

BUILDING CONSENSUS:
History and Lessons from the Mesa de
Diálogo y Consenso CAO-Cajamarca, Peru

1

MONOGRAPH 1.
THE FORMATION AND FIRST STEPS OF THE MESA
(2000–2003)



CAO

THE OFFICE OF THE COMPLIANCE/ADVISOR OMBUDSMAN



BUILDING CONSENSUS:
History and Lessons from the Mesa de
Diálogo y Consenso CAO-Cajamarca, Peru

MONOGRAPH 1.

THE FORMATION AND FIRST STEPS OF THE MESA (2000–2003)

Monograph 2.

The Independent Water Study (2002–2004)

Monograph 3.

Independent Water Monitoring and the Transition of the Mesa (2004–2006)

About the CAO

The CAO (Office of the Compliance Advisor/Ombudsman) is an independent post that reports directly to the President of the World Bank Group. The CAO reviews complaints from communities affected by development projects undertaken by the two private sector financing arms of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Fund (MIGA). The CAO works to respond quickly and effectively to complaints through mediated settlements headed by the CAO Ombudsman, or through compliance audits that ensure adherence with relevant policies. The CAO also offers advice and guidance to IFC and MIGA, and to the World Bank Group President, about improving the social and environmental outcomes of IFC and MIGA projects.

The CAO's mission is to serve as a fair, trusted, and effective independent recourse mechanism and to improve the environmental and social accountability of IFC and MIGA.

For more information about the CAO, please visit www.cao-ombudsman.org

About the Mesa de Diálogo y Consenso CAO-Cajamarca

Mesa, from the Spanish word for “table,” is a dialogue roundtable: a multistakeholder system for addressing issues of common concern, and collaborating on solutions.

The Mesa de Diálogo y Consenso CAO-Cajamarca was convened to address and resolve conflicts between Yanacocha, the largest gold mine in Peru, and the surrounding communities affected by its operations. The Mesa sought consensus-based solutions under a framework of good faith, cooperation, and tolerance.

“Dialogue means: We are all different, we all have part of the answer, and together we have the solution.”

—The motto of the Mesa de Diálogo y Consenso CAO-Cajamarca

CAO Material about the Mesa de Diálogo y Consenso CAO-Cajamarca

More detailed information about the Mesa can be found in the following documents:

- Independent Commission Investigation of the Mercury Spill, July 2000
- Minutes of Mesa meetings
 - 2001 (August, September, October, November)
 - 2002 (January, February–March, April, July–August, September–October)
 - 2003 (February, August)
- Independent Water Study, November 2003
- Independent Evaluation of Mesa Effectiveness, May 2005
- Mesa Annual Water Monitoring Report, December 2005
- CAO Exit Report, March 2006

All these documents and the three-monograph series are available at http://www.cao-ombudsman.org/html-english/complaint_yanacocha.htm. There is also a 20-minute video on the water study entitled “Divided Waters: Currents of Change,” available upon request from cao-compliance@ifc.org

© 2007 Office of the Compliance Advisor/Ombudsman (CAO)
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA
Telephone: 202-458-1973
Internet: www.cao-ombudsman.org
E-mail: cao-compliance@ifc.org

All rights reserved.

Compliance Advisor/Ombudsman (CAO)
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA

The findings, interpretations, and conclusions expressed herein are those of the author(s) and do not necessarily reflect the views of the Executive Directors of the International Bank for Reconstruction and Development/The International Finance Corporation/The Multilateral Investment Guarantee Agency or the governments they represent.

The CAO does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of the CAO concerning the legal status of any territory or the endorsement or acceptance of such boundaries.

Rights and Permissions

The material in this publication is copyrighted. Copying and/or transmitting portions or all of this work without permission may be a violation of applicable law. The Office of the Compliance Advisor/Ombudsman (CAO) encourages dissemination of its work and will normally grant permission to reproduce portions of the work promptly.

For permission to photocopy or reprint any part of this work, please send a request with complete information to the Office of the Compliance Advisor/Ombudsman (CAO), 2121 Pennsylvania Avenue NW, Washington, DC 20433, USA; fax: 202-522-7400; e-mail: cao-compliance@ifc.org.

All other queries on rights and licenses, including subsidiary rights, should also be addressed to the Office of the Compliance Advisor/Ombudsman (CAO), 2121 Pennsylvania Avenue NW, Washington, DC 20433, USA; fax: 202-522-7400; e-mail: cao-compliance@ifc.org.

FOREWORD

This series of three monographs presents more than four and a half years of work by the Mesa de Diálogo y Consenso CAO-Cajamarca in Peru. The Mesa's efforts to foster productive dialogue between the community of Cajamarca and representatives of the Yanacocha gold mine have signified many things to its diverse participants and observers. As a forum for debating environmental and social concerns, conducting participatory water monitoring, and training participants in mediation, the Mesa has at once inspired, disappointed, and perplexed. Indeed, the distinct experiences in and around the Mesa have created a rich and complex story that we hope these pages capture.

It is not easy or sufficient to say which parts of the process succeeded or failed. In a community as multifaceted as Cajamarca, solutions are difficult to obtain. Still, the process persevered while some critics hoped and worked to destabilize it. Despite the many challenges and complexities, the CAO succeeded in bringing parties together, facilitating dialogue, and introducing tools for addressing and resolving community concerns productively.

