



## **Exit Report**

**Regarding two complaints filed with the CAO  
in relation to Minera Yanacocha  
Cajamarca, Peru**

**February 2006**

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

## Introduction

Since September of 2001, the Compliance/Advisor Ombudsman (CAO) has supported the *Mesa de Dialogo y Consenso* (henceforth referred to as the Mesa) in Cajamarca, Perú. The CAO is issuing this exit report of its ombudsman intervention, in accordance with its procedures for assessing complaints from project-affected people and mediating project-related disputes. Since 2004 the CAO has made public its plan to conclude its direct support of the Mesa while helping create a durable Mesa that works to improve dialogue and resolve issues of concern to the communities of Cajamarca and Minera Yanacocha, SRL (henceforth referred to as Yanacocha).

This exit report provides background information regarding the original complaints filed with the CAO in 2001, the formation of the Mesa and a summary of the Mesa's accomplishments, shortcomings and remaining challenges. The CAO emphasizes both its satisfaction with the hard work and dedication of the Mesa members and its continuous support for transparent and substantive dialogue between Cajamarcans and Yanacocha.

## Background of the Mesa

In July of 2000, the CAO responded to the June 2000 mercury spill in the towns of Choropampa, Magdalena and San Juan that occurred when a truck contracted by Yanacocha spilled elemental mercury along a section of road that passed through these three villages. The CAO commissioned an independent investigation of the spill that was made public in October of 2000. The report contains various findings and recommendations regarding the causes of the spill, the response of Yanacocha, and the mine's management of hazardous materials and emergency preparedness and response.

After the mercury spill, the CAO received two complaints within a relatively short time period. At the end of 2000, the *Frente de Defensa de Choropampa* (the Defense Front of Choropampa, henceforth referred to as the *Frente*) filed a complaint with the CAO, which expressed concerns about the aftermath of the mercury spill. The complaint raised issues regarding the follow-up to the spill including ongoing concerns about the long term impact on the environment, the health situation in Choropampa, compensation claims, the program of public works as well as the mine's failure to treat the communities with respect, or respond to concerns about health and environmental risks.

In March 2001, the *Federación de Rondas Campesinas Femeninas del Norte del Perú* (FEROCAFENOP) filed a complaint with the CAO, prepared by the United States-based non-governmental organization Project Underground. The complaint alleged that Yanacocha was adversely impacting the water, air, and livelihoods of surrounding villages and that the mine development was occurring without adequate community consultation, as required by IFC policies.

The CAO accepted both complaints and, as part of its assessment, held a series of meetings with various stakeholder groups in the region. Local groups conveyed a wide range of concerns about the mine, and many suggested that a forum for transparent dialogue between the community and Yanacocha was needed in order to adequately address these issues over the projected 30-year life of the mine. Though the written complaint outlined specific areas where the mine may have violated IFC policies, the issue of IFC compliance was not a primary concern of affected communities and thus was not the focus of the CAO intervention.

In September 2001, the CAO convened a series of three public workshops to explore the feasibility of establishing some type of forum for ongoing dialogue. Participants representing a broad spectrum of stakeholders from government, civil society and Yanacocha attended, in addition to the original two CAO complainant groups. At these workshops, participants decided to form a roundtable for dialogue (a Mesa) and prioritized a list of issues and concerns to be addressed as well as a plan of action for building problem-solving and conflict resolution skills. Given the expressed local demand for a durable dialogue forum, the CAO supported the formation of what would become the *Mesa de Dialogo y Consenso-CAO Cajamarca*.

The agenda of issues developed by participants in the first Mesa workshops outlined concerns similar to those raised in the two complaints submitted to the CAO. The central goal of the Mesa became the creation of a mechanism for multi-stakeholder dialogue which could effectively address current community concerns as well issues that emerged over time. Its focus was forward-looking and proactive rather than retrospective.

The Mesa sought to establish two processes to underpin its work: a water study and a health study. The water study, organized by the CAO with participation by the Mesa, began in January 2002, and the findings of the study were made public in October 2003. In response to concerns from members of the communities of San Juan, Choropampa and Magdalena, the Mesa also requested that the CAO agree to commission an independent health study to evaluate the health effects of the mercury spill. Though the terms of reference were drafted and agreed to by the Mesa and some local groups in 2002, the study was not completed for various reasons including on-going litigation in Peruvian and US courts, community divisions and lack of government support for the study.

### **Mesa Issues, Actions, and Outcomes**

Over the past four years, the Mesa has addressed various issues and concerns raised at Mesa assembly meetings and workshops. There are also issues of community concern that the Mesa has not addressed. Table 1 summarizes the scope of issues identified by stakeholders at CAO sponsored public workshop sessions held in Cajamarca, September 13-15, 2001. These workshops resulted in the decision by the community and Yanacocha to establish the Mesa to address the issues raised at the September 2001 public workshops. Table I describes the issues and the extent to which they have been addressed both at the Mesa and, in some cases, through other channels.

