory conflict through the preferential application of amended Article 20.
The decision safeguards the internal regulatory hierarchy, protects the electoral authority of the General Shareholders' Meeting, preserves the substantive corporate governance requirements, avoids the risk of institutional paralysis, and allows the new Board of Directors to be elected under clear and coherent rules previously known to the shareholders.

For the reasons set out above, it is recommended that the General Shareholders' Meeting approve the instruction and the determination submitted for its consideration under item 9 of the agenda.