Although these monographs are not a complete catalog of all stakeholder voices, they convey a wide range of critical perspectives. Many of the quotes, collected through frank and confidential interviews, speak for themselves. It is my hope that the critiques and reflections offered here help carry forward the necessary dialogue that the Mesa has encouraged.

The CAO is proud of the Mesa's achievements and humbled by the challenges encountered. Along the way, the CAO has evolved with the Mesa, deepening our understanding of complex community-mine relationships, participatory studies, and multistakeholder dialogue. Our office carries with it many of the lessons learned from the Mesa's journey and hopes that others will consider and critique them in future dialogue efforts like the Mesa.

As we look to the future, it is evident that the challenges facing Cajamarca and other mining areas will continue to evolve. According to the Mesa's motto, "*Dialogue means: We are all different, we all have part of the answer, and together we have the solution.*" In this spirit, let this story be one guidepost on the demanding road that lies ahead for all of us who seek to promote conflict resolution, accountability, and improvements in the lives of project-affected people.

Meg Taylor

Compliance Advisor/Ombudsman, The CAO

June 2007

ACKNOWLEDGMENTS

The CAO would like to thank the institutions and individuals in Cajamarca who shared their diverse perspectives on the Mesa, as well as the lessons they learned from the experience. Staff members of ALAC, ASPADERUC, COMOCA, CONAM, the Cajamarcan Chamber of Commerce, Ecovida, the Defense Front of Cajamarca, FEROCAFENOP, Minera Yanacocha, the Ministry of Energy and Mines, the Municipality of Cajamarca, SEDACAJ, and the Vicaria de Solidaridad of Cajamarca were extremely helpful and generous with their time for interviews. Several representatives from U.S.-based institutions provided valuable input to these monographs, including IFC, Newmont Mining Corporation, Project Underground, consultants to the CAO, and Stratus Consulting, Inc. Many Cajamaricans—including the independent oversight volunteers (*veedores*), participants in the mediation training, and canal users—also enriched these monographs with their input, and the CAO is grateful for their collaboration and reflections.

The CAO also acknowledges the hard work and commitment of the Mesa's board of directors (Comité Directivo, known as the Comité) and the Mesa Technical Commission, whose perseverance and dedication enhanced public knowledge of water quality issues in Cajamarca. We gratefully recognize the important and tireless work of the Mesa mediation team, the Mesa staff, and the water study team, whose contributions were essential to the Mesa's progress.

Finally, we thank Nina Robertson for authoring the monograph series.

The CAO Mediation Team and Consultants

Ana María Aguilar
Gladys Alvarez,
Fundacion Libra
David Atkins,
Independent consultant
Antonio Bernaldes,
Futuro Sostenible
Damián D'Alessio,
Fundacion Libra
Bill Davis,
DPK Consulting
Rachel Kyte, IFC^a
Susan Wildau,
CDR Associates

Mesa Staff and Consultants

Luis Ara Valera
Laura Alarcón
Isaias Carrasco
María Coro
Carlo Calderón
Eduardo Montoya
Elizabeth Morales,
Independent consultant

Independent Evaluation of the Mesa

Walter Arensberg
Rosember Ariza
Manuel Rodríguez
Julia Roig

The Water Study Team

David Atkins,
Independent consultant^b
Kate Lejuene,
Stratus Consulting, Inc.
Ann Maest,
Independent consultant
Connie Travers, Stratus
Consulting, Inc.
Josh Lipton, Stratus
Consulting, Inc.

Mesa Technical Commission

José Belloso, SEDACAJ
César Briones, Collective of Users of
the Chonta River
Pio Campos, DREM
Luzidnya Cerrón, INRENA
Marieta Cervantes, INIA
Wilson Chalcán, COMOCA Este
Alfredo Chávez, SEDACAJ
Gilberto Cruzado, IUDER
Alejandro de Bary, Minera Yanacocha
Carlos Díez, Solidarity International
Hernán Flores, DREM
Julio Marín, CORECAMIC
Zenaida Mirez, CORECAMIC
Marco Narro, SEDACAJ
Rodolfo Orejuela, Municipality of
Cajamarca
Ulises Pájaros Gallardo, ADEFOR
Wilfredo Poma, National University
Fanny Rimarachin, Municipality of
Cajamarca
Carlos Sánchez, Minera Yanacocha
Pablo Sánchez, ASPADERUC

Mesa Comité (board of directors)

Jorge Albuja,
Autonomous Authority of the Jequetepeque Basin
(first delegate)^c
Luis Ara Valera,
provincial municipality of Cajamarca
Walter Campos,
Minera Yanacocha (first delegate)
Felipe Castañeda,
provincial municipality of Cajamarca
Segunda Castrejon, FEROCAFENOP
Julian Chalcán, Association of Mayors
of Small Population Centers
Jose Delgado, Private University of Cajamarca
Cesar González, Minera Yanacocha (third delegate)
Jorge Huaman, National University (second delegate)
Ramón Huapaya, Minera Yanacocha (second delegate)
Jose Leon, Autonomous Authority of the Jequetepeque
Basin (second delegate)
Ismael Linares, Town of Combayo
José Marchena, SEDACAJ (second delegate)
Julio Marín, CORECAMIC
Gil Paisic, Town of Yanacancha Grande
Otto Quevedo, SEDACAJ (first delegate)
Segundo Sandoval, Chamber of
Commerce of Cajamarca

Note: Affiliations are as of the time of publication.

a. With the CAO at the time of participation in the Mesa.

b. With Stratus Consulting, Inc. at the time of participation in the water study.

c. The first delegate was the main and only delegate to the Comité for his/her organization until the second replaced him/her to be the only delegate.

