



**REPORT OF THE CAO EXPERT MISSION
TO CAJAMARCA:
APRIL MEETINGS**

May 2002

**Office of Compliance Advisor/Ombudsman
of the International Finance Corporation and
the Multilateral Investment Guarantee Agency**

BACKGROUND EVENTS

The origin of the Mesa de Dialogo y Consenso CAO-Cajamarca stems from two formal complaints submitted to the CAO. The first of these complaints was filed by community leaders concerning the aftermath of the mercury spill that occurred on June 2, 2000 affecting the communities of San Juan, Choropampa and Magdalena. A second complaint was submitted by a local group of the Rondas Campesinas in Cajamarca. It detailed concerns related to environmental, social, and economic impacts from Minera Yanacocha's operations, as well as concerns regarding consultation and outreach, and compliance with a number of IFC Safeguard Policies.

In response to these complaints, the CAO convened a mission to understand and address the problems in a more comprehensive manner through the creation of a multiparty dispute resolution and dialogue process. During the course of the past ten months CAO facilitators have made seven visits to Cajamarca. These visits began in July 2001, with an assessment of the situation and an appraisal of the suitability for using dispute resolution and dialogue techniques. Based upon the situation assessment and with the support of the community and the mine, the CAO initiated a dialogue process to address concerns related to the environment, employment matters, health concerns, etc.

Since September 2001, a Mesa de Dialogo under the auspices of the CAO has been in operation. Representatives from rural communities, private and public institutions and Minera Yanacocha have been participants in the Mesa process. The purpose of the Mesa is to engage in joint discussion and problem solving around the issues that are at the heart of many of the conflicts between the Mine and the community. Additionally, the Mesa seeks to build the capacity of participants to negotiate based on their interests and to maintain dialogue where desired.

There have been six meetings of the Mesa—September 2001, October 2001, November 2001, January 2002, March 2002, and April 2002. In addition, representatives from each sector at the Mesa have attended a series of skill-building workshops in problem solving and conflict resolution.

Accomplishments include:

- initiation of an independent water study on water quality and quantity
- establishment of a multi-sector “veedor” work group to accompany the water study team, observe field sample collection and handling, and witness the water study investigation
- creation of the Coordinating Committee to provide local leadership to the process
- participation by dialogue representatives in a series of skill-building workshops in problem solving and conflict resolution including plans for a training-for-trainers seminar
- a field trip to Minera Yanacocha
- agreement on a set of protocols that establishes the framework for how the Mesa will operate
- review and discussion of the scoping document developed at the September meeting
- establishment of a Mesa work group to focus on small and medium-sized enterprises
- proposal for a transition mechanism with the aim of placing the Mesa on a secure and self-sustaining footing—increasing further local ownership of dispute resolution centered on the relationship between the Mine and the community

II. The MESA

The CAO team convened and facilitated a meeting of the Mesa de Dialogo y Consenso CAO-Cajamarca on April 30, 2002, from 9:00 a.m.- 6:30 p.m., at the Hostal Los Pinos. Approximate 60 representatives and 60 observers from key interest groups attended the session. Representatives

participated from the following organizations: Federacion de Rondas Campesinas Femeninas del Norte Del Peru (FEROCAFENOP), Federacion de Rondas Campesinas de La Provincia de Cajamarca (FEROCAPROCAJ), Federacion de Rondas Campesinas Femeninas de la Provincia de Cajamarca (FEROCAFEPROCAJ), Coordinadora Regional de Cuencas Afectadas Por La Minería en Cajamarca (CORECAMIC), Coordinadora Provincial de Caseríos Afectados por la Minería en Cajamarca (COPROCAMIC), Minera Yanacocha, Provincial Municipality of Cajamarca, Alcaldes of the Pueblos Menores of the Districts of La Encanada and Banos del Inca, Cajamarca Chamber of Commerce, CARE, SEDACAJ, ITDG, PRO AGUA, National University of Cajamarca, Ministry of Energy and Mines, Obispado de Cajamarca, ASPADERUC and Valle y Vida.

