



FRAMEWORK OF ACTION WITH INDIGENOUS COMMUNITIES

PASTO- RUMICHACA PROJECT



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Table of Contents

1. Prior Consultation Process	4
1.1. Citizen Participation Legal Framework.....	4
1.2. Prior Consultation Context	5
1.3. Prior Consultation Legal Framework	5
1.2.1 Prior Consultation.....	5
1.2.2. Legal Framework of the Fundamental Right to Prior Consultation.....	6
1.4. Presidential Directive 01 of 2010	7
1.2.3. Prior Consultation Objectives.....	9
1.3. Prior Consultation Principles	10
1.3.1. Principle of good faith	10
1.3.2. Principle of information.....	10
1.3.3. Free principle.....	10
1.3.4. Previous principle	10
1.4. Presidential Directive 10 of 2013	11
1.4.1. Prior consultation stages	11
2. Description of ethnic communities present in the project	13
2.1. Indigenous Council of Catambuco.....	13
2.2. Montaña de Fuego Indigenous Council of Tangua	14
2.3. Iles Indigenous Reservation.....	15
2.4. Aldea de Maria Putisnan Indigenous Council.....	16
2.5. San Juan Indigenous Reservation	17
2.6. Colonial de Ipiales Indigenous Reservation.....	19
3. Compliance with Performance Standard No.7 Indigenous Peoples of the International Finance Corporation IFC, the Applicable Colombian Law to Prior Consultation and compliance of the Concesionaria Vial Unión del Sur in the framework of prior consultation processes executed with Indigenous communities present in the area of influence of the project	20
3.1. Montaña de Fuego Indigenous Community	20
3.2. Indigenous Community of the Catambuco Council.....	25
3.3. Iles Indigenous Reservation.....	29
3.4. Aldea de Maria Indigenous Council.....	36





3.5. San Juan Indigenous Reservation 40

3.6. Ipiales Indigenous Reservation 46

Bibliography 50



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1. Prior Consultation Process

1.1. Citizen Participation Legal Framework

The fundamental right to Prior Consultation is part of the wide range of regulatory provisions related to democratic participation in Colombia. This is due to the characterization of the Rule of Law, organized as a unitary and decentralized Republic, whose philosophy is based on a series of principles that guarantee the fundamental rights. The articles of the Colombian Constitution integrate a number of rules on recognizing pluralism and participatory democracy within a multiethnic and multicultural approach.

Follows a summary of the relevant contents of the constitutional articles regarding democratic participation:

Table 1 Relevant content of the constitutional articles regarding democratic participation +

ARTICLES	CONTENT
Article 1.	Social rule of law, unitary, decentralized Republic with autonomous territorial entities (departments, districts, municipalities and indigenous territories), democratic, participatory and pluralistic, based on respect for the human dignity, work and solidarity of composing individuals and the prevalence of the general interest
Article 2.	Essential purposes of the State: (...) facilitate the participation of all in decisions affecting them and in the economic, political, administrative and cultural life of the Nation.
Article 3.	Sovereignty resides exclusively in the people, from whom public power emanates, which is exercised directly by the people or through their representatives, in the terms established by the Constitution.
Article 23	Guarantees the Right of Petition
Article 37	Right of assembly and public demonstrations
Article 40	Participate in the establishment, exercise and control of political power. (Elect, be elected, plebiscite, referendum, popular consultation and other forms of participation), form political parties and movements, revoke mandate, initiative vis-à-vis public corporations, unconstitutional actions, occupy public office and functions.
Article 45	Active participation of young people
Article 79	Enjoy a healthy environment and participate in decisions that may affect it. State duty to protect the diversity and integrity of the environment, conserve areas of special ecological importance
Article 95	Exercising the rights and freedoms recognized in this Constitution implies responsibilities
Article 103	Citizen participation mechanisms: voting, plebiscites, referendums, popular consultation, open forums, legislative initiatives and the recall referendum
Article 246	The authorities of the indigenous peoples may exercise jurisdictional functions within their territory, in accordance with their own rules and procedures, provided they are not contrary to the Constitution and laws of the Republic



ARTICLES	CONTENT
Article 270	Participation in monitoring governance
Article 330	The indigenous territories shall be governed by councils formed and regulated according to the customs of their communities. (...) In decisions taken in respect of such exploitation (natural resources), the Government shall encourage participation of representatives of the respective communities

Table 2 Relevant content of constitutional articles on democratic participation

Statutory Law 1757 of 2015 whereby provisions are issued in the promotion and protection of the right to democratic participation, and which aims to "*promote, protect and guarantee modalities of the right to participate in political, administrative, economic, social and cultural life, and likewise to control political power*". Without prejudice to the development of other forms of democratic participation in political, economic, social and cultural life, or the exercise of other political rights not mentioned therein, this law is responsible for essentially regulating the following forms of participation:

- the popular initiative and rules vis-à-vis public corporations,
- the referendum,
- the popular consultation,
- the mandate revocation,
- the plebiscite and the open council
- and lays down the basic rules governing democratic participation of civil organizations.

1.2. Prior Consultation Context

Within the framework of the Rumichaca - Pasto road corridor project given in Concession to the Concesionaria Vial Unión del Sur by the National Infrastructure Agency-ANI by Concession Agreement Under the scheme APP No. 15 of September 11, 2015, whose minutes of commencement are signed on October 27, 2015; and following the award and signing of the minutes of commencement, the Concesionaria Vial Unión del Sur in view of the legal and regulatory provision makes the application process in the presence of ethnic communities to the Prior Consultation Direction of the Ministry of the Interior; where said Prior Consultation Direction of the Ministry of the Interior certifies by administrative acts the presence of the following indigenous communities: Indigenous Council of Catambuco, Indigenous Council of Montaña de Fuego, belonging to the Quillasinga ethnicity, located in Functional Units 4 and 5 of the Iles Native Reservation located in the municipality of Iles; the Indigenous Council Aldea de Maria Putisnán located in the municipality of Contadero and the Native Reservation Colonial de San Juan located in the municipality of Ipiales, all of the Pastos ethnicity, ethnic communities located in Functional Units 1.3, 2 and 3 of the project.

1.3. Prior Consultation Legal Framework

1.2.1 Prior Consultation

"Prior Consultation is a fundamental collective right (Sent T-550- 2015.) of the indigenous and afro-descendant communities aimed at ensuring their participation in identifying environmental, socioeconomic, ethnic and cultural impacts; the coordination of their respective measures for prevention, mitigation, correction, compensation and monitoring in order to protect their cultural and territorial integrity, as well as their economic and social life conditions, which aims to obtain their prior, free and informed authorization to implement measures that affect them directly such as: administrative and/or legislation norms, policies, plans, programs, development projects, works or activities within their territories or areas of influence of their cultural, economic and social life".





1.2.2. Legal Framework of the Fundamental Right to Prior Consultation

Within the framework of international law.

The main international reference with respect to prior consultation is the Indigenous and Tribal Peoples C169 Agreement adopted in 1989 by the International Labor Organization, adopted by our legal system by Law of March 21, 1991. Article 6 literally states that, in applying the provisions of this Agreement, governments shall among others, "a) *consult concerned peoples, through appropriate procedures and in particular through their representative institutions, whenever legislative or administrative measures are envisaged to affect them directly; (...)2. The consultations carried out under this Agreement shall be undertaken in good faith and in a manner appropriate to the circumstances, in order to reach an agreement on authorization on proposed measures.*"

In the Colombian Constitution

The constitutional text under the rule of law is the guarantor of respect for ethnic and cultural diversity, in this regard its normative statements provide for the participation of indigenous peoples in making decisions that may directly or indirectly affect their rights. This is spelled out in Articles 2, 4, 7, 40 and paragraph of Article 330.

Article. 2. The essential goals of the State are: to serve the community, promote general prosperity and guarantee the effectiveness of the principles, rights and duties enshrined in the Constitution; to facilitate the participation of all in decisions that affect them and in economic, political, administrative and cultural life of the Nation; to defend national independence, maintain territorial integrity and ensure peaceful coexistence and enforcement of a just order.

The authorities of the Republic are instituted to protect all persons residing in Colombia, in their life, honor, property, beliefs and other rights and freedoms and to ensure compliance with the social obligations of the State and individuals.

Article. 7. The State recognizes and protects the ethnic and cultural diversity of the Colombian nation.

Article 40. Every citizen has the right to participate in the establishment, exercise and control of political power. (...) 2. To take part in elections, plebiscites, referendums, popular consultations and other forms of democratic participation. (...) 6. To exercise public rights of actions in defense of the Constitution and the law.

Article. 330. Paragraph. Exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of said indigenous communities. In the decisions taken in respect of such exploitation, the Government shall encourage the participation of representatives of the respective communities.

In national legislation

The legislative bloc related to the fundamental Right to prior Consultation is systematically contained in:

1. Law 70 of 1993, where black communities are recognized and mechanisms to ensure their protection are established.
2. Law 99 of 1993, regarding the exploitation of renewable natural resources
3. Decree 1320 of 1998, which regulates prior consultation with indigenous and black communities for the exploitation of natural resources.
4. Decree 200 of 2003 whereby the objectives and structure of the Ministry of the Interior and Justice are determined and that the Ethnic Direction is responsible for inter-institutionally coordinating the implementation of prior consultations
5. Law 165 of 1994. Biological Diversity Agreement for Scientific Research Permits (biodiversity associated knowledge)



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6. Law 1098 of 2006, in case of adopting a member of the indigenous peoples
7. Decree 3573 of 2011, whereby the National Environmental Licensing Agency ANLA is created.
8. Directive 001 of 2010 of the Presidency of the Republic, which summarizes and incorporates the guidelines expressed by the Constitutional Court through its extensive jurisprudence, and which provides an exhaustive list of cases in which consultation processes are mandatory:
 - a) When legislative or administrative measures which may directly and specifically affect National Ethnic Groups are issued, and which require a differential formulation approach when being applied.
 - b) Programs on exploration or exploitation of natural resources in their territories.
 - c) Decisions on land alienation or on transfer of their land rights in the event that the provisions of national implementation may hinder in any way the processes of collective titling, expansion or land reclamation.
 - d) Organization and operation of general application vocational training programs.
 - e) Teaching children of the peoples concerned to read and write in their own indigenous language or in the language most commonly used by the group to which they belong.
 - f) When it is intended to develop, enhance or transform the road network in ethnic territories.
 - g) Formulate, design or implement research projects developed by public entities that are related to natural, biotic, economic, cultural, religious resources, etc., of ethnic groups that can generate an affectation by execution or publishing thereof.
 - h) When actions to eradicate illicit crops that may affect ethnic groups are planned.
 - i) When actions on health and disease measures of National Ethnic Groups are considered to be taken; except in emergencies jeopardizing right to life.
 - j) When any priority measure regarding the development process of a national ethnic group is intended to be taken.
 - k) When it is required to incorporate special features in the scope of some general legislative measure according to the custom or common law of National Ethnic Groups, in the scope of some general legislative measures.
 - l) Other cases expressly provided by law.

1.4. Presidential Directive 01 of 2010

According to Presidential Directive 01, 2010, it is mandatory to request prior free and informed consent through the consultation process in the following cases:

- a. When legislative or administrative measures which may directly and specifically affect National Ethnic Groups are issued, and which require a differential formulation approach when being applied.
- b. Programs on exploration or exploitation of natural resources in their territories.