CONTENTS

i	FOREWORD
ii	ACKNOWLEDGEMENTS
iv	STAKEHOLDERS
v	OVERVIEW
vii	TIMELINE
1	CHAPTER 1. BACKGROUND
9	CHAPTER 2. CHALLENGES, ACTIONS, AND LESSONS LEARNED
9	Challenge 1. Laying a solid foundation for dialogue
17	Challenge 2. Building capacities for dialogue and mediation
22	Challenge 3. Establishing a durable framework and system for ongoing engagement
30	Challenge 4. Prioritizing issues and taking action
34	Challenge 5. Establishing institutional standing for a dialogue process
36	Challenge 6. Holding participants accountable
40	CONCLUSION
41	APPENDIXES
41	Appendix A. People Interviewed for this Monograph Series
44	Appendix B. Issues and Concerns Identified in the September 2001 Mesa
47	NOTES
49	ABBREVIATIONS

STAKEHOLDERS

The term “stakeholder” is broadly defined as those who are affected by company activities such as mining operations, as well as those who are able to influence company activities. Stakeholders can include companies, local communities, nongovernmental organizations (NGOs), government agents, international financial institutions, and opposition groups.

Some of the main stakeholders involved in the Yanococha gold mine operations in Peru are listed below. A list of abbreviations and acronyms for various stakeholders appears at the end of this monograph.

Yanococha shareholders:

- Newmont Mining Corporation, a U.S.-based international mining company that holds 51.35 percent of the shares in the mine
- Compañía de Minas Buenaventura S.A., a Peruvian mining company that holds 43.65 percent of the shares
- International Finance Corporation (IFC), a member of the World Bank Group that holds the remaining 5 percent of the shares.

A branch of Newmont’s Peruvian subsidiary, Newmont Peru Limited, is the contracted managing entity of Yanacocha.

Local and Peruvian-based civil society and community groups:

- Federation of Female *Rondas Campesinas* of Northern Peru (FEROCAFENOP), which filed a complaint with the CAO
- The Defense Front of Choropampa (Frente de Defensa de Choropampa, the Frente), which filed a complaint with the CAO
- Ecovida, an environmental NGO
- The Cajamarca Chamber of Commerce
- The Autonomous Authority of the Jequetepeque Basin

International NGOs:

- Project Underground, a U.S.-based NGO that partnered with FEROCAFENOP

Government entities and agencies:

- Local mine-affected communities
- The provincial municipality
- COMOCA (Comité Técnico y Científico de Monitoreo del Agua, Scientific and Technical Committee for Monitoring)
- The National Institute for Agrarian Research and Extension (INIA)
- The Sanitation System Provider of Cajamarca (SEDACAJ)
- The Peruvian Ministry of Energy and Mines (MEM)
- INRENA (Instituto Nacional de Recursos Naturales, National Natural Resources Institute)

The CAO:

The Office of Compliance Advisor/Ombudsman, the independent recourse and accountability mechanism for two members of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The CAO served as the convener and facilitator of the Mesa.

OVERVIEW

One day in early January 2000, thousands of people filled the main plaza of Cajamarca, Peru. Coming largely from rural areas around the city, they converged to express their opposition to the actions of the Yanacocha gold mine, located less than 50 km from where they stood. Numerous community leaders took the podium declaring that the mine posed a threat to the health of the region, that it had unfairly purchased land, that it participated in corrupt activities with the government, and that its planned expansions would only exacerbate these problems. Protestors waved banners proclaiming *“Life, yes. Gold, no!”*; *“No to more mine expansions!”*; and *“Clean water is a right that we demand.”*

These protests were not the first or the last to take place. Since the mine’s inception in 1993, opposition to its operations had been growing, although such opposition had remained concentrated within rural groups. On several occasions, local inhabitants had erected temporary road blockades restricting access to the mine. Despite these protests, Yanacocha proceeded with expansion, denied the allegations of contamination, and attempted to manage conflicts as they arose.

Frustrated with their inability to engage constructively with the company, some community representatives and advocacy organizations brought their concerns to the attention of the International Finance Corporation (IFC) of the World Bank Group. IFC is a 5 percent shareholder in Yanacocha and had granted the company three loans in 1993, 1994, and 1999. Although IFC listened to these concerns, its responses resulted in little change in the course of community-mine conflicts.