Report on the Activities of the Coordinating Committee

At the November Mesa, dialogue participants established a Coordinating Committee to provide guidance and local leadership for a uniquely Cajamarcan dispute resolution process. The Committee is charged with organizing upcoming dialogue meetings; participating in the development of Mesa agendas; advising CAO facilitators on meeting goals and strategy; arranging logistics; developing an effective working group; building credibility and support for the Mesa within the broader community; etc. Each sector represented in the MESA appointed a representative to serve on the Committee.

Professor M.G. Elfer Miranda, the General Coordinator of the Committee, reported that the Committee participated in an all-day strategic planning session on April 22, 2002. The purpose of the session was to discuss the future of the Mesa and develop a transition mechanism with the aim of placing the Mesa on a secure and self-sustaining footing—increasing further local ownership of dispute resolution centered on the relationship between the Mine and the community. Further details regarding the future of the Mesa and a proposal for the transition mechanism are described later in this report. (See pages 8-10.)

Independent Water Study

David Atkins, Kate LeJeune and Connie Travers updated the Mesa on the status of the water study. (Connie Travers is an addition to the Stratus team whose specialty is water quantity.)

The team presented a brief synopsis of their last trip (March 2002):

- a tour of Minera Yanacocha facilities, looking at points at the Mine property where water leaves the Mine site and where water leaves the Mine property to reach points further down stream
- a tour of several days, looking at each cuenca around the mine property. These visits included meeting with some community members to look at some of the issues and concerns they have related to water quality in the area.

The Stratus team plans to focus on water quantity issues on this trip although the team will continue to look at water quality concerns. The team plans to spend some time at the Mine site looking at mining operations and water quantity issues related to these operations. In addition they will spend time in the cuencas focusing on water quantity and issues related to the canals.

The next step for the team will be to prepare a detailed sampling plan to look at water quality in each of the 4 cuencas.

The team gave special thanks and acknowledgement to the group of “veedores” who accompanied them on their March reconnaissance visits to the cuencas. In the face of adversity (torrential rains, cold weather, meager lunches, rugged walks, etc.) the group worked cooperatively with each other and with the hydrologists.

One of the veedores expressed an interest in having the veedores participate in the visit to the Mine with the hydrologists on their current trip. Federico Schwalb invited the veedores to accompany the hydrologists provided the goal was to collect information and see the maps. He asked that the names of those who would participate be given to the mine so that arrangements could be made.

The veedores also raised a concern regarding their role. They felt uncomfortable with the way the role was described in the March report, particularly the component that states, “the veedores will ensure that the study and the sampling is conducted pursuant to designated protocols and accepted sampling methods...” This role implies a level of responsibility to assure the technical integrity of the study that is beyond the mandate of this work group. Consequently, the March report has been changed, based on consultation with the veedores, to read as follows:

As part of the study, representatives of the Mesa (veedores) will accompany the water study team on field trips and will observe field sample collection and handling, and field measurements. *It is important to clarify that the role of the veedores is not to have responsibility for technical supervision nor assure the technical integrity of the study.* Rather, Veedores are intended to witness the study, serve as a link between their institutions and communities, the Mesa and the hydrologists, and give testimony to what the hydrology team has done. As witnesses to the water study investigation, the “veedores” will *testify how the sampling is conducted and whether it is being carried out* pursuant to designated protocols and accepted sampling methods as described in the Sampling and Analysis plan, and as agreed upon by the Mesa participants. Veedores are a mechanism to increase the transparency of the process. Through the important work of the “veedores” it is hoped that confidence in the independence and quality of this study will be sustained and communicated to the Mesa and to the interested communities.

The Stratus team reiterated they would not release information without deep analysis and without interpreting what the information means. Interpretation is the value they bring. They also reminded the Mesa that the study would last a year in order to gather data during all four seasons. The Mesa will continue to be kept closely informed about the water study process. They will receive reports about what is being done and how it is being done. The process will be very transparent; however, the final results won't be made available until the end of the study.