- c. Decisions on land alienation or on transfer of their land rights in the event that the provisions of national implementation may hinder in any way the processes of collective titling, expansion or land reclamation.
- d. Organization and operation of general application vocational training programs.
- e. Teaching children of the peoples concerned to read and write in their own indigenous language or in the language most commonly used by the group to which they belong.
- f. When it is intended to develop, enhance or transform the road network in ethnic territories.
- g. Formulation, design or implementation of research projects developed by public entities that are related to natural, biotic, economic, cultural, religious resources, etc., of ethnic groups that can generate an affectation by execution or publishing thereof.
- h. When actions to eradicate illicit crops that may affect ethnic groups are planned. i) When actions on health and disease measures of National Ethnic Groups are considered to be taken; except in emergencies jeopardizing right to life.
- i. When any priority measure regarding the development process of a national ethnic group is intended to be taken.
- j. When it is required to incorporate special features in the scope of some general legislative measure according to the custom or common law of National Ethnic Groups, in the scope of some general legislative measures.
- k. Other cases expressly provided by law.

Actions not requiring guaranteeing the right to prior consultation of ethnic groups.

- a. Legislative or administrative measures which do not affect National Ethnic Groups. Such is the case of fiscal measures that do not cover them; criminal, civil and procedural of the ordinary jurisdiction; commercial, industrial and urban nature service measures; labor; and social security measures, provided they do not reduce the quality of life of ethnic groups.
- b. Activities for the maintenance of the existing road network, provided that concerted management plans are agreed to mitigate the impact of specific works on sections that may affect ethnic groups. In any case, a certification must be requested to the prior consultation office, who will determine the activities which, under the road development project, require the guarantee to the right of prior consultation.
- c. When urgent measures in health, epidemics, alarming rates of illness and/or disease must be taken, natural disasters and guarantee or violation of Human Rights.
- d. When the consultation process is not mandatory under specific law.

Complementary legislation regarding indigenous peoples

Decree 1397 of 1996. The National Commission on Indigenous Territories is created, attached to the Ministry of Rural Development and the Permanent Bureau of consultation with indigenous peoples and organizations, attached to the Ministry of the Interior.

Decree Law 4633 of 2011. Whereby preparation of the comprehensive collective reparation plan for indigenous peoples and communities is directed and under the framework of the Victims Law.

In the jurisprudence of the Constitutional Court

The Corporation has produced more than 500 different natured rulings that have generated important precedents, which together with the definitions of international standards, have provided support to structure the scope and procedures to be taken into account in the context of prior consultations. The following is highlighted from the jurisprudential body:

- Constitutional Court, Ruling SU-039 1997 R.J. Antonio Barrera Carbonell.



- Constitutional Court, Ruling T-652 of 1998, R.J. Carlos Gaviria Díaz.
- Constitutional Court, Ruling C-418 of 2002, R.J. Alvaro Tafur Galvis.
- Constitutional Court, Ruling SU-383 2003 R.J. Alvaro Tafur Galvis.
- Constitutional Court, Ruling T-955 of 2003, R.J. Alvaro Tafur Galvis.
- Constitutional Court, Ruling T-880 of 2006, R.J. Alvaro Tafur Galvis.
- Constitutional Court, Ruling T-154 of 2009, R.J. Nilson Pinilla Pinilla.
- Constitutional Court, Ruling T-769 of 2009, R.J. Nilson Pinilla Pinilla.
- Constitutional Court, Ruling T-547 of 2010, R.J. Gabriel Eduardo Mendoza Martelo.
- Constitutional Court, Ruling T-745 of 2010, R.J. Humberto Antonio Sierra Porto.
- Constitutional Court, Ruling T-1045A, 2010, R.J. Nilson Pinilla Pinilla.
- Constitutional Court, Ruling T-129 of 2011, R.J. Jorge Ivan Palacio Palacio.
- Constitutional Court, Ruling T-693 of 2011, R.J. Jorge Ignacio Pretelt Chaljub.

Synthesis of the normative foundations

Some general rights emerge from the entire normative framework to be taken into account before considering the toll case in particular:

1. Prior consultation is a national and international recognized fundamental right. Such consultation should be free, prior and informed; and must adhere to the principles of good faith, legitimacy, transparency, participation, representation, intercultural understanding and bilingualism, and be timely.
2. The right to establish reservations in territories that indigenous communities have traditionally occupied.
3. The right to protect sacred areas or of special ritual and cultural importance, even if they are located outside the reservations;
4. The right to dispose of and manage their territories; (underlined and bold added).
5. The right to participate in the use, operation and conservation of existing renewable natural resources in the territory, and
6. The right to protect ecologically important areas.

1.2.3. Objectives of the Prior Consultation

The Constitutional Court recognizes the prior consultation as a fundamental right of a collective nature, whose owners are Afro-Colombian, black, raizales, palenqueras and indigenous communities and is a right capable of protection through the right of protection, based on rule established in Ruling SU-037 1997 (Constitutional., 2014) of Convention 169 of the International Labor Organization, ILO, and the constitutional bloc.

In Ruling SU-039 of 1997, the Constitutional Court defined for the first time the main features and objectives of the right to prior consultation:

- a) That the community has full knowledge of the projects to explore or exploit natural resources in the territories they occupy or belong to them, the mechanisms, procedures and activities required to implement them.
- b) That the community is also aware and enlightened on how the implementation of said projects may involve an impairment or affectation to the elements that form the basis of their social, cultural, economic and political cohesion, and therefore the substrate for their survival as a human group with unique characteristics.





c) That the community be given the opportunity to freely and without outside interference, by convening its members or representatives, consciously assess the advantages and disadvantages of the project on the community and its members, to be heard regarding any concerns and claims presented in what concerns the defense of their interests and decide on the feasibility thereof. With the aforesaid, the intent is for the community to actively and effectively participate in any decision made by the authority, which as far as possible must be agreed to.¹

This series of jurisprudential origin principles are contained in Presidential Directive 10, 2013, which encompasses the "Guidelines for Conducting Prior Consultations with Ethnic Communities" conceived as a tool or protocol regulating internal coordination between public entities involved in Consultation processes in order to integrate the appropriate skills and efficient allocation of resources.

This directive is not binding for the communities, but defines a consistent methodological approach to the guidelines established by the Constitutional Court, which in turn defines the scope of prior consultation through the interpretative exercise of Convention 169 of the ILO and more concordant rules protecting the rights of indigenous peoples.

1.3. Prior Consultation Principles

1.3.1. Principle of good faith

According to Convention 169 Article 6.2 and Ruling C-891 of 2002 of the Constitutional Court it was specified that "the institution of consultation with indigenous communities that may be affected because of the exploitation of natural resources, involves adopting communication and understanding relations, marked by mutual respect and good faith between said communities and public authorities."

1.3.2. Principle of information

Convention 169 Article 16.2 provides that the consent of indigenous peoples should be obtained "with full knowledge of the cause," being an obligation that provides all necessary elements for making a decision, Ruling C-891 of 2002 "full knowledge on projects to explore or exploit natural resources in the territories they occupy or belong to them, as well as the mechanisms, procedures and activities required to implement them. That the community is aware and enlightened on how the implementation of said projects may involve an impairment or affectation to the elements that form the basis of their social, cultural, economic and political cohesion ". (Constitutional Court, Ruling C-891 of 2002)

1.3.3. Free principle

Convention 169 Article 6.1 states that governments should "establish means whereby these peoples can freely participate, at least to the same extent as other sectors of the population, and at all levels in decision-making ...which may concern them" (Convention 169, 1989).

1.3.4. Previous principle

The consultation must take place before adopting and implementing under Convention 169 Article 6.1 that states "whenever legislative or administrative measures which may affect them directly", Article 15 "governments shall establish

¹Working paper based on the lawsuit filed against the Rural Development Statute (Law 1152 of 2007) before the Constitutional Court, by the Colombian Commission of Jurists and other social organizations. 2 Constitutional Court ruling SU-039 1997 R.J.: Antonio Barrera Carbonell.



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or maintain procedures to consult the peoples concerned ... before undertaking or permitting any programs for the exploration or exploitation of resources in their lands."

1.4. Presidential Directive 10 of 2013

1.4.1. Prior consultation stages

Presidential Directive 10, 2013 calls for the development of projects, works or activities in areas where these minorities are located, following the steps provided in the guide, enclosed thereto, for conducting Prior Consultations with Ethnic communities.

The State seeks to regulate the coordination of involved parties, to ensure transparency of the process thus defining the following stages:

- *Stage 1*

Certification of the presence of ethnic communities requiring prior consultation: the determination must be carried out according to the criteria of ILO Convention 169, the national legislation and the constitutional jurisprudence on ethnic communities.

- *Stage 2*

Coordination and preparation: identify public entities with competence related to proposed work or activity to be consulted and convene a meeting to hear their views on the situation.

- *Stage 3*

Pre-consultation: it a preliminary dialogue is required with representatives of the communities in order to define the methodology the work or activity project executor will implement, the terms in which the process is performed depending on the specific cultural characteristics of each ethnic community; this involves appointing a team, meeting requests, presenting the right, presenting the project or activity, determining the object and constructing the methodological route.

- *Stage 4*

Prior consultation: is establishing the dialogue between the State, the executor and ethnic communities so the direction of the prior consultation ensures actual, timely and effective participation on decision-making of the project or activity that directly affects the communities, with the aim of ensuring ethnic and cultural integrity: for such end, the following steps will be applied:

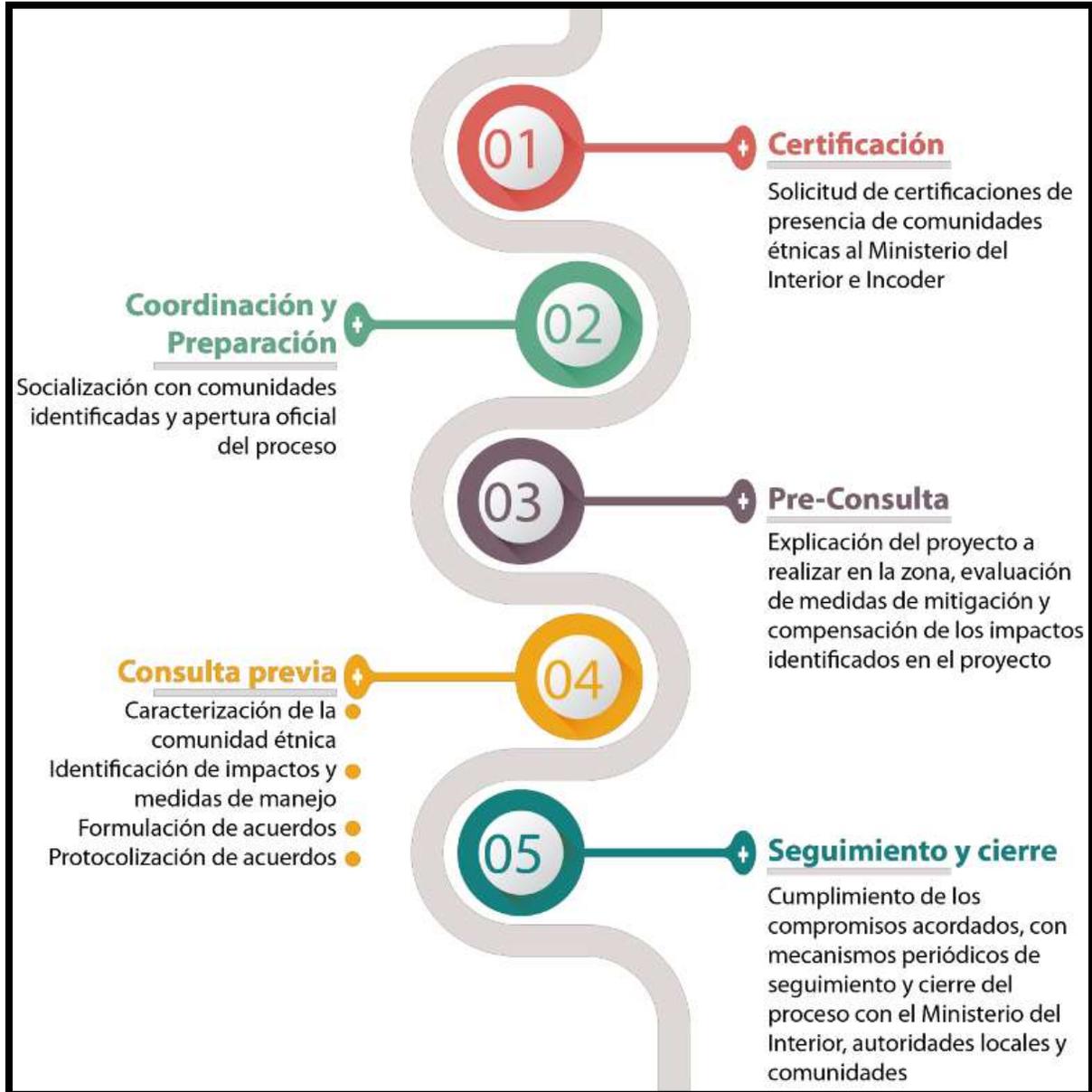
- Convene meetings
- Meetings to analyze and identify impacts and develop management measures
- Meeting to formulate agreements
- Notarization