Then, just six months after the January 2000 protest, a watershed event occurred that profoundly altered the dynamics between the community and Yanacocha. On June 2, 2000, a truck contracted by Yanacocha spilled 151 kg of mercury along 40 km of road in the department of Cajamarca, about 120 km from the mine site. Mercury was found in at least 22 points in three towns: Choropampa, Magdalena, and San Juan. Believing the mercury to be valuable, many local residents collected it from the road. As a result of their exposure to mercury, hundreds of people exhibited various degrees of poisoning. When the broader public became aware of the incident several days later, controversy erupted on a local, national, and international scale. Grievances against Yanacocha that had been accumulating over nearly a decade came to the forefront of tense, public debate.

In response to the mercury spill, the Office of the Compliance Advisor/Ombudsman (CAO)—the independent accountability mechanism for IFC and MIGA—organized and oversaw an independent investigation in July 2000 and later received two mine-related complaints from people affected by the mercury spills and from rural groups affected by the mine operations.

Recognizing the need for a comprehensive approach to the complex conflict between Cajamarcan communities and the mine, the CAO began an ombudsman intervention and convened a dialogue roundtable in late 2001 called the Mesa de Diálogo y Consenso (the Mesa),

The conclusions and lessons learned presented in these monographs are drawn from both the successes and shortcomings of the Mesa.



whose primary objective became to prevent and resolve conflicts between the community of Cajamarca and Yanacocha. The concerns and demands raised by Mesa participants were numerous and complex. In a climate of unstable political and social dynamics, addressing and resolving them proved to be challenging.

This monograph traces the formation and work of the Mesa until its transition in November 2003. It is the first in a series of three monographs that collectively present the history, challenges, and lessons learned from the CAO intervention in Cajamarca. Monographs 2 and 3 present the 2002–04 water study and the transition of the Mesa, respectively. The perspectives of a broad range of Mesa participants and other interested observers form the basis of the analysis.

This monograph is divided into two chapters. The first covers the history and context of the mine and the community-mine relationship, the initial complaints filed with the CAO, and a description of the mercury spill and its immediate aftermath. The second explores the major challenges that the Mesa and the CAO team confronted at various stages of the Mesa's early evolution and the actions taken to overcome these challenges. It also presents lessons learned, which are drawn from both the successes and shortcomings of the Mesa.

The information and stakeholders' perspectives that inform the monographs in this series were gathered from project documentation and more than 60 interviews with Mesa stakeholders (participants, as well as outside observers), project staff, and consultants in Peru and the United States conducted between October 2004 and March 2006 (see appendix A).¹ The recounted perspectives are not intended to be fully comprehensive; rather, they are a representative sample of the spectrum of stakeholder opinions toward the Mesa. Without a doubt, there are more voices to be heard and understood.

