

SEDENER - ENI interview 2021



1. Brief introduction to Secretary Sheila Guadalupe Cadena Nieto and the role of the Ministry of Energy Development (SEDENER) in energy and social issues.

Sheila Guadalupe Cadena Nieto holds a law degree from the Universidad Autónoma de Guadalajara (UAG.) She has worked in the legal department of Petróleos Mexicanos (PEMEX) and served as General Coordinator of the Institute of Sport and Youth of Tabasco (INJUDET,) and is currently a licensed Local Deputy with the LXIII Legislature of the State Congress. On 1st November 2020, the Constitutional Governor of Tabasco, Mr Adán Augusto López Hernández, appointed her as the first woman to assume the role of the body's Secretary for Energy Development, which also made her the youngest in the Cabinet.

It is, first and foremost, of the utmost importance to recognise that the Secretariat for Energy Development (hereafter referred to as the SEDENER) was created in the framework of the current 2019-2024 State Administration as the agency responsible for State energy matters, given the dominant role that such matters play in the entity's economic growth.

In accordance with the Organic Law of the Executive Power of the State of Tabasco, it is the responsibility of the latter to promote the implementation of strategic energy development projects among the competent federal authorities, regulatory bodies and State productive enterprises through the creation of legal instruments and partnership mechanisms that help attract both public and private investment in order to guarantee energy development in the hydrocarbon, petroleum, petrochemical, electricity and renewable energy fields.

This comes in addition to assisting, participating in and supporting investment projects and energy infrastructure and services in their various forms, in conjunction with the federal government, State productive enterprises and the private sector, in accordance with the provisions of Article 27 of the Political Constitution of the United Mexican States and the applicable legal, administrative and regulatory provisions.

Finally, it is the responsibility of the SEDENER to collaborate with the Federal Electricity Commission and the competent authorities to ensure that electricity is supplied in sufficient quality and quantities and at affordable prices for the benefit of the population and the development of Tabasco.

All of the above, taking into consideration respect for the human rights of the population covered by the body, seeks to develop sustainable energy resources, demonstrating commitment and social responsibility, and promote the efficient and rational use of resources.

This being the case, with regard to social matters, it is responsible for encouraging both the population and the productive sectors to save energy through the efficient and sustainable use thereof. The Ministry of Energy is also responsible for undertaking and coordinating efforts in conjunction with the sector and promoting a harmonious balance between oil and electrification activities and other productive activities on the part of the State with a view to improving social, economic and environmental conditions in oil-producing areas.

Likewise, it is entrusted with the task of promoting alternative energy programmes to provide energy to isolated or dispersed communities that are unable to rely on traditional energy services, as well as managing compensation for damage to productive and other areas caused by oil, electrification and hydraulic activities, encouraging the social participation of the populations of the areas concerned in order to promote the strengthening of productive systems and the improvement of the ecological environment and to improve the quality of the basic services required by these communities.

2. What does the regulatory framework in Mexico state with regard to the social impact assessment that companies must carry out for industrial projects in the country, also taking into account the recent opening up of the energy sector to international operators?

The Hydrocarbon Law, published in the Official Journal of the Federation on 11th August 2014 and last amended on 6th November 2020, includes a chapter entitled 'The social impact' within the fourth title of the provisions applicable to the hydrocarbons industry.

This states that public and private sector infrastructure projects in the hydrocarbons industry must comply with the principles of sustainability and respect for the human rights of the communities and peoples of the regions in which they are to be implemented.

Likewise, Article 119 of this legislation states that prior to the granting of any allocation or the issuing of a call for bids for an exploration and extraction contract, the Ministry of Energy, in conjunction with the Ministry of the Interior and other competent agencies and entities, shall conduct a social impact study of the area that is the object of the allocation or contract in question. With this in mind, the results of the study will be made available to the recipient and to participants in the bidding processes for exploration and extraction contracts, subject to the provisions regarding transparency, access to public information and personal data protection.

The Ministry of Energy shall inform recipients or contractors of the presence of vulnerable social groups in the areas in which the activities covered by the allocation or contract in question will be carried out so that the necessary steps can be taken to safeguard their rights. Furthermore, it must carry out the necessary free, prior, and informed consultation processes and any other activities required to safeguard them, in conjunction with the Ministry of the Interior and the relevant agencies.

The Ministry of Energy, with the prior opinion of the Ministry of Finance and Public Credit, may set out in the allocations, as well as within the terms and conditions established for bids, the corresponding amounts that the contractor or recipient must allocate for the human and sustainable development of the communities or localities in which they carry out their activities, in terms of health, education and labour, among other factors and the rules for determining the latter, without detriment to the State's obligations.

It is important to add that Article 121 states that those interested in obtaining a permit or authorization to develop hydrocarbon projects, as well as recipients and contractors, must submit to the Ministry of Energy a social impact assessment that must include an identification, characterisation, prediction and assessment of the social impacts that could result from their activities, as well as the corresponding mitigation measures and social management plans. The Ministry of Energy will issue the appropriate resolution and recommendations.