The Veedores made several suggestions that would help their work with the Stratus team:

1. Try to let us know as soon as possible about the field visits so we can arrange our schedules and advise our institutions and communities.
2. Everyone should communicate in Spanish and translation should be used with the hydrologists so that everyone can understand everything.
3. Before going out into the field, it would be helpful if the veedores were given an informal briefing about the day's work. They asked Stratus to prepare a “plan de trabajo” with maps; an overview of where they are going, what they will see and when they will return; and what the objectives are.
4. During the field visits it would be helpful if Stratus could explain in more detail the process of what they are doing without disclosing the data.
5. The Stratus team should prepare a brief narrative summarizing the field trip so each veedor has the same information to bring back to their communities. It was also suggested that at the end of each visit the Stratus team and the veedores could have a wrap-up discussion summarizing what happened during trip and what the next steps are.
6. There is a need for regular meetings with the Stratus team to discuss how they are working together, raise and resolve problems right away, and make sure their work is effective.
7. Given the intensive role of a “veedore” and the time commitment required, a “suplente” structure may be needed.

“Veedores” Report

On behalf of the “Veedores” work group, Ing. M.Sc. Gilberto Cruzado Vasques, Veedor for la Escuela de Post Grado de la Universidad Nacional de Cajamarca, prepared the following report to inform the members of the Mesa about what transpired during the “veedores” field trips on March 7, 8 and 9, 2002.

Sr. Cruzado remarked that It was an enriching experience to share the work with the experts, Dr. Ann Maest (geochemist), Mr. David Atkins (hydrologist) and Ms. Kate LeJeune (ecologist) as well as with people from different disciplines and organizations in Cajamarca, interested in knowing about water quality and quantity. The participants from the sectors were:

Sr. Wilson Marín, CORECAME

Sra. Arelia Cabanillas, Rondas Campesinas de Cajamarca

Sr. Alejandro Cruzado Colorado, PROCAME

Sra. Maria Perseveranda Herrera, Rondas Campesinas

Sr. Alfonso Tacilla, CORECAME

Sr. Alfredo Chávez Alvarez, SEDACAJ

Sr. Alberto Herrera, Minera Yanacocha

Ing. Tulio Guillén Sheen, Municipalidad de Cajamarca

Ing. Hernán Flores Lozano, Ministerio de Energia y Minas

Ing. Gilberto Cruzado Vásquez, Escuela de Post Grado de la Universidad Nacional de Cajamarca

Ing. Juan Francisco Soto Hoyos, CARE

The inspection of the area took place over three days. The group visited a different sub-cuenca each day including the Rio Mashcón sub-basin whose main tributary is Rio Grande, as well as the sub-basins of Rio Rejo and Rio Chonta. (See attached map.) The purpose of these visits was to help prepare for the development of a more extensive sampling plan, including possible sampling locations. Several preliminary samples were taken as part of this initial reconnaissance trip.

The “veedores” unanimously agreed that the quantitative data collected on these and future visits would only be known by the experts to avoid problems related to misinterpretation or manipulation of results, and that this data would only be published when the study is concluded.

The visit to Rio Mashcón on the first day took place without problems, focusing on exploration of the most important points of the tributaries of Rio Grande and the inspection of the superficial drainage system of Rio Quilish.

The group also visited the mouth of Rio Porcon and Rio Grande and everyone took their respective notes. In both sub-cuencas, the water experts took water samples for their respective purposes.

On the second day the group traveled to the sub-cuenca Rio Chonta, where they explored some primary tributaries and the point of confluence of three rivers, known as “Tres Tingos”. It is appropriate to highlight that in this case the entire community of Combayo is very concerned about the damages they believe the Mine is causing in the fields and in the waters coming from Maqui Maqui. When the “veedores” and expert team arrived in Combayo they were welcomed by Mr. Angel Tasilla who explained what has been happening in the entire area of Combayo and many of the inhabitants spontaneously decided to accompany the group. The inhabitants explained that during the summer months the earth removed as a result of mining operations is carried by the wind to the shepherding fields, producing the disappearance of many herbal species that serve as nourishment for the livestock. According to community members, the dust from the mine also settles on their animals, causing hair loss, injuries to the skin, and death of the animals in some cases. The community also

asserted that frogs, which years before existed in great quantities and in different species, are no longer in evidence.

The group toured the sub-cuenca of Rio Rejo on their final day and followed the same methodology as during the first two days. There was great interest and enthusiasm on the part of the “veedores” and the experts who came to work together for these purposes.