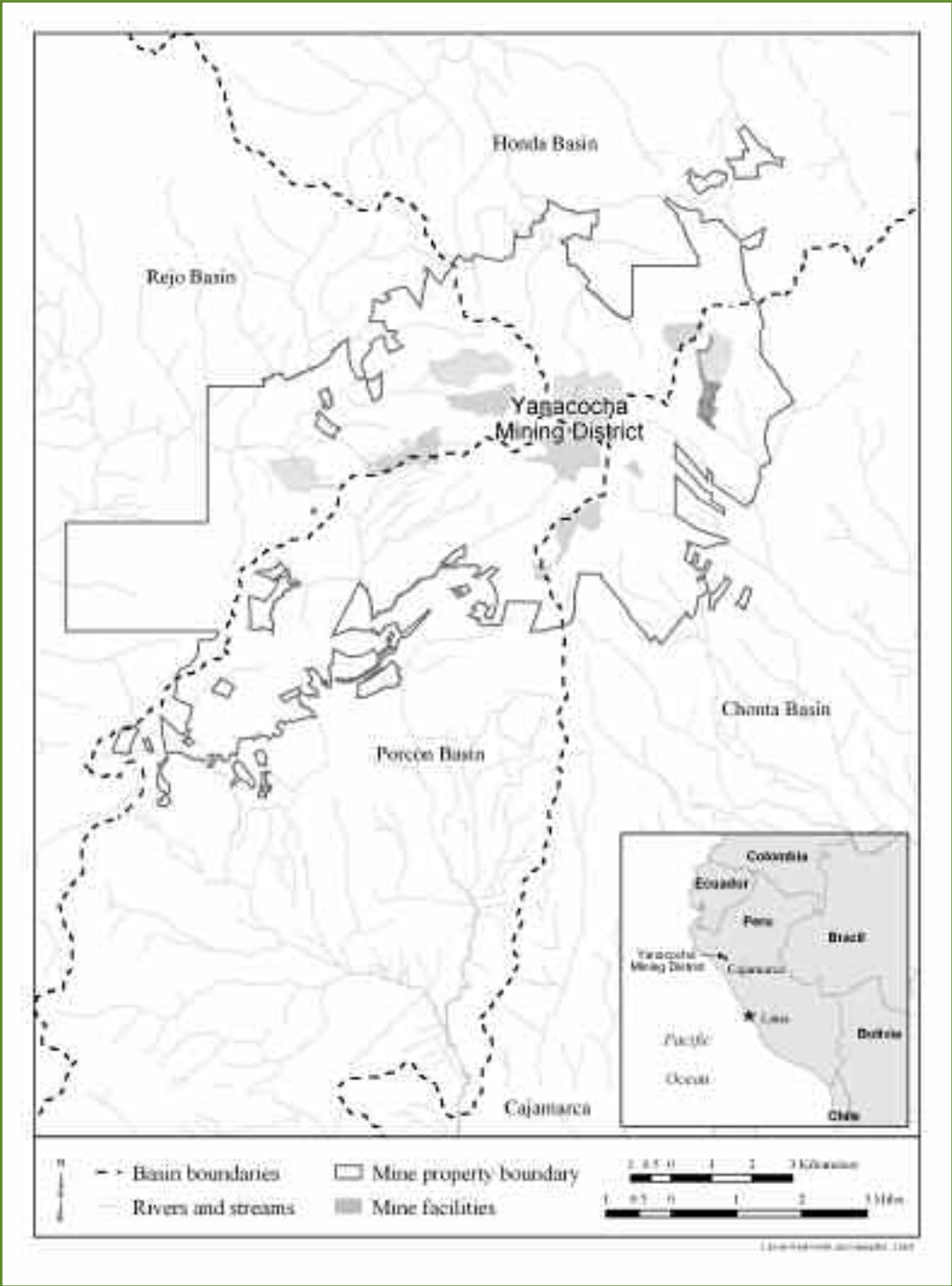
TIMELINE

Important events during the Mesa's formation and early years^a

1993	Yanacocha mine begins operations
	IFC approves loan for Carachugo pit expansion and acquires 5 percent equity
1994	IFC approves loan for Maqui Maqui pit expansion
1999	
June	FEROCAFENOP meets with IFC in Washington
December	IFC approves loan for La Quinoa expansion
	Project Underground publishes report critical of Yanacocha
2000	
January	Major demonstrations against Yanacocha occur in Cajamarca
May	Representatives from FEROCAFENOP attend Newmont shareholder meeting in Colorado, USA IFC visits Cajamarca and meets with FEROCAFENOP and other local stakeholder groups
June 2	Mercury spill occurs in Choropampa, Magdalena, and San Juan
June	Protests against the mine occur in towns affected by the mercury spill and in the city of Cajamarca
July	Independent commission, convened by CAO, conducts investigation of the mercury spill
2001	
January	CAO receives complaint from the Frente de Defensa de Choropampa
March	CAO receives complaint from FEROCAFENOP
July	CAO conducts first assessment visit to Cajamarca
August	CAO publishes first assessment report
September	CAO convenes public workshops on community-mine issues
October	Mesa Coordinating Committee formed
November	Dialogue and conflict resolution and training workshops begin
	CTAR Mesa convenes under the auspices of the regional government
2002	
January	Stratus Consulting, Inc., visits the Mesa and is subsequently contracted by CAO to conduct an independent water study
January	Working protocols adopted for functioning of the Mesa
August	Preliminary field assessment for mercury spill health study conducted
September	Stratus Consulting, Inc. begins collecting quantitative field data
December	Dialogue and conflict resolution training concludes
2003	
January	First Mesa coordinator hired
February	Mesa protocols updated and finalized
April	Stratus Consulting, Inc. finishes collecting quantitative field data
June	Mesa office opens
October	Stratus Consulting, Inc. presents water study in Cajamarca
November	Stratus Consulting Inc. makes additional presentations of water study, CAO concludes involvement in mercury spill medical evaluation, Mesa begins to explore options for continual water monitoring

^a For other events in 2002–06, see monographs 2 and 3.

Map 1. The Yanacocha Mining District and Regional Watersheds





CHAPTER 1. BACKGROUND

The Yanacocha Gold Mine and Its Economic and Social Context

The Yanacocha gold mine, the largest gold mine in Latin America, began operations in northern Peru, in the department of Cajamarca, in 1993. The mining company is a consortium of three shareholders: U.S.-based Newmont Mining Corporation, which holds 51.35 percent of the shares; Compañía de Minas Buenaventura S.A. of Peru, which holds 43.65 percent of the shares; and the International Finance Corporation (IFC) of the World Bank Group, which holds the remaining 5 percent. A branch of Newmont's Peruvian subsidiary, Newmont Peru Limited, is the contracted managing entity of Yanacocha.

Yanacocha was conceived as a relatively short-life mine, projected to operate for 10 years. Because of tremendous exploration successes, however, the company's output has increased substantially, from 81,000 ounces in 1993 to more than 3.3 million ounces in 2005.

The Yanacocha mining complex comprises six open pit mines, four leach pads, and three processing facilities. The mine property covers a total land area of approximately 1,600 square kilometers (160,000 hectares, or 600 square miles).² The mine property lies at the continental divide at an altitude ranging from 3,700 to 4,100 meters and spans four major watersheds (the Chonta, Honda, Porcon, and Rejo) (see map 1). The southern mine boundary is located 15 km north of the city of Cajamarca, the capital city of the department of Cajamarca.

For Peru, Yanacocha was a landmark mining investment that paved the way for foreign direct investment in the country's mining sector after nationalization of the industry in the 1970s and nearly 15 years of armed internal conflict. Peru's gold exports totalled \$2 billion in 2003—35 percent more than in 2002—and Yanacocha alone accounts for about half of that production. Yanacocha's gold exports represent between 8 and 11 percent of total Peruvian export earnings, and the company is one of Peru's most significant taxpayers.