In the particular case of Tabasco, Article 19 of the Internal Regulations of the Secretariat for Energy Development states that community development mechanisms aimed at communities located in areas in which energy sector activities are taking place must be promoted through collaboration between the three levels of government and social sector institutions, undertaking concerted actions to achieve a harmonious relationship between communities, companies in the energy sector and the government, resulting in better social, economic and environmental conditions.

It is also up to the Secretariat to determine the necessary actions to prevent and repair the impact of energy activities, using mediation and conciliation as conflict resolution mechanisms.

3. What are the main issues that need to be addressed, based on your experience in this position?

Firstly, it is important to take into account that for half a century now, that is, since the 1970s, the role the energy industry has played within the State has been fundamental to its social development and economic growth; the exploration and exploitation of major deposits at that time gave way to the so-called 'black gold rush' and what was known as the 'oil boom', which led to the arrival of capital and labour, meaning that the public services, housing, security and entertainment offerings had to be increased. However, it also resulted in the deterioration of the ecological balance due to the high dependency on oil resources and the decrease in agricultural production.

This is why the high and very high levels of marginalisation that currently exist in various regions of Tabasco must be addressed, as well as the efficient use of energy in an area in which temperatures affect the lifestyle of the population, the redressing of the effects of the energy sector and the training of human resources for the sector.

In this respect, the challenge we face is the paradigm shift from viewing energy as a flow or tool to satisfy immediate needs to looking at it in terms of its potential, which allows us to consider it as a part of nature, and, in turn, as a legacy and a right. This idea views energy as a tool that helps improve people's quality of life within a framework of rights that are also in keeping with the rights of nature.

This stance undermines the idea of an infinite increase in the amount of energy used and instead places the focus on equitable distribution.

4. The issue of respect for human rights by businesses is becoming increasingly important in the ongoing debate on the role of business in society and the just transition. What is your view? Do companies have a role to play here?

In my view, social science and the business sector have become increasingly committed to generating knowledge about the role of businesses in society and in the enjoyment of human rights. This being the case, concepts such as corporate social responsibility have been strengthened, reinforcing the involvement of companies in initiatives designed to reduce the social divide, inequality and inequity, disseminating civic values and creating initiatives designed to care for the environment. The challenge now, however, is to use technology, science and innovation for these tasks, at a time when programmes and projects need to be brought closer to the population left unprotected and vulnerable as a result of COVID-19.

A just transition is not isolated from a democratising process of transition, meaning that businesses play an important role with regard to respecting human rights, although the need to collectively and democratically build an energy transition process, to which few have access in order to build it, is vital, including in terms of what is now referred to as civic energy.

According to UN-Habitat data, while today barely more than half of the population lives in cities, it is expected that by 2050 over 66% of the population will be urban. The rate of urbanisation in Latin America is even higher, increasing from less than 60% in 1970 to around 80% in 2010 and nearly 90%, it is expected, by 2025. It is important, therefore, to co-develop energy policies and civic spaces that encourage another energy model that is renewable, participatory, inclusive, consistent with existing planetary limits and inequalities and based on a human rights-oriented approach.

- 5. Eni has made a specific commitment in this respect with a Statement approved by the Board of Directors (<https://www.eni.com/en-IT/just-transition/respect-for-human-rights.html>), which it is following up with specific initiatives in the areas in which it implements its projects. In Mexico, and in the state of Tabasco in particular, Eni has conducted a human rights impact analysis with an external consultant, followed by a specific action plan. What suggestions could be made to help the company to further improve human rights coverage in the country?**

An analysis of the both the Human Rights Impact Assessment and the Human Rights Action Plan reveals the cross-cutting nature of human rights protection in business and public sector activity. For decades, now, there has been a need to take into account local knowledge and potential and the culture and customs of the communities benefiting from a public policy or hosting a business project.

In this respect, it is important that the company continues to participate actively in the formulation and execution of public policy, signing collaboration agreements with all of the agencies, bodies and entities linked to the possession and exercising of human rights, the gender perspective and social development, so that it can sit on and have a say on the councils established in the field in the medium term.

The link with higher education institutions in the region will strengthen the knowledge generated through these reports. Monitoring and evaluation will play an important role in all of this, meaning that the company will need to generate indicators for evaluating the actions taken.

The quest for social well-being in the communities surrounding hydrocarbon exploration and exploitation centres requires the participation of all those involved, and with this in mind it is essential that the experience and capacities of the government of the state of Tabasco, represented by the SEDENER, be taken into account.

The new organisational structure of the executive power has allowed for the creation of new departments that will be strategic in underpinning the development and growth of the entity in all respects. This being the case, the SEDENER represents an opportunity to serve as the institutional link between civil society, municipalities and companies in the energy sector with a view to formulating, implementing and

evaluating community development initiatives, programmes and projects in the sector's areas of influence.

Surface occupation must go from regulation to practice based on efficiency, effectiveness and respect for human rights, making Tabasco's energy potential a driver of social development.