Future of the Mesa: A proposal for a special project to serve as a transition towards a permanent, self-sustaining dispute resolution system

“Societies living in conflict are always underdeveloped.” These were the words of Elfer Miranda, the Coordinator of the Coordinating Committee, who presented a project proposal pertaining to the future of the Mesa and developed by the Committee and the CAO at the Committee’s strategic planning session, April 22, 2002. The proposal is for a two-year project sponsored by the CAO to provide ongoing support to the dialogue process between Minera Yanacocha and the communities of Cajamarca and put in place a more permanent dispute resolution system that will be self sustaining and locally owned. The dispute resolution system is intended to prevent and resolve issues arising from the development and operations of Minera Yanacocha and the communities of the Cajamarca region so that they can be worked through in a positive and respectful manner. The project will serve as a transition mechanism with the aim of placing the Mesa on a secure and self-sustaining footing—increasing further local ownership of dispute resolution centered on the relationships between the Mine and the community.

The objectives at the end of the two-year project (which is to serve as a transition period) is to have:

- secured an institutional home in Cajamarca for the dispute resolution system
- secured the local resources to support the continuation of the dispute resolution system

The vision for the Mesa, as proposed by the Committee, is to be a respectable and efficient institution that serves the Cajamarca community through the prevention and resolution of conflicts between Minera Yanacocha, local government and civil society. The Mesa also seeks to build the capacity of participants to negotiate based on their interests and to maintain dialogue where desired.

In addition to the protocols that have been approved by the Mesa that describe how the Mesa will operate, the Committee also recommended the establishment of a coordination office of the Mesa staffed with a director and an assistant. The role of the office is to support the Mesa and to create a sustainable dispute resolution system. Like the CAO, the office will work in a neutral, independent, facilitative capacity. It is neither a court nor a judge and does not have an investigative role or a role of compliance. Like the current Mesa, the future Mesa will not be able to take on every issue. There will need to be protocols that define the limits and articulate which issues are appropriate for the Mesa. The agenda for the Mesa can’t be too broad. With this in mind, the functions of the director, as outlined by the Coordinating Committee, are to:

1. Receive and review community and Minera Yanacocha concerns and together with the Coordinating Committee and the Mesa determine which are appropriate for the work of the Mesa
2. Prepare for and facilitate the Mesa meetings
3. Prepare meeting summaries of each Mesa meeting to distribute to the community
4. Monitor the agreements made by the Mesa to assure they are being implemented
5. In cooperation with the Coordinating Committee, develop a communication plan to disseminate information about the work of the Mesa and consult more broadly with the community about the Mesa’s work
 - Develop and implement a media strategy

- Develop and implement with sector representatives a broader stakeholder communication strategy
- Prepare a quarterly newsletter of the Mesa
- 6. Develop and implement capacity building strategies and approaches to continue conflict resolution skill building (rural and urban)
- 7. Coordinate with technical teams such as the water study team
- 8. Provide support to the Mesa working groups (i.e., “Veedores”, Coordinating Committee, working group on small and micro enterprises)
- 9. Build local ownership and leadership for a more permanent dispute resolution system that is self sustaining and locally owned to prevent conflicts and address ongoing and emerging issues between the mine, civil society and local government
 - secure an institutional home in Cajamarca for the dispute resolution system
 - secure the local resources to support the continuation of the dispute resolution system
- 10. Participate in an evaluation process to ensure the Mesa is meeting the needs of the community and the mine
- 11. Maintain communication with other dialogue tables
- 12. Network with other community institutions that are involved in dispute resolution:
 - Defensoria del Pueblo
 - Sedacaj conciliator
 - Conciliation group at the Camara de Comercio
 - CTAR Mesa
 - Municipality
 - Mine’s complaints office

The Coordinating Committee also developed a proposal for the profile for the director as follows:

- Ideally the director and their assistant should be a male/female team
- Speaks English
- Is well respected by others
- Has sound judgement; is charismatic, energetic, likable; and has the ability to engage people
- Knows how to guide and lead people. Is not manipulative. Has leadership and vision
- Does not have a fragile ego nor is he/she defensive
- Mature, centered, objective and secure.
- Flexible and able to work as a team with others—with project manager, Coordinating Committee, the assistant, the CAO, etc.
- Great listening ability
- Ability to keep matters confidential
- Has good management of the language both orally and in writing

The CAO will contract with a Peruvian project manager. The project manager will recruit the director to be based in Cajamarca full time, with the assistant. They will report to the project manager and the project manager will be responsible for ensuring the director fulfills the tasks as laid out in the program plan as agreed with the CAO and the Coordinating Committee. (See organizational chart on the following page.)