- *Stage 5*

Monitoring the agreements: this seeks to ensure that agreements notarized in the prior consultation process are fulfilled by the parties involved, in accordance with the terms agreed to with the ethnic communities; therefore, monitoring or periodic requirement arises so that a consultation close-out is generated at the end of the process.



Graph 1 Consultation Stages



Source: Concesionaria Vial Unión del Sur. 2017





2. Description of ethnic communities present in the project

2.1. Catambuco Indigenous Council

The Ministry of the Interior by certificate 110 of February 22, 2016 confirmed there were no Indigenous, Minorities and Roma communities recorded in the project area, also no presence of Black, Afro-Colombian, Raizales and Palenqueras communities recorded in project areas. However, the Concesionaria Vial Unión del Sur by EXTM16-0019006 filed external communication of April 25, 2016, indicated that indigenous communities belonging to the Montaña de Fuego Councils (municipality of Tangua) and Catambuco (Municipality of San Juan de Pasto), communities belonging to the Quillasinga people, were identified in the area. That having made the technical analysis, the need for a project field verification visit was necessary, which took place from June 9 to 11, 2016. Subsequently Resolution 22 of 2016 was issued, whereby Administrative Act No. 111 of February 22 was partially revoked and certified the presence of the Catambuco Council in the project area. After subsequent corroboration and certification issued by the Prior Consultation Direction of the Ministry of the Interior, the Concessionary requested this government agency to carry out the respective pre-consultation and installation of the prior consultation with these certified indigenous Councils in the area of influence of the road project.

Thus, on October 11, 2016 the Pre-consultation and installation of the prior consultation process meeting was held, agreeing on a methodological route that was modified by internal community dynamics, therefore, the information gathering process to characterize the territory was carried out from February to April 2017; Workshop on Impact Identification and Formulation of Management Measures on May 7, 2017; formulation of Agreements on May 30, 2017 and 2017 Notarization on May 31, 2017.

The characterization process and document review highlights that the Indigenous Council of Catambuco are located in the Atriz Valley and are an ancestral Community of the Atures or Hatunllacta Valley and surroundings; Eduardo Zuniga anthropologist states in their regard:

The Quillasingas, as a people, were dissolved, from the formal point of view, in the middle of the last century [XX] when their reservations were extinguished. Today they are undergoing a reunification process and recovery of their former territories. This endeavor is being led by several districts of the municipality of Pasto. So far only three councils have been recognized by the Ministry of the Government (four with Obonuco) out of half a hundred that existed at the beginning of the twentieth century (Zuñiga Erazo, 2011)

Returning to ethnohistoric processes, it is necessary to clarify that the Indigenous Council of Catambuco of the Quillasinga people is in a process of reorganization since 2015; it had a historical process since colonial times which was interrupted in mid-twentieth century through its dissolution, achieved at the time by individual titling of lands owned by indigenous people. Despite the dissolution of the Reservations, the Quillasingas communities, inhabitants of the present territory of the municipality of Pasto, have largely maintained their community, family and social relations and cultural rights.

The El Socorro and Santa Barbara provinces are part of the council. They identify and self-recognize with the Quillasinga ethnicity, recently established registered with the Mayor of San Juan de Pasto with Minutes of Possession No. 002 of January 1, 2016. According to preliminary information given by the governor of the Carlos Potosi Council, the population census is 578 persons that are distributed in a dispersed manner in three districts of the municipality of San Juan Pasto (Catambuco, El Socorro and Santa Barbara) on 27 counties.

The vast majority of the population is concentrated in the Province of Catambuco, which is located on an international corridor of the Panamerican Highway that streamlines the processes of urban pressure in the Atriz Valley altering the pattern of land use, changing rural activities for urban ones similar to the city of Pasto. It consists of 20 counties as follows: Alto Casanare, Botanilla, Botana, Cruz de Amarillo, Chavez, Cubijan Alto, Cubijan Bajo, Bellavista, Gualmatán, Guadalupe, El



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Campanero, La Merced, La Victoria, Santa Maria, San Antonio de Casanare, Rio Bobo, San José de Casanare, San José de Catambuco, San Antonio de Acuyuyo, San Ezequiel, San Isidro, Catambuco centro.

2.2. Montaña de Fuego Indigenous Council of Tangua

The Interior Ministry by certificate 110 of February 22, 2016 confirmed no presence of indigenous communities, Minorities and Roma recorded in the project area, also no presence of Black, Afro-Colombian, Raizales and Palenqueras communities recorded in project areas. However, the Concesionaria Vial Unión del Sur by EXTMI16-0019006 filed external communication of April 25, 2016, indicated that indigenous communities belonging to the Montaña de Fuego Councils (municipality of Tangua) and Catambuco (Municipality of San Juan de Pasto), communities belonging to the Quillasinga people, were identified in the area. That having made the technical analysis, the need for a project field verification visit was necessary, which took place from June 9 to 11, 2016. Subsequently Resolution 0318 of March 30, 2017 was issued, whereby the Ministry of the Interior certifies the presence of the Montaña de Fuego Indigenous Council of the Quillasinga ethnicity in the project area, considering phase III of the geometric design, therefor the Concessionary requested this government agency to carry out the respective pre-consultation and prior consultation installation with these certified indigenous Councils in the area of influence of the road project.

Thus, on October 10, 2016 the Pre-consultation meeting was held and the prior consultation installation of the process was conducted on October 26,, agreeing on a methodological route that was modified by internal community dynamics, therefore, the information gathering process to characterize the territory was carried out from February to April 2017; Workshop on Impact Identification and Formulation of Management Measures on April 30, 2017; formulation of Agreements on May 24, 2017 and 2017 Notarization on May 29, 2017.

Within the characterization process, documents were reviewed evidencing that the Montaña de Fuego Indigenous Council comes from a very recent formation process, a fact which, inter alia, complicates the process of territorial unit. This is because, in the year 1940, under decree law 1421 issued by the Ministry of National Economy, the indigenous reservations in Colombia were declared non-existent. Nariño had at the time around 88 constituted reservations, being the Colombian department with the largest indigenous population. Of these reservations, the government continued to recognize only 19, mostly belonging to the Pasto indigenous community. This explains why the current population does not have collective lands, which does not refute the fact that these communities have inhabited the region for a long time.

Thus, the Municipality of Tangua is located in the Nudo de los Pastos, south of the Department of Nariño on the slopes of the Galeras volcano, between PR 2 + 900 and 26 + 800 in North-South Catambuco-Ipiales direction. The total area of the municipality is 239 km², corresponding to 35 Hectares to the urban hub, with an average altitude of 2403 meters above sea level. It is located 28 km south west of the capital of the department of Nariño, and limits on the north with the municipalities of Yacuanquer, Consacá and Pasto and with the La Magdalena and Cubijan streams; south with the Municipality of Funes and the Curiaco stream; to the east with the Municipality of Pasto and the Opongoy river; and west again with the Municipality of Yacuanquer and the La Magdalena Steam.

The consolidation and strengthening of the indigenous process in the municipality begins in August 2015. In December of the same year they consolidated the corporation that will represent them from 2016. Belonging to the Quillasinga ethnicity, land tenure is of an Individual nature having dissolved the figure of reservation some decades ago by the inhabitants themselves. The Montaña de Fuego Council is registered in the Town Hall of Tangua by Minutes of Possession 001 of January 21, 2016, a process that has been followed closely by the governors of the Quillasinga nation, as are the Refugio del



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Sol Reservation, Obonuco council, Aranda, La Laguna Pejendino, Mocondino, Mapachico, Genoy, Catambuco, Botanilla and Gualmatan.

The Montaña de Fuego Quillasinga Territory has an organizational structure represented in the Council, protected by the Political Constitution of Colombia; the Council has one hundred and fifty (150) families, consisting of approximately 380 community members. The Montaña de Fuego Council has recognized the sacred sites in its borders represented by petroglyphs, the Pikisiki and La Magdalena streams.

2.3. Iles Indigenous Reservation

On April 17, 2017 the Concesionaria Vial Unión del Sur submits request for information on the presence of ethnic communities to the Prior Consultation direction as appropriate for the Concession Rumichaca - Pasto 4G Project Under APP Scheme No. 15 of September 11, 2015 in Functional Units 1, 2 and 3 as per filed communication EXTM117-16539. Given the above, on May 9, 2017 the Ministry of the Interior certifies the presence of indigenous communities under certification No. 0432 issued with Phase III designs of the general layout of the project in FU 2.

On 17 May 2017 the Concesionaria Vial Unión del Sur requests the Prior Consultation Direction commencement and opening of the Prior Consultation process; on June 6, 2017 the Ministry of the Interior convenes a pre-consultation meeting and beginning of the Prior Consultation Process on the Iles Indigenous Reservation, which accompanying of the ANI, HMV technical auditors, public ministry, members of the community and CVUS professionals. From June 7 to August 8 (3 months) the parties agree to the following methodological route taking into account the timing and dynamics of the community and the Concesionaria, Baseline construction and Characterization of the Iles Reservation; Impact Identification and Management Measures Workshop Meeting on September 30, Pre-Agreements Formulation meeting on November 4, 2017 and Notarization meeting on November 11 for a process time of 5 months.

However, such activities in conjunction with the community advisory team and the Prior Consultation professional team, helped bring forward the dates of the methodological agreed route, as follows: Baseline Construction and Characterization of the Iles Reservation from June 7 to August 8, 2017 (3 months), Impact Identification Workshop and Management Measures Meeting on September 23, 2017 and Agreements Formulation and Notarization Meeting on October 28, 2017, the process lasted 4 months.