IFC's Involvement in the Mine

In addition to holding a 5 percent share in Yanacocha and providing an initial loan in 1993, IFC has supported several of the mine's expansion projects. In 1993 IFC approved a loan for the Carachugo pit expansion. In 1994 IFC approved a second loan for the expansion of the Maqui Maqui pit, and in 1999 IFC supported the creation of a credit facility for a variety of Yanacocha's capital expenditures, one of which was expansion of the La Quinoa pit. Yanacocha fully repaid all these loans in December 2005, and IFC maintains its equity share. Yanacocha has been one of IFC's most profitable equity investments.

For Peru, Yanacocha was a landmark mining investment that paved the way for foreign direct investment in the country's mining sector and has become a major source of export revenues.

Yanacocha has been one of IFC's most profitable investments.



Cajamarca and the Arrival of Yanacocha

Cajamarca was the scene of the Spanish conquistadors' infamous confrontation and betrayal of the ancient Incas. The region's association with gold and exploitation is entrenched in the history and mind-set of its people.

The department of Cajamarca, with a population of about 1.5 million, lies in the north of Peru bordering Ecuador. The capital city and surrounding area, also of the same name, have roughly 85,000 and 290,000 residents, respectively. Cajamarca remains one of Peru's poorest departments, ranking nineteenth among the country's 25 departments in terms of human development, according to United Nations Development Program data (UNDP).³ Roughly three-quarters of the Cajamarcan population is rural,⁴ and the same share is considered poor.⁵ At the same time, the department's gross domestic product (GDP) has been increasing, having almost doubled from \$730 million to \$1.12 billion between 1996 and 2003.⁶ A substantial portion of this growth can be attributed to the growth of the mining sector, which accounted for 39 percent of the department's GDP in 2003, as compared to 19 percent in 1996.⁷

The region's association with gold and exploitation is entrenched in the history and mind-set of its people. In 1532, the city of Cajamarca was the scene of Spanish conquistador Francisco Pizarro's infamous confrontation and betrayal of the Inca king Atahualpa. Through a deceptive scheme, the conquistador looted the Incan gold cache, killed Atahualpa, and assumed power over the region. These events remain salient in Cajamarcan history and collective memory.

Because of the city of Cajamarca's proximity to the mine, the identity of the city has changed rapidly from that of a relatively tranquil agricultural center to a sprawling mining city. Many Cajamaricans welcomed the arrival of the mine as a source of employment and a contributor to economic growth and opportunity for the region. In-migration that has accompanied the mining development, compounded by the fact that Yanacocha did not construct a separate camp for its workers, has caused the city of Cajamarca and its outskirts to grow rapidly. As economic activity and in-migration have grown, rents and inflation have also increased and some public services have been stretched thin. Urban and rural planning for this rapid growth has been lacking, and haphazard development has frustrated many local residents.

In the rural areas, the impacts of Yanacocha have taken a very different form. For the people bordering the mine, the direct impacts have included changes in land use and land tenure and alterations to the quality and quantity of some waterways and landscapes. Towns on the transportation routes have experienced increased traffic and in-migration.

Because the mine was initially projected to have a short life, Cajamarcans did not anticipate the eventual size and impact that the mine would have. At the same time, hopes and expectations for positive local development effects grew and several basic and profound questions surfaced during the first decade of Yanacocha's presence:

- How long will the mine operate?
- What will be the impact on the quality of life in the rural and urban areas?
- What will happen to the economy and the environment after the mine leaves?
- Who is regulating the mine to ensure that human health and the environment are protected?

The persistence of these community preoccupations in Cajamarca led to a general sense of insecurity and frustration. Increasingly, Cajamarcans began to voice their questions and demands publicly.

The Emerging Campaigns of FEROCAFENOP and Project Underground

In 1998, the Federation of Female *Rondas Campesinas* of Northern Peru⁸ (FEROCAFENOP, in its Spanish abbreviation) and other civil society groups began to consolidate and assert their grievances publicly against Yanacocha. FEROCAFENOP's initial complaints focused on the price of land purchases and the lack of transparency with which land was purportedly purchased. These concerns grew to include discontent with the way in which the mine had undertaken its public consultations for various expansions and the impacts the mine was having on the local environment.

At the same time that problems and protests surfaced, Yanacocha was discovering vast amounts of gold reserves, exceeding the quantity originally predicted.

In 1999, FEROCAFENOP joined the growing national and international networks of mine-affected communities calling attention to the adverse impacts of mining. In Peru, it became a member of the National Coordinator of Peruvian Communities Affected by Mining (CONACAMI, in its Spanish abbreviation). On the international level, FEROCAFENOP joined a campaign critical of Newmont Corporation's mining operations in Indonesia, the U.S. state of Nevada, and Peru. Supported by the U.S.-based nongovernmental organization (NGO) Project Underground,⁹ the campaign involved protests, letter writing, and the participation of community representatives in Newmont shareholder and IFC meetings. In December 1999, Project Underground published a report critical of Yanacocha's operations that alleged water contamination in several areas affected by Yanacocha, along with various other negative environmental and social impacts.