Throughout the two-year period of the project, the CAO will ensure an effective monitoring and evaluation process that will offer guidance to the project manager and director, ensure quality control and assess the work of the project against expected and desired outcomes.

After the proposal was presented to the Mesa, participants were encouraged to present their views, comments and concerns. People raised questions about coordination with the CTAR Mesa; issues regarding long term funding; the need to stay technical and not become political; the importance of planning now so that something sustainable remains when the CAO leaves; the need to have a place

to dialogue and learn about many things; the necessity to provide for a future and for continuity; the importance of having local ownership of the effort and the hard work that will be needed from everyone to build a local institution to solve community-mine problems; the Mesa initiative will have a positive impact in Cajamarca.

Bill Zisch from Minera Yanacocha stated that there were questions the Minie had regarding the functioning of the office and the role they could play. One concern or danger Bill Zisch raised was similar to what he expressed in the very first meeting of the Mesa—that the mine is here to deal with issues between the mine and the community but it can't become the government. He suggested that there are larger issues that are beyond the boundaries of what the Mesa can decide. He then stated the Minera Yanacocha supports the concept of a coordinating office and sustainable dispute resolution system and there is a limit to the mine's participation. He raised the possibility of a funding mechanism for the next phase of the Mesa and coordinating office that continues along the path that currently in effect. He stated, "if we are dealing with mine-community issues, it may be more appropriate for the mine to be a major funding entity through the CAO as we have done in the past. "

After significant dialogue, the Mesa unanimously agreed there was a need for an ongoing sustainable dispute resolution system locally owned and organized. As one participant stated, "It is important to install an office to support the Mesa in Cajamarca and to put in place a sustainable dispute resolution system. Where there is a mine, there will always be conflicts and we need an independent space that will support ongoing conversations between the mine and the community to resolve our issues transparently and democratically."

Mesa representatives unanimously adopted a logo and motto for the Mesa designed by participants in the capacity building workshops. It appears below with a slight modification to the motto as follows:

*Diálogo es: Todo somos diferentes, todos tenemos una parte de la respuesta y juntos la solución.
(Dialogue is: everyone is different, everyone has a part of the answer and together, the solution.)*

Discussion of Small and Micro Enterprises

Ana Araujo from Minera Yanacocha presented an overview of the Mine's plans regarding small and medium enterprises (Plan STAT-SME), initiated as part of Minera Yanacocha's social responsibility. The objective of the plan is to link the mine's demands for goods and services with the local supply, through the incorporation of a greater proportion of small and medium sized Cajamarcan enterprises as suppliers, with adequate mechanisms of improvement and quality control.

In the first phase of the plan, Minera Yanacocha has identified the mine's demand for goods and services that could be provided by Cajamarca. The goals of the second stage are to:

- identify the advantages that would be gained should local enterprises supply goods and services to the mine, its contracting enterprises and other large enterprises in Cajamarca
- determine what obstacles exist that prevent compliance with the requirements established by Minera Yanacocha for the local enterprises
- design a proposal to overcome these obstacles

The plan includes the following stages:

Stage I: The identification of the economical flows of provision of goods and services by the local enterprises.

Stage II: An analysis of the characteristics of the local enterprises with whom Minera Yanacocha contracts. What are their strengths and weaknesses.

- Stage III: An analysis of the situation of local enterprises and their potential to provide goods and services to the mine and other companies
- Stage IV: The design of a proposal to promote the improvement of the standards of quality, quantity and opportunity for local enterprises.
- Stage V Capacity building

A graphical depiction of economic flows that Minera Yanacocha has generated in the Department of Cajamarca, with regard to the provision of goods and services to the mine or its contractors, by local enterprises for the period 1993—2001 was presented to the Mesa and is detailed below.