Thus, after gathering the information it was identified that the Iles Indigenous Reservation territory is part of the Gran Pueblo Ancestral de los Pastos, which is located southwest of the department of Nariño and shares the same jurisdiction of the municipality of Iles, occupying an area of approximately 8,400 Ha. The Reservation has a total population of 252 families and 1135 indigenous communities, distributed in the areas of Bolivar, San Francisco or Pupuetez, Alto del Rey or Chacuaspu, Urbano and San Javier, for a total of 15 counties: Mirador, Lomas de Argotis Alto, Lomas of Argotis Bajo, Villanueva, Bolivar, San Francisco, Yarqui, Alto del Rey, Tamburan, Urbano, Tablón Alto, Tablón Bajo, La Esperanza, Quitasol and San Javier.

According to documentary research conducted it was identified that the Iles indigenous community has remained over time in a long process of resistance, overcoming the imposition of the western culture during the conquest, the colony and the republic; around 1948 existed Institution of the Iles indigenous Council as authority, weakening after this date by the influence of the Catholic religion, State policies that limited the rights of natives, traditional parties, the arrival of outsiders and offensive treatment for being indigenous.

After a long internal process and subsequently to the different entities, the Iles Council Corporation was recognized by resolution dated June 5, 2007 issued by the mayor of the Municipality of Iles, in addition to the recognition of the mayor it received the recognition of the Pasto People and later the Ministry of Interior. In this way the rights as indigenous



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communities were recognized. The Corporation continued the process of Constituting a Reservation for recognition of the lands occupied by the natives; the first Reservation Constitution request was filed on July 12, 2007 by the indigenous governor Jose Elias Morillo (Pages 1 to 3 of the file). The head of INCODER No. 4 Office of Territorial liaison based in Cali issued Writ of September 7, 2007 ordering the first technical visit to the community (pages 4 to 6 of the file). Between September and October 2007, INCODER conducted the survey and technical drafting of the boundaries of sixty-two (62) lots, consolidated in thirty-one (31) plans (pages 102 to 104 of the file).

The second Iles reservation constitution request by the indigenous governor was carried out in July 13, 2013 (pages 7 and 8 of the file). In development of Article 2.14.7.3.4 of Sole Regulatory Decree 1071 of 2015, the Promotion, Monitoring and Ethnic Affairs assistant manager of INCODER issued Writ of August 2, 2013 ordering the technical visit to the Iles community from September 16 to October 10, 2013, in order to agree and collect information for the Socio-Economic, Legal and Land Tenure Study, to continue the collective entitlement process (pages 9 to 13 of the file).

Between September and October 2013, surveying and technical drafting of boundaries of forty four (44) more properties, consolidated into twenty (22) plans (pages 105 and 106 of the file) was performed. This work measured and georeferenced one hundred and six (106) individual properties, consolidated in fifty-three (53) plans². Given the relevant procedures INCODER issued Agreement No. 373 of September 21, 2015, whereby the Pasto de Iles Indigenous Reservation is formed, thus the land rights were recognized as well as to exercise actions according to their autonomy; by being constituted as Reservation they become a legal sociopolitical institution that considers collective ownership, in this case it is constituted by 156 plots with collective entitlement.

Needless to say, the investigation by the Concesionaria Vial Unión del Sur showed that the project intervention area does not affect the collective territory legally constituted in the Reservation territory.

2.4. Aldea de Maria Putisnan Indigenous Council

On March 28, 2016 the Concesionaria Vial Unión del Sur submits EXTMI16-0012824 filed letter GG 207-16 requesting certification of presence or absence of ethnic communities for the "Rumichaca - Pasto 4G Concession Project Under APP Scheme No. 15 of September 11, 2015 in Functional Units 1, 2 and 3; in response to the request, the Prior Consultation Direction of the Ministry of the Interior certifies the existence of ethnic communities according to Administrative Act certification No. 0420 of May 2, 2016 which was issued with phase II designs of the general layout of the project in FUs 1.4 and 2.1.

However, the Concesionaria Vial Unión del Sur with the designs of the general project layout, requests the National Environmental Licensing Authority ANLA for the Environmental Assessment of Alternatives, in order to assess the feasibility of changing the designs of the general phase II and phase III layout of the project; the ANLA responded by issuing Writ 0948 approving and giving viability to the general phase III project design layout. Due to the change of the general layout design of the project the Concesionaria Vial Unión del Sur through letter requests withdrawing administrative act Certification No. 0420 of May 2, 2016 to the Ministry of the Interior which by Writ of June 1, 2016 revokes certification 420 of May 2, 2016.

The Concesionaria Vial Unión del Sur requests the Prior Consultation Direction of the Ministry of the Interior information on the presence of ethnic communities by EXTMI16-17132 communication of April 20, 2017 filed with Phase III layout designs; the PCD of the Ministry of Interior issues Certification No. 0434 of May 9, 2017 certifying the existence of the Parcialidad Indígena Aldea de Maria Putisnan ethnic communities, of the de los Pastos people in the municipality of Contadero. On June 7, 2017 the Pre-Consultation and commencement of the of prior consultation process on the Parcialidad Indígena

² COLOMBIAN INSTITUTE FOR RURAL DEVELOPMENT. Agreement No. 373 of September 21, 2015. Whereby the Iles Indigenous Reservation is Constituted.





Aldea de Maria Putisnan meeting is held, meeting convened by the Ministry of the Interior, there the following methodological route was agreed to: Baseline Construction and Characterization of Aldea de Maria Putisnan Indigenous Council on June 8 to October 8, 2017 (4 months), Impact Identification and Management Measures Workshop Meeting on November 8, 2017, Pre-Agreement Formulation Meeting on November 28, 2017 and Notarization Meeting on December 1, 2017, for a process duration of 6 months.

However, the activities carried out together with the community's advisory team and the Prior Consultation professional team, helped bring forward the dates of the methodological agreed to route, as follows: Baseline Construction and Characterization of the Aldea de Maria Putisnan Indigenous Council from June 7 to August 8, 2017 (3 months), Impact Identification and Management Measures Workshop Meeting on October 4, 2017 and Agreement Formulation and Notarization Meeting on October 27, 2017, the process took 4 months.

Thus, with the information gathered it was identified that the territory of the Aldea de María Putisnán Indigenous Council located in the municipality of Contadero, south west of the department of Nariño, 75 km from San Juan de Pasto, with geographical coordinates East 0°24'28" latitude north and 77°27'45" longitude of the Greenwich meridian. The indigenous territory is located on one of the slopes of Guaitara River Basin, in the area between the eastern foothills of the western mountains. It is part of what is historically known as the Nudo de los Pastos or Nudo de Wuaca within the Nariño geography.

At present the indigenous community has no collective lands as it once had with the existence of the Reservation, but there is proof that the indigenous community possessed this land according to the law of origin that is known in the Gran Pueblo de los Pastos which states that the natives inhabited these lands since the beginning of time and that they were the first to work it asserting the essence of being indigenous born from the land as children of the Pachamama. However, due to various steps taken by the community, on December 15, 1995 the Ministry of the Interior certifies the presence of the Aldea of María Putisnan Indigenous Council, highlighting that the Council Corporation is currently in different proceedings vis-à-vis competent authorities to be recognized as a Reservation.

The Aldea de María Putisnán indigenous territory is currently divided into 3 sections: high, medium and low with an area of 15 km² and was recognized and certified as indigenous council in the direction of ethnic groups and the Ministry of the Interior on December 15, 1999, however the reorganization process start since 1997. The territory has a population of 2996 natives according to council census of 2016, distributed in the following counties in the municipality of Contadero: Aldea de María, San Francisco, Contaderito, Capulí, Iscuazán Cuevas, San Andres, Ospina Pérez, San José de Quisnamuez, La Providencia, Las Delicias, La Josefina, El Juncal and El Manzano.

2.5. San Juan Indigenous Reservation

On 28 March 2016 the Concesionaria Vial Unión del Sur submits EXTM16-0012824 filed letter GG 207-16 requesting certification of presence or absence of ethnic communities for the "Rumichaca - Pasto 4G Concession Project Under APP Scheme No. 15 of September 11, 2015 in Functional Units 1, 2 and 3 Project", in response to the request the Prior Consultation Direction of the Ministry of the Interior certifies the existence of ethnic communities according to Administrative Act certification No. 0420 of May 2, 2016 which was issued with phase II designs of the general layout of the project in FUs 1.4 and 2.1.

However, the Concesionaria Vial Unión del Sur with the general layout designs of the project, requests the National Environmental Licensing Authority ANLA for the Environmental Assessment of Alternatives, in order to assess the feasibility of changing the design of the phase II and phase III general layout, the ANLA responds by issuing Writ 0948 approving and giving viability to the general phase III project design layout. Due to the change of the general design layout of the project,



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the Concesionaria Vial Unión del Sur by letter, request withdrawing the administrative act Certification No. 0420 of May 2, 2016 to the Ministry of the Interior which by Writ of June 1, 2016 revokes certification 420 of May 2, 2016.

The Concesionaria Vial Unión del Sur requests the Prior Consultation Direction of the Ministry of the Interior on the presence of ethnic communities by filed EXTMI16-17132 letter of April 20, 2017 with Phase III layout designs; the PCD of the Ministry of the Interior issued Certification No. 0434 of May 9, 2017 which certifies the existence of the San Juan Indigenous Reservation ethnic communities, of the los Pastos people of in the municipality of Contadero. On June 10, 2017 the Pre-Consultation and commencement of the prior consultation process of the San Juan Indigenous Reservation meeting is held, this meeting was convened by the Ministry of the Interior, wherein the following methodological route was agreed: Baseline Construction and Characterization of the San Juan Reservation from June 11 to September 2, 2017 (4 months), Impact Identification and Management Measures Workshop Meeting on October 2, 2017, Pre-Agreements Formulation Meeting on October 30, 2017 and Notarization Meeting on November 17, 2017.

The agreed to methodological route was modified due to the position of the community not to continue the process until the ANI defined the toll situation, so the route was established as follows: Baseline Construction and Characterization of the San Juan Reservation from June 11 to September 2, 2017 (4 months); I Impact Identification and Management Measures Workshop Meeting on 7 October 2017, II Impact Identification and Management Measures Workshop Meeting on October 26, 2017, III Impact Identification and Management Measures Workshop Meeting, because the community decided not to continue with the process and therefore the Prior Consultation process was closed on November 17, 2017.

Thus, once the information was gatherer it was identified that the territory of the Colonial de San Juan Indigenous Reservation limits on the North with the ancestral lands of the Inchuchala Miraflores, Municipality of Pupiales; Aldea de María Reservation, municipality of Contadero and the Municipality of Gualmatán; on the south with the Ipiales Reservation, Municipality of Ipiales; East with the Gran Tescual Council, Municipality of Puerres, the Córdoba Reservation, Municipality of Córdoba, Museses Potosí Reservation, Municipality of Potosí.

It has a population of 4,656 inhabitants who inhabit an area of 575 ha. and is made up by the counties of Loma de Zuras, Camellones, Laguna de Bacca and the San Juan populated center and its El Boqueron sectors, El Rosal and Quenguanes sectors.

The San Juan Reservation has colonial title 319 of May 13, 1961 of small indigenous council of the partiality of San Juan. Notaria One of Ipiales- Nariño, in terms of Reservation territory legality; the communities are also protected and by the National Constitution, the laws and regulations within the Republican State as part of the Colombian nation, who have defined, economic, social, cultural, territorial and communicational political structures.