In response to growing public concern and criticism of IFC and Yanacocha, IFC enhanced its due diligence and oversight by assigning a social specialist to the project, meeting with local groups, and reviewing the mine's operations for compliance with the new IFC Environmental and Social Safeguard Policies and Guidelines. Concluded in 1999, the review found that Yanacocha was in material compliance with the new policies.

In May 2000, an IFC team met with various civil society groups in Cajamarca, including FEROCAFENOP, to hear their wide-ranging concerns. According to an IFC representative and CAO documentation, the discussions were exploratory and the frustration conveyed by civil society groups revealed a high level of dysfunction in the community-mine relationship. IFC's concern over the potential for continued conflict grew.

For its part, Yanacocha dismissed many of the expressed public concerns. It emphasized that the mine was an economic benefit to the region and upheld high environmental standards. The company rarely engaged in public discussions and instead arrived at bilateral arrangements with specific groups when necessary for its operations to continue.

At the same time the problems and protests were surfacing, Yanacocha was discovering vast amounts of gold reserves, exceeding the quantity predicted when the mine began operations. Revenues were substantial, and Yanacocha became one of IFC's most profitable equity investments.

A Call for Investigation and the CAO Response

The June 2000 mercury spill caused a shift in the relationship between Yanacocha and the Cajamarca community. During the weeks after the spill, as people began to report sicknesses from direct skin contact with the liquid mercury and inhalation of the vapor, public apprehension increased. Little information was made available to local people about the specific nature of the spill and its potential effects on human health. In light of this growing concern, Yanacocha shareholders (Newmont, Compañía de Minas Buenaventura, and IFC) called for an independent commission of experts to conduct an investigation. They requested that the CAO facilitate and oversee the investigation and deposited funds required to cover the costs of the investigation into an account managed by the CAO.

In July 2000, the CAO contracted a team of independent experts to carry out the investigation. The team included the former minister of the environment of Colombia, a toxicologist with experience in mining, and a mining engineer. In a climate of increasing distrust, the commission members' independence from influence from the mining company and the Peruvian government was essential to building credibility. The funding mechanism through the CAO helped to ensure this independence.

The independent commission arrived in Cajamarca on July 24, 2000 and undertook a five-day investigation in the towns affected by the spill, in addition to interviewing representatives from Yanacocha and the government in Cajamarca and Lima. The team submitted its findings in September 2000, and the CAO published its report in October 2000. The CAO returned to the area in October to present the report and follow up on events surrounding the spill.

The June 2000 mercury spill caused a shift in the relationship between Yanacocha and the Cajamarca community.

In a climate of increasing distrust, independence from influence from the mining company and the Peruvian government was seen as essential to building credibility for the investigation.

Findings of the Independent Commission's Investigation of the Mercury Spill

The independent commission's report found that the responses to the spill by Yanacocha and its contractor, Ransa Commercial—which transported the mercury—were delayed and, in several respects, inadequate.¹⁰ Although the companies sent staff to investigate the incident the day after, only several days later did Yanacocha assume full responsibility for the spill, undertake a full-fledged effort to recover the mercury, and issue a press release explaining the incident. By this time, many local people were reporting symptoms of mercury poisoning.

For many, the Commission report was seen as an important step toward transparency and independent judgement.

According to the commission, many levels of confusion and conflict emerged in the aftermath of the spill that could have been prevented. First, the quantity of mercury spilled and the spill's exact location were unclear. Yanacocha first stated that the amount was 80 kg over a short patch of road, but it was soon found that the amount was nearly double, spread over a larger area. There was also confusion over how serious the public health effects of the spill were. Although the company and the government initially stated there was little risk to human health, they later realized the health risks were significant for some exposed people, especially children. Two days after the spill, scores of people reported feeling the effects of mercury poisoning, which included skin irritation and sickness from vapor inhalation. Additionally, the method of treatment for mercury poisoning had significant negative side effects for some patients.

The CAO's engagement with the mercury spill victims continued for three years after the spill.

A central problem surrounding the spill concerned lack of clear procedures for recovering the spilled mercury, the report stated. Yanacocha and Ransa first attempted to recover it through house-to-house visits, public announcements, and offers to buy it. Although some people turned in or sold what they had, others kept the mercury because they believed it to be valuable. The company's offer to pay for the mercury spurred some residents to collect it along the road without proper protective gear.

The commission found that the Ministry of Health struggled both to understand the potential effects of the spill and to ensure adequate cleanup and treatment of the victims. In the weeks after the spill, affected people were transferred to the main hospital in Cajamarca for treatment. Houses were inspected and cleaned. In total, 955 residents of the towns of Choropampa, Magdalena, and San Juan were found to have been exposed to some level of mercury. Approximately 200 people were hospitalized and treated for mercury poisoning. Of the more than 2,800 homes surveyed by Yanacocha, 115 were found to need some level of decontamination.

