An important element within Mexico’s energy reform is the recognition of human rights, including indigenous and tribal people, that goes beyond the economic impact and countless benefits of oil and gas projects for the country’s economy. Prior to the reform, Pemex – Mexico’s national oil company – was responsible for developing actions, with the participation of the Government, to protect the rights and preserve communities affected by new oil and gas activities.

Mexico subscribes to the United Nations’ Universal Declaration of Human Rights, the International Labour Organization’s Convention No. 169 on indigenous and tribal rights, and several other international conventions concerning human rights. As part of these agreements, the Government has undertaken actions aimed at protecting the rights of vulnerable populations that may be impacted by the petroleum industry.

For example, Mexico’s Hydrocarbons Law requires both the Ministry of Energy and the Ministry of Interior to carry out a consultation process to determine whether or not a project might have an adverse effect on vulnerable populations. This protocol, which must be public, also adheres to Convention No. 169. The consultation must be carried out according to specific cultural circumstances of each tribal or indigenous community, with full respect to their right to preserve their culture, language and lifestyle.

The consultation process must contain a description of the project and its area of influence, and must include the following steps:

- Create a consultation plan. This refers to planning activities by the Ministry of Energy to define mechanisms to carry out the consultation process, and whether other governmental agencies should be involved.
• Acknowledge previous agreements. This includes identifying past resolutions adopted by the government agencies involved in the project and local authorities or leaders of the tribal communities.

• Be informative. The information provided to such communities should be transparent and comprehensible so they can properly assess the project.

• Be deliberative. The process must include an internal dialogue within the tribal community to discuss the authorization of the proposed project.

• Consult the community. Agreements must be reached on the basis of the fundamental freedom of communities to decide the terms and conditions related to the development of the project.

• Provide supervision. The plan should continue to be monitored and evaluated, including workplace interactions and other reports.

Considering that there are over 62 indigenous communities in Mexico dispersed throughout the country, the issue is not minor. If unsure whether a consultation process must be performed, it is important to request the opinion of the Ministry of Energy, since the lack of proper authorizations could be grounds for suspension of a project.

In addition to the public consultation process for indigenous and tribal communities, the new regulatory framework in Mexico also requires social impact assessments to determine the nature and extent of potential impacts on the population.

Prior to initiating activities, contractors, assignees or permit holders of the oil and gas industry must submit social impact evaluations to the Ministry of Energy. These evaluations identify characteristics of the surrounding communities and assess potential effects on their social environment, and include mitigation or remediation plans. This obligation applies only to cases in which the development of infrastructure is implicit in the project.

The Ministry of Energy, supported by the financial authorities, requires exploration and production contracts to include estimated amounts destined for health, educational and labor issues to support sustainable development of the neighboring communities. The estimates include the resources necessary to carry out such activities and to mitigate any adverse impacts.

The Ministry of Energy has recently issued general guidelines for the energy industry to help assess positive and negative social impacts through a number of variables and key characteristics. Most important, the Ministry of Energy must approve the social impact evaluation before any development activities are initiated. As part of the social impact evaluation, a gender impact assessment must be performed to identify the effects on women’s rights, opportunities and needs in connection with the socioeconomic effects of potential projects.

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BMC Agency
GA 1008700
ED None

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