Collective lands are considered those that serve the community, the family and individual persons, as affirmed by the community in the social mapping workshops. But in any case, Article 21 of Decree 2164 of 1995 in its legal nature, states that "Indigenous reservations are collectively owned by indigenous communities in favor of which are constituted and in keeping with Articles 63 and 329 of the Political Constitution they have the inalienable, indefeasible and nontransferable nature". This implies that indigenous communities and their councils exercise full authority, autonomy and jurisdiction in their territories, since the Constitution, laws and regulations so consider it. Therefore, in said article, its second paragraph defines that "Reservations are a legal and socio-political institution of a special nature, consisting of one or more indigenous communities, with a collective property title deed enjoying the guarantees of private property, with their own territory and are governed for management thereof and their inner life by an autonomous organization covered by the indigenous courts and their own regulatory system." For the specific case of the of San Juan Reservation, in addition to aforementioned regulations, this territory is legally covered and protected by colonial Deed 528 of February 12, 1906 and notarized by Deed 319 of May 13, 1961 at Notaria One from Ipiales.



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The San Juan Reservation has lots where educational, recreational, community, religious, industrial and reserve institutions are built, which are collective Reservation lands.

2.6. Colonial de Ipiales Indigenous Reservation

According to the review of secondary sources, Ipiales was founded on January 01, 1539. The first settlers, "the Protopastos, inhabited the interandino alley region on the Túquerres and Ipiales plateau in the Republic of Colombia and the province of Carchi in Ecuador about 1,000 years ago " (Ipiales Town Hall, 2016). 28% of the population living in Ipiales is self-recognized as belonging to an indigenous community, 0.2% are Afro-descendants.(DANE, 2010). There are four indigenous reserves in the municipality, 3 of the los Pastures ethnicity, (Ipiales, San Juan, Yaramal) and 1 of the Kofán (Santa Rosa de Sucumbíos) ethnic group, constituted by INCORA. (Municipal Town Hall of Ipiales, 2012)

On 21 January 2016 the Concesionaria Vial Unión del Sur, request certification on the presence of ethnic communities in FUs 1.1 and 1.2. at the offices of the Prior Consultation Direction of the Ministry of the Interior. Faced with no response from the Ministry of the Interior the Concesionaria Vial Unión del Sur files a right of petition with the request for certification of indigenous communities for FU 2sub-span on March 11, 2016; the Ministry of Interior via Resolution 264 of March 28, 2016 determined the presence of Colonial de Ipiales Indigenous Reservation, Los Pastos ethnicity.

Since the project had some phase II to phase III design changes given the history, a single certification is requested to include the areas which were FU 1.1 and 1.2. Besides the additional areas, in order to maintain certificate 264 of March 28, 2016 valid and the presence of the Colonial de Ipiales Indigenous Reservation covered in a single certification.

On April 12, 2016 the Concesionaria Vial Unión del Sur requests commencement of the Prior Consultation to the PCD of the Ministry of the Interior. On May 9, 2016 the Indigenous Reservation submits a communication cancelling workshops, social and property profile and any activity related to the Rumichaca - Pasto 4G Concession Project Under APP Scheme No. 15 of September 11 2015. Given the aforesaid, on May 31, 2016 the Concesionaria informs the ANI Project Manager that the Ipiales Indigenous Reservation community will not allow applying the information gathering sheets until they know the final project route.

The Prior Consultation Direction of the Ministry of the Interior convened several meetings to develop the pre-consultation stage and Prior Consultation Process installation with the Ipiales Indigenous Reservation on August 10, 2016 (first meeting), September 14, 2016 (second meeting); December 16, 2016 (third meeting), January 18, 2017 (fourth meeting); February 23, 2016 (fifth meeting); June 8, 2017 (sixth meeting); June 28, 2017 (seventh meeting), August 9, 2017 (eighth meeting), August 18, 2017 (ninth meeting), October 6, 2017 (tenth meeting) and November 18, 2017 (eleventh meeting) all meetings were accompanied by the ANI and the ANI technical audit where the Reservation ratifies their position of not commencing the Prior Consultation Process until the ANI does not define the toll situation, reason why the meetings did not have positive results.

Given previous meetings, on November 18, 2017 (eleventh meeting convened by the Ministry of the Interior to develop the Pre-consultation and prior consultation commencement process), the Ministry of the Interior "concludes the consultation stage given the unshakable position of the parties" stressing that all dialogue spaces were provided to ensure the effective and timely participation of ethnic communities. (...) to also consider that the project is of national interest. The Concesionaria highlights having generated all dialogue and participation spaces within the Prior Consultation framework with the Ministry of the Interior as guarantor.



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3. Compliance with Performance Standard No.7 Indigenous Peoples of the International Finance Corporation IFC, the Applicable Colombian Law to Prior Consultation and compliance of the Concesionaria Vial Unión del Sur in the framework of prior consultation processes executed with Indigenous communities present in the area of influence of the project

3.1. Montaña de Fuego Indigenous Community

IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Legislation	CVUS compliance – Montaña de Fuego Indigenous Council
Performance Standard 7: Indigenous Peoples	<ul style="list-style-type: none"> Avoid adverse impacts 	<p>Presidential Directive 10 of 2013, stage 4, analysis and identification of impacts and development of management measures meeting and agreements formulation meeting.</p> <p>The aforesaid following criteria of ILO Convention 169</p>	<p>The CVUS ensured by developing the Prior Consultation processes the fundamental right that ethnic communities have to be consulted by implementation of the road project.</p> <p>In the Prior Consultation process with the Montaña de Fuego Indigenous Council, the community and the company jointly identified on April 30, 2017, the impacts generated by the road project in their territory, which were embodied in the impact identification matrix and management measures are also jointly formulated.</p>
	<ul style="list-style-type: none"> Participation and consent 	<p>Presidential Directive 10 of 2013, Stage 3 Pre-Consultation, the methodological route is defined in agreement with the community and the company; Stage 4 analysis and identification of impacts and development of management measures meeting, to continue with the agreements formulation meeting.</p> <p>The aforesaid following criteria of ILO Convention 169</p>	<p>In the pre-consultation meeting on October 26, 2016, the Concesionaria Vial Unión del Sur socialized the project to the ethnic community concerting the methodological route of the prior consultation process, according to the dynamics of both parties.</p> <p>The following was carried out during development of the methodological route:</p> <ul style="list-style-type: none"> Ethnic community characterization <p>As part of the characterization of the indigenous community, trips, meetings, participatory workshops, alignments, among others, were carried out with community Council participation, who were active participants in all embedded Consultation Process activities, thus granting their right to participation.</p> <p>These internal workshops were the mechanism to develop characterization and data gathering for the community baseline needed to identify impacts and subsequent consultation with management measures.</p>





IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Legislation	CVUS compliance – Montaña de Fuego Indigenous Council
			<p>The stages in the methodological route were also developed in official spaces according to Presidential Directive 10 of 2013, stage 4, led by the Ministry of the Interior as process guarantor.</p> <p>December 6, 2016, March 1 and 2, 2017 field trip to the road layout and the community and company territory.</p> <p>February 25, 2017 flora, fauna identification workshop with ethnic approach.</p> <p>March 4, 2017 social mapping workshop with the community.</p> <p>December 10, 2016, April 27 and 28, 2017, impact identification and formulation of management measures pre-workshop.</p> <p>In this manner the Concessionary complied with the Colombian law and the participation and consent requirement of the IFC Performance Standard.</p>
	<ul style="list-style-type: none"> • Circumstances requiring prior, free and informed consent: "Impacts on lands and natural resources subject to traditional property regime or under customary use" 	<p>Ruling T-550 of 2015: Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with the implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities</p> <p>Directive 001 of 2010: <i>Programs for exploration or</i></p>	<p>According to Directive 10, stage 4, to note that some projects require obtaining the free, prior and informed consent, according to constitutional jurisprudence, these cases are:</p> <ol style="list-style-type: none"> a) when the intervention involves the removal or displacement of communities. b) when the intervention is related to storage or dumping of toxic waste in ethnic lands c) when the intervention represents a high social, cultural and environmental impact on an ethnic community, involving jeopardizing its existence. <p>The aforesaid does not apply to communities present in the AID.</p> <p>Once the methodological route was agreed to during the Pre-consultation meeting convened by the Ministry of</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Legislation	CVUS compliance – Montaña de Fuego Indigenous Council
		<p><i>exploitation of natural resources in their territories.</i></p>	<p>the Interior (October 16, 2016), development of activities proceeded for the information gathering and socio-cultural territory characterization phase; internal workshops, meetings, pre-workshops and trips between the community and the company were made; the trips in the territory of the project layout allowed identifying natural resources that will be affected by the development.</p> <p>On December 6, 2016, March 1 and 2, 2017 field trips were made to the road layout and over the community and company territory</p> <p>On January 31, February 21 and 24, 2017 field trips to identify sacred sites and of archaeological interest for the community</p> <p>The aforesaid was considered in the management measures agreed to between the community and the company covering the impacts caused by the project on the natural resources of the territory</p>
	<p>Circumstances requiring free, prior and informed consent: <i>Relocation of indigenous peoples from their lands and natural resources subject to traditional ownership regime or under customary use</i></p>	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with the implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain the prior, free and informed consent from ethnic communities</i></p> <p>Directive 001 of 2010: <i>synthesizes and incorporates the guidelines expressed by</i></p>	<p>This particular aspect does not apply to the project</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Legislation	CVUS compliance – Montaña de Fuego Indigenous Council
		<p><i>the Constitutional Court through its extensive jurisprudence, related to Decisions on land alienation or transfer of their land rights in the event that implementation of national provisions could somehow hinder collective titling processes, expansion or land reclamation.</i></p>	
	<p>Circumstances that require free, prior and informed consent: <i>Critical cultural heritage</i></p>	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the formulation of agreements meeting. The aforesaid following criteria of Convention 169</p>	<p>During the Prior Consultation process with the Montaña de Fuego Indigenous Council, on April 30, 2017 the community and the company jointly identified the environmental, social, economic and cultural impacts generated by road project in their territory which were set out in the impact identification matrix; the management measures were also jointly formulated.</p> <p>During the data gathering process for the socio-cultural characterization, internal workshops, meetings, pre-workshops and trips were carried out between the community and the company; the trips in the project layout territory allowed identifying general project aspects and possible territory effects</p> <p>On December 6, 2016, March 1 and 2, 2017 field trips were made to the road layout and over the community and company territory</p> <p>On January 31, February 21 and 24, 2017 field trips to identify sacred sites and of archaeological interest for the community</p>
	<ul style="list-style-type: none"> Mitigation and development benefits 	<p>2013 Presidential Directive 10, step 4, analysis and identification of impacts and development of management measures meeting, to continue with the formulation of</p>	<p>During the impact identification and formulation of management measures meeting (April 30, 2017), management measures for identified impacts that the project can generate on their territory were established with the community. Cultural and spiritual impacts were identified and were offset by projects proposed and agreed to by the communities during the Agreements</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Legislation	CVUS compliance – Montaña de Fuego Indigenous Council
		<p>agreements meeting. Stage 5 Monitoring of agreements</p> <p>The aforesaid following criteria of Convention 169 (Article 6)</p>	<p>(May 24, 2017) and Notarization (May 29, 2017) stages.</p>
	<ul style="list-style-type: none"> Private sector responsibility 	<p>Presidential Directive 10 of 2013, complying with the meeting requested by the Ministry of the Interior under the Process</p> <p>Colombian Constitution of 1991 Article 07: <i>"The State recognizes and protects the ethnic and cultural diversity of the Colombian nation"</i></p> <p>Art. 330: <i>Paragraph: Exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of indigenous communities. In decisions taken in respect of such exploitation, the government will encourage participation of community representatives</i></p>	<p>The Ministry of the Interior is the organization that on behalf of the Colombian State guarantees the rights of ethnic communities in the development of Prior Consultation processes; this is the Guarantor entity between the Communities and the companies wishing to develop projects in areas with presence of differential communities.</p> <p>The CVUS with the Montaña de Fuego indigenous council met consultation guidelines, promoting community participation in all convened spaces.</p>