To train community members in conflict resolution and problem-solving skills, the Mesa organized and oversaw a series of capacity building workshops for community members and mine staff from late 2001 to early 2003.

In order to disseminate information about its work, the Mesa enhanced its communications program in 2004. The Mesa has visited various communities to report the results of the water study and has created publications and a webpage to inform the broader public.

### **Mesa Funding and Evaluation**

Through its life, the Mesa has received financial and technical support from the CAO and, in the case of the water study, from Minera Yanacocha. All funds from Yanacocha for the study were managed by the CAO in order to ensure independence. The management of the Mesa's budget has been independently audited.

In early 2005, the Mesa underwent an independent evaluation, commissioned by the CAO that found various strengths and weaknesses of the Mesa and proposed the Mesa focus on environmental monitoring or general conflict resolution. The Mesa created a Strategic Plan that included both of these aspects.

### **Challenges for the Mesa**

The Mesa has confronted a number of serious challenges during its life. These challenges are shared by many other similar tables, which the CAO believes can inform future dialogue efforts between communities, companies and governmental entities. Challenges include building trust and transparency among stakeholders, gaining broad participation of affected communities, communicating the findings of complicated technical studies, and achieving an effective mechanism to hold participants accountable to their commitments.

### **CAO conclusion**

Since the Mesa began in 2001, the CAO has sought ways for the Mesa to become an organic, fully Cajamarcan entity. The CAO has supported the Mesa financially and technically since 2001. The CAO has agreed to support the water monitoring program of the Mesa until February 2006, after which it will no longer be involved in the process. Through training, local hiring, and coordination with local universities, the CAO has sought to ensure that the Mesa can continue sustainably. Ultimately, whether and how the Mesa sustains itself in the future, will depend upon the presence of a strong social demand for the Mesa's mission and activities, representative and effective leadership and sufficient resources to support future work. The decision to continue as a Mesa or evolve into something else is now squarely in the hands of the people and institutions of Cajamarca.”

The CAO believes that water monitoring can and should continue given the positive results of its first years of functioning. The CAO also believes that a transparent dispute resolution mechanism(s) is/are needed in order to ensure that community concerns are addressed fairly and effectively.

In the four years of the Mesa's life, it has made great strides while also bringing to light the continuous challenges that exist in constructing a transparent and effective forum for dialogue between Yanacocha and the communities that are affected by its operations.

**Table I: Community Concerns expressed at the Mesa, Actions and Outcomes to date**

Community Concern expressed at the Mesa	Action	Outcome(s) to date
Water Quality and Quantity	Independent and participatory evaluation of Yanacocha's impacts on water quantity and quality	<p>An 18-month independent and participatory study by Stratus Consulting was published and presented in October 2003.</p> <p>The study made several findings on water quality and quantity. Ten recommendations were issued subsequently (listed below).</p>
	<p><i>Independent Water Study Recommended Actions:</i>                      1. <i>Continued participatory monitoring in coordination with other entities (i.e. COMOCA and SEDACAJ and Yanacocha)</i></p>	<p>Water monitoring every month with seven participating institutions and <i>veedores</i>. Monitoring began in July of 2004 and ended in August 2005</p> <p>Dissemination of findings will occur through March of 2006.</p>
	<p>2: <i>Continuous verification and communication of monitoring results</i></p>	<p>Mesa staff and the Mesa's Technical Commission have reported monitoring results quarterly in the newspaper and on the Mesa's webpage. In addition, monitoring results from July 2004 to August 2005 were presented in an Annual Monitoring Report of the Mesa that was presented to institutions, communities, and stakeholder groups in December 2005. It is available at <a href="http://www.mesadialogocajamarca.org/principal.html">http://www.mesadialogocajamarca.org/principal.html</a></p> <p>Planned establishment of a permanent system of participatory monitoring and technical review and reporting of findings.</p>
	<p>3. <i>Improved erosion and sediment control</i></p>	<p>Sediment control dams constructed by Yanacocha in 2005 in the upper parts of the Rio Rejo and Rio Grande.</p> <p>Planned measurement of sediment levels in affected streams through the monitoring systems mentioned above</p> <p>Increased erosion control is also a recommendation of the Annual Monitoring Report on Water Quality prepared by the Mesa's technical team in December 2005</p>
	<p>4. Study of water use in communities near the mine</p>	<p>This recommendation was specific to potable water availability and use. To the best of the Mesa team's knowledge, the recommended study has not been conducted.</p>