Minera Yanacocha, the Chamber of Commerce, and representative entrepreneurs are currently working on a project to link the products that the mine needs with local enterprises that can supply needed goods and services. The mine invited a representative from the Mesa to be part of this project. The Mesa proposed that a working group be created to consult with, advise and support the work of the Mesa representative. The working group is called “Grupo PYMES” and members include:

- Segundo Sandoval, *Cámara de Comercio*
- Cesar Zamora, *Rondas Campesinas*
- Luis Rodriguez, *ITDG*
- Isabel Marin, *Rondas Campesinas*
- Dalila Morales, *Rondas Campesinas*
- 3 alcaldes, *centros poblados menores* (to be announced)

The group will meet for an educational session to exchange ideas regarding PYMES prior to the June 4th Mesa.

Draft Schedule of Future Training Workshops and Dialogue Tables

May	<u>Training for Trainers Workshop</u> : May 24-25, 2002 and May 31-June 1.
June	<u>Dialogue Table</u> —June 4, 2002 at Hostal los Pinos from 9:00 a.m.-6:00 p.m.

III. CONFLICT RESOLUTION CAPACITY BUILDING: TRAINING DIALOGUE PARTICIPANTS IN SKILLS AND APPROACHES FOR PROMOTING HARMONY AND CONSENSUS

Workshop Session III: Promoting Harmony and Consensus (Group B)

On April 19-20, 2002, a group of approximately 20 participants from Group B reconvened for their third and final 16-hour training session. This workshop, building on skills and concepts introduced earlier, focused on practical tools for establishing cooperative relationships, engaging in dialogue and building consensus, including the role of a third party in resolving conflicts. The group also participated in several advanced activities including:

- Prisoner’s dilemma
- The story of “los gansos”
- Dialogue versus debate
- Facilitation skills practice
- Dealing with difficult people

The Prisoner’s Dilemma revealed a variety of behaviors deeply rooted in Cajamarcan society that promote competition and tension between groups and prevent cooperation. This powerful activity underscores the importance of keeping your word, the escalation of conflict from a promise broken, revenge and the need to get even in the future in

response to deceptions and betrayals in the past, strategies for moving from competition to cooperation without being taken advantage of, etc. Participants were able to make profound connections between their experience in Prisoner's Dilemma and what is occurring within their community, their institutions and how they might be contributing to these negative dynamics.

Highlighting the behavior of geese during their grueling migratory travels, the story of "los gansos" served as a rich metaphor for the quality of teamwork and leadership that is needed to survive and reach a common goal. Participants drew the following insights and conclusions from the narrative:

- *La unión hace la fuerza*
- *La vida del hombre siempre es en comunidad, nunca solo*
- *Juntos todo lo podemos, divididos nada somos*
- *Todos en algún momento podemos ser líderes*
- *Sin líderes, la marcha es a la deriva*
- *En conjunto podemos beneficiarnos más*
- *Los gansos se ayudan, auxilian y potencian porque todos buscan el mismo fin*
- *Buscando lo que nos une y lo que nos divide lograremos construir un futuro mejor*
- *Cuando todos comprenden el beneficio de la unión, se logra más rápido el objetivo*

The session on dialogue and debate compared behaviors, attitudes and processes in each approach. Reflections about the meaning of dialogue gave rise to both the motto and the logo adopted by the Mesa: "Diálogo es: saber que todos somos diferentes, todos tenemos una parte de la respuesta y juntos tenemos la solución."

What was equally noteworthy about this workshop was the analysis and strategy design of an actual conflict situation presented by one of the mayors from the "pueblos menores". Working on this very real situation, the group was able to apply many of the skills and concepts learned during the three sessions as well as bring personal knowledge and insight to the case. The result was a comprehensive, insightful set of strategic options for the mayor to consider.

To bring closure to their training experience, participants took part in a graduation ceremony, where both trainers and trainees expressed warm words of appreciation and recognition for mutual commitment and hard work.

When the CAO team returns in May, a training for trainers will be conducted to build the capacity for harmony and consensus within the Cajamarca community through replicating the training on a broader scale, using participants from the session as trainers.

IV. CONCLUSION

The Mesa de Diálogo y Consenso CAO-Cajamarca has taken a bold step in its evolution by its decision to put in place a more permanent dispute resolution system that will be self sustaining and locally owned. In this next phase, the Mesa will establish an office to provide ongoing support to the dialogue process between Minera Yanacocha and the communities of Cajamarca so that issues can be worked through in a positive and respectful manner. This decision represents a deeper level of commitment by both the community of Cajamarca and Minera Yanacocha in its effort to jointly pursue an agenda for change.