3.2. Catambuco Council Indigenous Community

IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Catambuco Council Indigenous Community
Performance Standard 7: Indigenous Peoples	<ul style="list-style-type: none"> Avoid adverse impacts 	<p>Presidential Directive 10 of 2013, stage 4, analysis and identification of impacts and development of management measures meeting and agreements formulation meeting.</p> <p>The aforesaid according to criteria of Convention 169</p>	<p>By developing the prior consultation process, the CVUS ensured the fundamental right that the ethnic community has to be consulted by implementation of the road project.</p> <p>During the Prior Consultation process with the Catambuco Indigenous Council, on May 7, 2017, the community and the company jointly identified the impacts that the road project would generate in their territory, which were set out in the impact identification matrix as well as formulating joint management measures.</p>
	<ul style="list-style-type: none"> Participation and consent 	<p>Presidential Directive 10 of 2013, Stage 3 Pre-consultation, the community and company concerted methodological route is defined; stage 4 analysis and identification of impacts and development of management measures meeting, to continue with the agreements formulation meeting.</p> <p>The aforesaid according to criteria of Convention 169</p>	<p>In the pre-consultation meeting on 11 November 2016, the community and the company agreed on the methodological route, according to the dynamics of both parties, the project was presented.</p> <p>During development of the methodological route the following was carried out:</p> <ul style="list-style-type: none"> Ethnic community characterization <p>As part of the characterization of the indigenous community, trips, meetings, participatory workshops, alignments, among others were carried out with community council participation, who were active participants in all Consultation Process embedded activities, thus giving these communities the right to participation.</p> <p>Internal workshops to develop community characterization and baseline data gathering needed to identify impacts and subsequent agreement on management measures. The stages considered in the methodological route were also developed in official spaces according to Presidential Directive 10 of 2013, stage 4, led by the Ministry of the Interior as guarantor of the</p>





NIT 900.880.846-3



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Catambuco Council Indigenous Community
			<p>process.</p> <p>On December 5, 2016 and March 3, 2017 field trips were made to the road layout and over the community and company territory</p> <p>On December 7, 2017 social mapping workshop with the community.</p> <p>On March 8, 2017 flora and fauna identification workshop with an ethnic approach</p> <p>On April 18 and 22, 2017, impact identification and formulation of management measures pre-workshop.</p> <p>Thus the Concesionaria complied with Colombian law and the participation and consent requirement of the IFC Performance Standard.</p>
	<ul style="list-style-type: none"> • Circumstances requiring prior, free and informed consent: "Impacts on lands and natural resources subject to traditional property regime or under customary use" 	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities</i></p> <p>Directive 001 of 2010: <i>Programs for the exploration or exploitation of natural resources in their territories.</i></p>	<p>According to Directive 10, stage 4, to note that some projects require the free, prior and informed consent; according to constitutional jurisprudence these cases are:</p> <ol style="list-style-type: none"> a) when the intervention involves the removal or displacement of communities. b) when the intervention is related to storage or dumping of toxic waste in ethnic lands. c) when the intervention represents a high social, cultural and environmental impact on an ethnic community, which involves jeopardizing their existence. <p>The aforesaid does not apply to communities present in the AID</p> <p>Once the methodological route was agreed to during the Pre-consultation meeting convened by the Ministry of the Interior (November 11, 2016),</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Catambuco Council Indigenous Community
			<p>development of activities proceeded for the information gathering and socio-cultural territory characterization phase; internal workshops, meetings, pre-workshops and trips between the community and the company were made; the trips in the territory of the project layout allowed identifying natural resources that will be affected by the development.</p> <p>On December 5, 2016 and March 3, 2017 field trips were made to the road layout and over the community and company territory</p> <p>From February 28, 2017 to March 2, several trips were made to identify and characterize the socio-cultural and archaeological biotic components.</p> <p>The aforesaid was considered in the management measures agreed to between the community and the company covering the impacts caused by the project on the natural resources of the territory</p>
	<p>Circumstances requiring free, prior and informed consent: relocation of indigenous peoples from their lands and natural resources subject to traditional ownership regime or under customary use</p>	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities</i></p> <p>Directive 001 of 2010: <i>Synthesizes and incorporates the guidelines expressed by the Constitutional Court through its extensive jurisprudence related to decisions on land alienation or transfer of their land rights in the event that</i></p>	<p>This particular aspect Does Not apply to the project</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Catambuco Council Indigenous Community
		<p>implementation of national provisions could somehow hinder collective titling processes, expansion or land reclamation.</p>	
	<p>Circumstances requiring free, prior and informed consent: <i>Critical cultural heritage</i></p>	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting and agreements formulation meeting. The aforesaid according to criteria of ILO Convention 169</p>	<p>During the Prior Consultation process with the Catambuco Indigenous Council, on May 7, 2017, the community and the company jointly identified the environmental, social, economic and cultural impacts that the road project would generate in their territory, which were set out in the impact identification matrix as well as formulating joint management measures.</p> <p>During the data gathering process for the socio-cultural characterization, internal workshops, meetings, pre-workshops and trips between the community and company were made; the trips made in the territory of the project layout allowed identifying general project aspects and possible territory effects.</p> <p>On December 5, 2016 and March 3, 2017 field trips were made to the road layout and over the community and company territory.</p> <p>From February 28, 2017 to March 2, several trips were made to identify and characterize the socio-cultural and archaeological biotic components.</p>
	<ul style="list-style-type: none"> Mitigation and development benefits 	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting and agreements formulation meeting. Stage 5 Monitoring of agreements</p> <p>The aforesaid according to criteria of ILO Convention 169</p>	<p>During the impact identification and formulation of management measures meeting (May 7, 2017), management measures for identified impacts generated by the project on their territory were established with the community. Cultural and spiritual impacts were identified that are offset by projects proposed by the communities and agreed to in the Agreements (May 30, 2017) and Notarizing (May 31, 2017) stages.</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Catambuco Council Indigenous Community
	<ul style="list-style-type: none"> Private sector responsibility 	<p>Presidential Directive 10 of 2013, complying with the meeting requested by the Ministry of the Interior under the Process</p> <p>Colombian Constitution 1991 Article 07: "<i>The State recognizes and protects the ethnic and cultural diversity of the Colombian nation</i>"</p> <p>Art. 330: Paragraph: The exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of indigenous communities. Decisions taken in respect of such exploitation, the government will encourage the participation of community representatives</p>	<p>The Ministry of the Interior is the organization that on behalf of the Colombian State guarantees the rights of ethnic communities in the development of Prior Consultation processes; this is the Guarantor entity between the Communities and the companies wishing to develop projects in areas with presence of differential communities.</p> <p>The CVUS with the Catambuco indigenous council met consultation guidelines, promoting community participation in all convened spaces.</p>

3.3. Iles Indigenous Reservation

IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community
Performance Standard 7: Indigenous Peoples	<ul style="list-style-type: none"> Avoid adverse impacts 	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting and agreements formulation meeting.</p> <p>The aforesaid according to criteria of ILO Convention 169</p>	<p>The CVUS ensured by developing the prior consultation process, the fundamental right that the ethnic community has to be consulted by implementing the road project.</p> <p>During the Prior Consultation process with the Iles Indigenous Reservation, on September 23, 2017, the community and the company jointly identified the impacts that the road project would generate in their territory, which were set out in the impact identification matrix as well as formulating joint management measures.</p>
	<ul style="list-style-type: none"> Participation and Consent 	<p>Presidential Directive 10 of 2013, Stage 3 Pre-consultation, the community and company concerted methodological route is defined; stage 4 analysis and identification of impacts and development of management measures meeting, to continue with the agreements formulation meeting.</p> <p>The aforesaid according to criteria of Convention 169</p>	<p>In the pre-consultation meeting on June 6, 2017, the community and the company agreed on the methodological route, according to the dynamics of both sides, the project was presented.</p> <p>During development of the methodological route the following was carried out:</p> <ul style="list-style-type: none"> Ethnic community characterization <p>As part of the characterization of the indigenous community, trips, meetings, participatory workshops, alignments, among others, were carried out with community Council participation, who were active participants in all embedded Consultation Process activities, thus granting their right to participation.</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community
			<p>These internal workshops were the mechanism to develop characterization and data gathering for the community baseline needed to identify impacts and subsequent consultation with management. The methodological route stages were also developed in official spaces according to Presidential Directive 10 of 2013, stage 4, led by the Ministry of the Interior as process guarantor.</p> <p>On July 6, 2017, July 7, 2017, July 13, 2017 and September 14, 2017 field trips on the road layout and over the community and company territory were made.</p> <p>July 19, 20 and 21, 2017 social mapping with the community workshop.</p> <p>On October 13, 2017 flora, fauna identification workshop with the ethnic approach</p> <p>September 13, 14 and 17, 2017, impact identification and formulation of management measures pre-workshop.</p> <p>Thus the Concesionaria complied with Colombian law and the participation and consent requirement under the IFC Performance Standard.</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community
	<ul style="list-style-type: none"> • Circumstances requiring prior, free and informed consent: "Impacts on lands and natural resources subject to traditional property regime or under customary use" 	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities</i></p> <p>Directive 001 of 2010: <i>Programs for the exploration or exploitation of natural resources in their territories.</i></p>	<p>According to Directive 10, stage 4, to note that some projects require the free, prior and informed consent; according to constitutional jurisprudence these cases are:</p> <p>a) when the intervention involves the removal or displacement of communities.</p> <p>b) when the intervention is related to storage or dumping of toxic waste in ethnic lands.</p> <p>c) when the intervention represents a high social, cultural and environmental impact on an ethnic community, which involves jeopardizing their existence.</p> <p>The aforesaid does not apply to communities present in the AID</p> <p>Once the methodological route was agreed to during the Pre-consultation meeting convened by the Ministry of the Interior (June 6, 2016), development of activities proceeded for the information gathering and socio-cultural territory characterization phase; internal workshops, meetings, pre-workshops and trips between the community and the company were made; the trips in the territory of the project layout allowed identifying natural resources that will be affected by the development.</p> <p>On July 6, 2017, July 7, 2017, July</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community
			<p>13, 2017 and September 14, 2017 field trips on the route of the road and over the community and company territory were made.</p> <p>The aforesaid was considered in the management measures agreed to between the community and the company covering the impacts caused by the project on the natural resources of the territory</p>
	<p>Circumstances that require free, prior and informed consent: relocation of indigenous peoples from their lands and natural resources subject to traditional ownership regime or under customary use</p>	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities.</i></p> <p>Directive 001 of 2010: <i>Synthesizes and incorporates the guidelines expressed by the Constitutional Court through its extensive jurisprudence related to decisions on land alienation or transfer of their land rights in the event that implementation of national provisions could somehow hinder collective titling processes, expansion or land</i></p>	<p>This particular aspect Does Not apply to the project</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community
	<p>Circumstances requiring free, prior and informed consent: <i>Critical cultural heritage</i></p>	<p><i>reclamation.</i></p> <p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting.</p> <p>The aforesaid according to criteria of ILO Convention 169</p>	<p>During the Prior Consultation process with the Iles Indigenous Council, on September 23, 2017, the community and the company jointly identified the environmental, social, economic and cultural impacts that the road project would generate in their territory, which were set out in the impact identification matrix as well as formulating joint management measures.</p> <p>During the data gathering process for the socio-cultural characterization, internal workshops, meetings, pre-workshops and trips between the community and company were made; the trips made in the territory of the project layout allowed identifying general project aspects and possible territory effects.</p> <p>On July 6, 2017, July 7, 2017, July 13, 2017 and September 14, 2017 field trips on the road layout and over the community and company territory were made.</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian law	CVUS Compliance Iles Indigenous Reservation Community
	<ul style="list-style-type: none"> Mitigation and development benefits 	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting. Stage 4 monitoring of agreements.</p> <p>The aforesaid according to criteria of ILO Convention 169</p>	<p>During the impact identification and formulation of management measures meeting (September 23, 2017), management measures for identified impacts generated by the project on their territory were established with the community. Cultural and spiritual impacts were identified that are offset by projects proposed by the communities and agreed to in the Agreements and Notarizing (October 28, 2017) stages.</p>
	<ul style="list-style-type: none"> Private sector responsibility 	<p>Presidential Directive 10 of 2013, complying with the meeting requested by the Ministry of the Interior under the Process</p> <p>Colombian Constitution 1991 Article 07: <i>"The State recognizes and protects the ethnic and cultural diversity of the Colombian nation"</i></p> <p>Art. 330: Paragraph: <i>The exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of indigenous communities. Decisions taken in respect of such exploitation, the government will encourage the participation of community representatives</i></p>	<p>The Ministry of the Interior is the organization that on behalf of the Colombian State guarantees the rights of ethnic communities in the development of Prior Consultation processes; this is the Guarantor entity between the Communities and the companies wishing to develop projects in areas with presence of differential communities.</p> <p>The CVUS with the Iles indigenous council met consultation guidelines, promoting community participation in all convened spaces.</p>