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Water Quality and Quantity (cont'd)	5. <i>Additional assessment of aquatic life</i>	<p><i>"Study of Aquatic Life in the River Basins around Minera Yanacocha"</i> began in August 2004 and is still in progress. The study was commissioned by Yanacocha with participation and technical review by the Mesa.</p> <p>Results are expected to be disseminated in the first half of 2006.</p>
	6. <i>Protection of canals that cross the mine property</i>	<p>Yanacocha reports that it assisted in providing structural support for roughly nine major canal.</p> <p>Yanacocha has engaged in negotiations with at least four different canal groups to arrive at agreements regarding canal protection, replacement of altered water sources and development projects. Negotiations are ongoing.</p>
	7. <i>Evaluation of mine closure plans</i>	<p>Mine closure plans were updated in 2005, but the Mesa team has not reviewed the mine closure plans to date.</p> <p>Peruvian mine closure laws and regulations currently under revision on a national level.</p>
	8. <i>Minera Yanacocha support for community water systems near the mine that are contaminated by bacteria</i>	<p>The Mesa has not specifically addressed this issue. Yanacocha has supported the creation of gravity potable water systems for 11 towns surrounding the mine. The water is not treated. Systems for eight additional towns re planned and/or underway.</p>
	9. <i>Improvement of water quality in specific locations that were identified as impacted by the mine</i>	<p>Yanacocha has installed a reverse osmosis water treatment system for the water discharged to Quebrada Pampa Larga in the upper part of Quebrada Honda.</p> <p>Yanacocha has also closed and reclaimed the San Jose waste dump and continues to attempt to treat the water problems that remain.</p> <p>Monitoring groups that involve some community members continue to evaluate water quality in the upper part of Quebrada Honda, Rio Grande and Rio San Jose.</p>

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Issues concerning Choropampa, Magdalena, San Juan – health impacts from the mercury spill	The CAO agreed to commission an independent health study at the request of affected communities and the Mesa. Due to lack of cooperation from government authorities and desire by some complainants to seek remedies through litigation, health study was not implemented. (see further explanation in Background section)	The court case against Yanacocha is still being deliberated in US courts
Land, Soil, Air – impacts on air and soil quality around the mine	In November 2001, the President’s Office for the Government of Peru convened the <i>Comisión Transitoria de Administración Regional</i> (CTAR) Mesa in Cajamarca. In an effort to coordinate the two Mesas, representatives from both Mesa decided that the CTAR Mesa would conduct a comprehensive social and environmental audit of Minera Yanacocha that included air and soil issues while the Mesa would initially focus on water issues in the four water sheds and health study related to the mercury spill.	<p>The CTAR Mesa oversaw an environmental audit by the Colombian consulting firm INGETEC which produced over 300 findings and recommendations, some of which included air and soils impacts.</p> <p>The CTAR Mesa is no longer operating; however, recommendations from the INGETEC study have been provided to Minera Yanacocha. The current implementation status of these recommendations is not known by the CAO.</p>
Flora and Fauna-- impacts on medicinal plants and wildlife.	The Mesa has participated in the aquatic risk study, mentioned above. The mesa has not investigated impacts on other types of wildlife, primarily due to the focus on aquatic life.	<p>As mentioned above, the study on aquatic life will be published in January 2006.</p> <p>The INGETEC audit of the CTAR mesa also made findings and recommendations regarding flora and fauna</p> <p>As mentioned above, the findings of the aquatic study will be published in January 2006.</p>
Hazardous Material and Emergency Response	The July 2000 Report of the Independent Commission to the CAO: <i>Investigation into the Mercury Spill of June 2, 2000 in the Vicinity of San Juan, Choropampa and Magdalena, Peru.</i> made several findings and recommendations regarding hazardous materials management	Minera Yanacocha has revised its Hazardous Material and Emergency Preparedness plans.
Cerro Quilish expansion—impacts to local water supplies	The Mesa did not mediate the 2004 conflict over Quilish due to a lack of knowledge of Yanacocha’s current expansion plans and a lack of capacity to conduct the mediation	<p>After more than a week of large protests by local residents (in September 2004) over the proposed expansion of Minera Yanacocha to Cerro Quilish, Newmont Mining Corporation asked the Peruvian government to revoke the company’s permit to explore on Cerro Quilish.</p> <p>In late 2004 Yanacocha announced that it will not exploit Quilish in the short or medium term</p>

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<p>Additional mine expansions and additional explorations</p>	<p>The Mesa facilitated discussions between Yanacocha and the communities around San Cirilo where Yanacocha has conducted some exploration.</p> <p>The Mesa has not formally addressed issues related to future mine expansions.</p>	<p>After two meetings, the parties did not request additional mediation from the Mesa about San Cirilo.</p>
<p>Negative socio-economic impacts, including little employment of local people.</p>	<p>The Mesa has not comprehensively addressed the issue of employment and contractors, though it has helped to mediate a dispute between a contractor's supplier and the contractor. In addition, the Mesa has facilitated two separate discussions about concerns between Yanacocha and the communities of Tual and Huacataz, which focused on finding development support and employment opportunities at the mine for residents of the two communities.</p> <p>The Mesa has held discussions about the Canon Minero, the formation of Yanacocha's <i>Asociación los Andes</i> and efforts to improve small and medium enterprises. However, economic issues have not been a focus of Mesa activity .</p>	<p>Yanacocha has committed to increasing the percentage of local employees to 60% of the workforce.</p> <p>Yanacocha has created the <i>Asociación los Andes</i> to support local economic development initiatives.</p>