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3.4. Aldea de Maria Indigenous Council

IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS compliance Aldea de Maria Putisnan Indigenous Council
Performance Standard 7: Indigenous Peoples	<ul style="list-style-type: none"> Avoid adverse impacts 	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting.</p> <p>The aforesaid according to criteria of Convention 169</p>	<p>The CVUS ensured by developing the prior consultation process, the fundamental right that the ethnic community has to be consulted by implementing the road project.</p> <p>During the Prior Consultation process with the Aldea de María Putisnan Indigenous Reservation, on October 4, 2017, the community and the company jointly identified the impacts that the road project would generate in their territory, which were set out in the impact identification matrix as well as formulating joint management measures.</p>
	<ul style="list-style-type: none"> Participation and Consent 	<p>Presidential Directive 10 of 2013, Stage 3 Pre-consultation, the community and the company jointly define the methodological route; stage 4 analysis and identification of impacts and development of management measures meeting, to continue with the agreements formulation meeting.</p> <p>The aforesaid according to criteria of ILO Convention 169</p>	<p>In the pre-consultation meeting on June 7, 2017, the Concesionaria Vial Unión del Sur socialized the project with the ethnic community, agreeing on the methodological route of the prior consultation process in keeping with the dynamics of both parties.</p> <p>During development of the methodological route the following was carried out:</p> <ul style="list-style-type: none"> Ethnic community characterization <p>As part of the characterization of the indigenous community, trips, meetings, participatory workshops, alignments, among others, were carried out with community Council participation, who were active participants in all embedded Consultation Process activities, thus granting their right to participation.</p> <p>These internal workshops were the mechanism to develop characterization and data gathering for the community baseline needed to identify impacts and subsequent management measures agreements. The methodological route stages were also developed in official spaces according to Presidential Directive 10 of 2013, stage 4, led by</p>





NIT 900.880.846-3



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS compliance Aldea de Maria Putisnan Indigenous Council
			<p>the Ministry of the Interior as process guarantor.</p> <p>On July 1, 2, 24, 25, 28 and 31, 2017, and August 8, 2017 field trips on the road layout and over the community and company territory were made.</p> <p>July 11, 12 and 26, 2017 social mapping workshop with the community.</p> <p>August 31, 2017 flora, fauna identification workshop with the ethnic approach</p> <p>April 13, 14 and 15, 2017, impact identification and formulation of management measures pre-workshop.</p> <p>Thus the Concesionaria complied with Colombian law and the participation and consent requirement under the IFC Performance Standard.</p>
	<ul style="list-style-type: none"> • Circumstances requiring prior, free and informed consent "Impacts on lands and natural resources subject to traditional property regime or under customary use" 	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities.</i></p> <p>Directive 001 of 2010: <i>Exploration or exploitation programs of natural resources in their territories.</i></p>	<p>According to Directive 10, stage 4, to note that some projects require the free, prior and informed consent; according to constitutional jurisprudence these cases are:</p> <p>a) when the intervention involves the removal or displacement of communities.</p> <p>b) when the intervention is related to storage or dumping of toxic waste in ethnic lands.</p> <p>c) when the intervention represents a high social, cultural and environmental impact on an ethnic community, which involves jeopardizing their existence.</p> <p>The aforesaid does not apply to communities present in the AID</p> <p>Once the methodological route was agreed to during the Pre-consultation meeting convened by the Ministry of the Interior (June 7, 2017), development of activities proceeded for the</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS compliance Aldea de Maria Putisnan Indigenous Council
			<p>information gathering and socio-cultural territory characterization phase; internal workshops, meetings, pre-workshops and trips between the community and the company were made; the trips in the territory of the project layout allowed identifying natural resources that will be affected by the development.</p> <p>On July 1, 2, 24, 25, 28 and 31, 2017 and August 8, 2017 field trips on the road layout and over the community and company territory were made.</p> <p>From July 1 and until August 31, 2017, several trips were made to identify and characterize the biotic, socio-cultural and archeological components.</p> <p>The aforesaid was considered in the management measures agreed to between the community and the company covering the impacts caused by the project on the natural resources of the territory</p>
	<p>Circumstances that require free, prior and informed consent: relocation of indigenous peoples from their lands and natural resources subject to traditional ownership regime or under customary use</p>	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities.</i></p> <p>Directive 001 of 2010: <i>Synthesizes and incorporates the guidelines expressed by the Constitutional Court through its extensive jurisprudence related to decisions on land alienation or transfer of their land rights in the event that implementation of national provisions could somehow hinder</i></p>	<p>This particular aspect Does Not apply to the project</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS compliance Aldea de Maria Putisnan Indigenous Council
		collective titling processes, expansion or land reclamation.	
	Circumstances that require free, prior and informed consent: <i>Critical cultural heritage</i>	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting.</p> <p>The aforesaid according to criteria of ILO Convention 169</p>	<p>During the Prior Consultation process with the Aldea de Maria Putisnan Indigenous Council, on October 4, 2017, the community and the company jointly identified the environmental, social, economic and cultural impacts that the road project would generate in their territory, which were set out in the impact identification matrix as well as formulating joint management measures.</p> <p>During the data gathering process for the socio-cultural characterization, internal workshops, meetings, pre-workshops and trips between the community and company were made; the trips made in the territory of the project layout allowed identifying general project aspects and possible territory effects.</p> <p>July 1, 2, 24, 25, 28 and 31, 2017, and August 8, 2017 field trips on the road layout and over the community and company territory were made.</p> <p>From July 1 and until August 31, 2017, several trips were made to identify and characterize the biotic, socio-cultural and archeological components.</p>
	<ul style="list-style-type: none"> Mitigation and development benefits 	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting. Stage 5 monitoring of agreements</p> <p>The aforesaid according to criteria of Convention 169</p>	<p>During the impact identification and formulation of management measures meeting (October 4, 2017), management measures for identified impacts generated by the project on their territory were established with the community. Cultural and spiritual impacts were identified that are offset by projects proposed by the communities and agreed to in the Agreements and Notarizing (October 27, 2017) stages.</p>
	<ul style="list-style-type: none"> Private sector responsibility 	<p>Presidential Directive 10 of 2013, complying with the meetings requested by the Ministry of the Interior under the Process</p>	<p>The Ministry of the Interior is the organization that on behalf of the Colombian State guarantees the rights of ethnic communities in the development of Prior Consultation processes; this is the</p>



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS compliance Aldea de Maria Putisnan Indigenous Council
		<p>Colombian Constitution of 1991 Article 07: <i>"The State recognizes and protects the ethnic and cultural diversity of the Colombian nation"</i></p> <p>Art. 330: Paragraph: <i>The exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of indigenous communities. Decisions taken in respect of such exploitation, the government will encourage the participation of community representatives</i></p>	<p>Guarantor entity between the Communities and the companies wishing to develop projects in areas with presence of differential communities.</p> <p>The CVUS with the Aldea de María Putisnan indigenous council met consultation guidelines, promoting community participation in all convened spaces.</p>

3.5. San Juan Indigenous Reservation

IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
Performance Standard 7: Indigenous Peoples	<ul style="list-style-type: none"> Avoid adverse impacts 	<p>Presidential Directive 10, 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016</p>	<p>The CVUS ensured by developing the Prior Consultation process, the fundamental right that the ethnic community has to be consulted by implementing the road project.</p> <p>The Prior Consultation process with the San Juan Reservation convened meeting on the following dates: October 17, October 26 and November 17, 2017, the company offered the guarantees for the impact identification and formulation of management measures stage according to agreed methodology route; however, the community did not want to continue with the process.</p>





NIT 900.880.846-3



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
	<ul style="list-style-type: none"> Participation and Consent 	<p>Presidential Directive 10 of 2013, Stage 3 Pre-consultation, the community and the company jointly define the methodological route; stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting.</p> <p>Presidential Directive 10 of 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016</p>	<p>In the pre-consultation meeting on June 10, 2017, the Concesionaria Vial Unión del Sur socialized the project with the ethnic community, agreeing on the methodological route of the prior consultation process in keeping with the dynamics of both parties.</p> <p>During development of the methodological route the following was carried out:</p> <ul style="list-style-type: none"> Ethnic community characterization <p>As part of the characterization of the indigenous community, trips, meetings, participatory workshops, alignments, among others, were carried out with community Council participation, who were active participants in all embedded Consultation Process activities, thus granting their right to participation.</p> <p>These internal workshops were the mechanism to develop characterization and data gathering for the community baseline.</p> <p>July 6, 2017, field trip to the San Juan Reservation Territory.</p> <p>Six (6) social mapping workshops were held in the Reservation territory: Centro Poblado de San Juan: July 28, 2017; Laguna de Bacca: August 1, 2017; Camellones August 2, 2017; Lomas de Zuras August 3, 2017; el Rosal de San Juan August 4, 2017; el Boquerón August 22, 2017.</p> <p>Six (6) abiotic and biotic (flora and fauna) identification workshops were held with ethnic approach in the Colonial de San Juan Indigenous Reservation: Laguna de Bacca</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
			<p>August 8, 2017; Camellones August 9, 2017; Lomas de Zuras August 10, 2017; Centro Poblado de San Juan August 11, 2017 Center; El Rosal de San Juan August 17, 2017; El Boqueron August 28, 2017</p> <p>Between August 30 and September 7, 2017 the archaeological georeferencing, water sources, walkways and lots was performed.</p>
	<ul style="list-style-type: none"> • Circumstances requiring prior, free and informed consent "Impacts on lands and natural resources subject to traditional property regime or under customary use" 	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities.</i></p> <p>Directive 001 of 2010: <i>Programs for the exploration or exploitation of natural resources in their territories.</i></p> <p>Presidential Directive 10, 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016</p>	<p>According to Presidential Directive 10, stage 4 "Prior Consultation", to note that some projects require the free, prior and informed consent; according to constitutional jurisprudence these cases are:</p> <p>a) when the intervention involves the removal or displacement of communities.</p> <p>b) when the intervention is related to storage or dumping of toxic waste in ethnic lands.</p> <p>c) when the intervention represents a high social, cultural and environmental impact on an ethnic community, which involves jeopardizing their existence.</p> <p>For ethnic communities present in the area of influence of the project, aforesaid cases do not apply to the road project.</p> <p>Once the methodological route was agreed to during the Pre-consultation meeting convened by the Ministry of the Interior (June 10, 2017), activities were developed for the information gathering and socio-cultural territory characterization phase; during development of the activities, internal workshops, meetings, pre-workshops and trips between the</p>





IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
			<p>community and the company were made; the trips in the territory of the project layout allowed identifying natural, cultural, spiritual and of community interest resources that will be affected by the development.</p> <p>The Concesionaria and the Reservation Community held six (6) social cartography workshops in the Reservation territory, as follows:</p> <ul style="list-style-type: none"> • Centro Poblado de San Juan: July 28, 2017 • Laguna de Bacca: August 1, 2017 • Camellones August 2, 2017 • Lomas de Zuras August 3, 2017 • El Rosal de San Juan August 4, 2017 • El Boqueron August 22, 2017 <p>Six (6) abiotic and biotic (flora and fauna) identification workshops with ethnic approach were held in the Colonial San Juan Indigenous Reservation:</p> <ul style="list-style-type: none"> • Laguna de Bacca August 8, 2017 • Camellones August 9, 2017 • Lomas de Zuras August 10, 2017 • Centro Poblado de San Juan August 11, 2017 • El Rosal de San Juan August 17, 2017 • El Boqueron August 28, 2017 <p>Between August 30 and September 7, 2017 the Archaeological, water sources, pedestrian streets, cultural and religious interest sites Georeferencing were performed.</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
	<p>Circumstances that require free, prior and informed consent: <i>relocation of indigenous peoples from their lands and natural resources subject to traditional ownership regime or under customary use</i></p>	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and informed consent from ethnic communities.</i></p> <p>Directive 001 of 2010: <i>Synthesizes and incorporates the guidelines expressed by the Constitutional Court through its extensive jurisprudence related to decisions on land alienation or transfer of their land rights in the event that implementation of national provisions could somehow hinder collective titling processes, expansion or land reclamation.</i></p>	<p>Based on the regulations governing Prior Consultation Processes in Colombia, this aspect does not apply to the road project.</p>
	<p>Circumstances requiring free, prior and informed consent: <i>Critical cultural heritage</i></p>	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting. The aforesaid according to criteria of ILO Convention 169</p> <p>Presidential Directive 10, 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p>	<p>During development of information gathering between the Community and the Concesionaria for the socio-cultural characterization process, internal workshops, meetings and trips between the community and the company were conducted in order to know the Reservation territory, its uses and customs and all community cross-cultural dynamics; the trips made in the territory over project layout helped to identify general project aspects and possible territory effects.</p> <p>Between August 30 and September 7, 2017 the Archaeological, water sources, pedestrian streets, cultural and religious interest sites Georeferencing were performed.</p> <p>On July 6, 2017 a field trip was conducted in the San Juan Reservation Territory to continue identifying sensitive areas and</p>



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NIT 900.880.846-3



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
		The aforesaid is supported with Ruling T-226 of 2016.	important to the community. Therefore, the Concesionaria guarantees active participation of the community reservation.
	<ul style="list-style-type: none"> Mitigation and development benefits 	<p>Presidential Directive 10, 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016.</p>	<p>The San Juan Indigenous Reservation community stated in internal meetings with the Concesionaria, as well as in three meetings with the Ministry of Interior not wanting to continue the prior consultation process. The process, according to the steps set out in Presidential Directive 10 of 2013, did not meet the stage of identifying impacts and formulating management measures.</p> <p>Therefore, the competent authority will determine management measures, which will be strictly complied by the Concesionaria under the Environmental License.</p>
	<ul style="list-style-type: none"> Private sector responsibility 	<p>Presidential Directive 10 of 2013, complying with the meetings requested by the Ministry of the Interior under the Process</p> <p>Colombian Constitution of 1991 Article 07: <i>"The State recognizes and protects the ethnic and cultural diversity of the Colombian nation"</i></p> <p>Art. 330: Paragraph: <i>The exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of indigenous communities. Decisions taken in respect of such exploitation, the government will encourage the participation of community representatives.</i></p>	<p>The Ministry of the Interior is the organization that on behalf of the Colombian State guarantees the rights of ethnic communities in the development of Prior Consultation processes; this is the Guarantor entity between the Communities and the companies wishing to develop projects in areas with presence of differential communities.</p> <p>The CVUS with the San Juan Indigenous Council met guidelines for Prior Consultation development, promoting community participation in all meetings convened by the Ministry of the Interior as well as all developed internally between the</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance San Juan Indigenous Reservation Community
			community and the company.

3.6. Ipiales Indigenous Reservation

IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Ipiales Indigenous Reservation Community
Performance Standards 7: Indigenous Peoples	<ul style="list-style-type: none"> Avoid adverse impacts 	<p>Presidential Directive 10, 2013: "After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</p> <p>The aforesaid is supported with Ruling T-226 of 2016.</p>	<p>The CVUS ensured by the prior Consultation Process development the fundamental right that ethnic communities have to be consulted by the implementation of the road project.</p> <p>The Ministry of the Interior convened the following Prior Consultation meetings with the Ipiales Reservation to develop the pre-consultation and installation of the Prior Consultation Process:</p> <ul style="list-style-type: none"> August 10, 2016 (First pre-consultation and installation meeting) September 14, 2016 (second pre-consultation and installation meeting) December 16, 2016 (third pre-consultation and installation meeting) January 18, 2017 (fourth pre-consultation and installation meeting) February 23, 2016 (fifth pre-consultation and installation meeting) June 8, 2017 (sixth pre-consultation and installation meeting) June 28, 2017 (seventh pre-consultation and installation meeting) August 9, 2017 (eighth pre-consultation and installation meeting) August 18, 2017 (ninth meeting of pre-consultation and installation) October 6, 2017 (tenth pre-consultation and installation meeting) November 18, 2017 (eleventh pre-





IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Ipiales Indigenous Reservation Community
			<p>consultation and installation meeting)</p> <p>La company, through ongoing contacts, was always available to the community to publicize the project and arrange a Methodological Route to develop the Prior Consultation.</p>
	<ul style="list-style-type: none"> Participation and Consent 	<p>Presidential Directive 10 of 2013, Stage 3 Pre-consultation, the community and the company jointly define the methodological route; stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting.</p> <p>Presidential Directive 10 of 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016</p>	<p>The CVUS ensured the fundamental right of the Ipiales Indigenous Reservation to be consulted on development of the double lane road project; however, the community stated not wanting the Pre-consultation and installation of the Prior Consultation Process stage.</p> <p>On August 18, 2016 the Concesionaria together with the technical audit held a meeting to present the project to the Community, with trips conducted throughout the road layout which included the Ipiales Reservation territory.</p>
	<ul style="list-style-type: none"> Circumstances requiring prior, free and informed consent: <i>"Impacts on lands and natural resources subject to traditional property regime or under customary use"</i> 	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain prior, free and</i></p>	<p>The CVUS ensured the fundamental right of the Ipiales Indigenous Reservation to be consulted on development of the double lane road project; however, the community stated not wanting the Pre-consultation and installation of the Prior Consultation Process stage.</p> <p>On August 18, 2016 the Concesionaria</p>



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NIT 900.880.846-3



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Ipiales Indigenous Reservation Community
		<p><i>informed consent from ethnic communities.</i></p> <p>Directive 001 of 2010: <i>Programs for the exploration or exploitation of natural resources in their territories.</i></p> <p>Presidential Directive 10 of 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016</p>	<p>together with the technical audit held a meeting to present the project to the Community, with trips conducted throughout the road layout which included the Ipiales Reservation territory.</p>
	<p>Circumstances that require free, prior and informed consent: <i>relocation of indigenous peoples from their lands and natural resources subject to traditional ownership regime or under customary use</i></p>	<p>Ruling T-550 of 2015: <i>Right to Prior Consultation of ethnic communities, rights of individuals, families and communities affected by relocation processes associated with the implementation of development projects, indigenous communities and ethnic groups, prohibition of forced evictions and the obligation to obtain the prior, free and informed consent from ethnic communities</i></p> <p>Directive 001 of 2010: <i>synthesizes and incorporates the guidelines expressed by the Constitutional Court through its extensive jurisprudence, related to Decisions on land alienation or transfer of their land rights in the event that implementation of national provisions could somehow hinder collective titling processes, expansion or land</i></p>	<p>Based on the regulations governing Prior Consultation Processes in Colombia, this aspect does not apply to the road project.</p>



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IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Ipiales Indigenous Reservation Community
		reclamation.	
	<p>Circumstances that require free, prior and informed consent: Critical cultural heritage</p>	<p>Presidential Directive 10 of 2013, stage 4 analysis and identification of impacts and development of management measures meeting to continue with the agreements formulation meeting. The aforesaid according to criteria of Convention 169.</p> <p>Presidential Directive 10 of 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p> <p>The aforesaid is supported with Ruling T-226 of 2016.</p>	<p>The CVUS ensured the fundamental right of the ethnic community to be consulted on development of the road project; however, the community stated not wanting the Pre-consultation and installation of the Prior Consultation Process stage.</p> <p>On August 18, 2016 the Concesionaria together with the technical audit held a meeting to present the project to the Community, with trips conducted throughout the road layout which included the Ipiales Reservation territory.</p>
	<ul style="list-style-type: none"> Mitigation and development benefits 	<p>Presidential Directive 10 of 2013: <i>"After several attempts to convene and if the representatives of the community involved were actually notified more than once and did not justify inability to attend or never responded, the DCP may consider the consultation process terminated. For such end, the DCP convened a meeting with the Public Ministry, invited the ICANH and relevant entities within the scope of the project where possible impacts were informed to allow competent authority the construction of the proportionality test that would support its final decision."</i></p>	<p>The Pre-consultation, impact identification and formulation of management measures and notarization stage has not been met.</p>



IFC Performance Standard	IFC requirements	Prior Consultation Applicable Colombian Law	CVUS Compliance Ipiales Indigenous Reservation Community
		The aforesaid is supported with Ruling T-226 of 2016.	
	<ul style="list-style-type: none"> Private sector responsibility 	<p>Presidential Directive 10 of 2013, complying with the meetings requested by the Ministry of the Interior under the Process</p> <p>Colombian Constitution of 1991 Article 07: <i>"The State recognizes and protects the ethnic and cultural diversity of the Colombian nation"</i></p> <p>Art. 330: Paragraph: <i>The exploitation of natural resources in indigenous territories shall be without prejudice to the cultural, social and economic integrity of indigenous communities. Decisions taken in respect of such exploitation, the government will encourage the participation of community representatives.</i></p>	<p>The Ministry of the Interior is the organization that on behalf of the Colombian State guarantees the rights of ethnic communities in the development of Prior Consultation processes; this is the Guarantor entity between the Communities and the companies wishing to develop projects in areas with presence of differential communities.</p> <p>The CVUS with the Ipiales Indigenous Reservation met the consultation guidelines, promoting community participation in all meetings convened by the Ministry of the Interior: also, through relationship meetings the Ministry invited the community to participate in the Prior Consultation Process, as a mechanism the differential communities have to guarantee their fundamental rights.</p>

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