In addition to recounting the chain of events that led to the mercury spill and the actions taken to address it, the commission report also identified direct and underlying causes of the spill and the acute and potentially long-term human health effects. Direct causes were attributed to the truck driver's negligence and the two companies' lack of a systematic and effective response. The report found that the companies did not apply international standards to the handling and transport of hazardous materials, and that monitoring and audit systems failed to identify these shortcomings. Underlying causes identified by the commission included inadequate governmental and company policies on hazardous waste management and weak oversight of mine operations.

In light of these findings, the report made 19 recommendations to Yanacocha, Newmont, and IFC that were intended to improve the response to the spill as well as future mine safety and the rigor of IFC requirements. The recommendations covered areas of hazardous waste management, emergency response, treatment of affected people, project supervision, monitoring, and mitigation of environmental contamination.

For many, the report was seen as an important step toward transparency and independent judgement. Many interviewed stakeholders, including a local NGO representative, reported that the commission presented the timeline and facts in a clear way that no other report on the spill had.

The CAO's engagement with the mercury spill victims continued over the three years following the spill. The process through which the CAO sought to address spill victims' health concerns is discussed in chapter 2, in the section on Challenge 4.

Responses by the Mining Company and IFC to the Independent Commission Report

Yanacocha acknowledged the general credibility of the report, but questioned some of the facts and took issue with some of the recommendations and critiques of its environmental management. In April 2001, Yanacocha produced its own report, which maintained that the cleanup and remediation efforts had been sufficient, local and regional medical agencies were equipped to address problems related to the spill adequately, and no future long-term or latent health effects were likely. The report also responded specifically to the commission's recommendations by summarizing actions the mine had taken to address them, including implementation of a long-term public health monitoring program, health insurance for each affected individual, and coverage for treatment of any medical condition diagnosed as related to mercury exposure. Yanacocha also enhanced its hazardous waste and emergency preparedness and response policies and plans to reflect international best practices. In 2003, the company published an environmental risk assessment, which found that no significant environmental risk remained from the spill.

Reflecting on Yanacocha's experience with the independent commission during a presentation to IFC, one mining company representative explained: "Often submitting to an independent investigation is frustrating, especially when you are in the middle of a complicated cleanup effort and unable to give all the input and corrections you want. But in the end, the investigation was good for the company because it provided people with some information that they trusted. Without the investigation, there would have been even more speculation and inaccuracies."

For its part, IFC did not actively endorse or disagree with the findings of the independent commission. Instead, it focused on filling the gaps that the mercury spill revealed in IFC health and safety requirements. At the time of the spill, IFC guidance to clients on the two key issues of hazardous materials management and emergency preparedness and response was dispersed among several sets of guidelines relating to pollution control and abatement. In an effort to ensure that IFC requirements were harmonized and reflected international best practice, IFC approved new guidelines on these issues in December 2001 for all its relevant operations.

"The investigation was good for the company because it provided people with some information that they trusted. Without the investigation, there would have been even more speculation and inaccuracies."

—Mining company official

IFC focused on filling the gaps that the mercury spill revealed in IFC health and safety requirements.

Growing Distrust among Stakeholders

According to many local stakeholders who were interviewed and the CAO team, the mercury spill damaged trust in Yanacocha and in the government's ability to supervise the mine. Many stakeholders said that before the spill, many Cajamarcan in the urban areas accepted and even lauded the development of the mine as a major source of regional economic development. This support and confidence were damaged by the mercury spill and by the responses of Yanacocha and the government. As one Cajamarcan said, "It was the spill that tipped the scales against Yanacocha. A lot of people, especially in the city, didn't really care about what was happening in the countryside with the *campesinos* near the mine. When they found out they could be poisoned by pollution from the mine, they started to worry."

The mercury spill also received attention at national and international levels. As the incident and its aftermath unfolded, the national press covered the spill extensively, and it became a topic of household discussion. In 2001 a team of Canadian and Peruvian filmmakers made a documentary entitled "The Price of Gold," which tells a story of the mercury spill from the perspective of some vocal leaders of the town of Choropampa and the Frente. Critical of Yanacocha, the movie won international acclaim and heightened awareness of the spill, as well as increasingly negative perceptions of Yanacocha.

The mercury spill raised public concern that Yanacocha was not fully disclosing important information about its operations and the potential risks they posed to local people. These concerns increased when Yanacocha's plans to extract gold from a hill close to the city of Cajamarca, Cerro Quilish, became public. Because many residents believed the hill was a key source of water for the region—as well as a spiritually significant site—and that its exploitation would cause significant adverse impacts, the plans were met with staunch opposition. In 2000, the municipal government of Cajamarca declared the hill a protected area. Yanacocha challenged the declaration in court. The issue of Quilish (discussed further in monograph 3) emerged as a symbol of community-mine conflict.

CAO Receives Two Complaints

In January 2001, the Defense Front of Choropampa, (Frente de Defensa de Choropampa, hereafter the Frente) filed a complaint with the CAO. Signed by more than 24 people affected by the mercury spill, the complaint alleged that Yanacocha had not implemented the recommendations of the independent commission, that the mine's response to the health needs of the affected people was insufficient, and that Yanacocha was undermining community cohesion through coercion.

The second complaint, submitted by FEROCAFENOP in March 2001, alleged many broader adverse environmental and social impacts from the mine and claimed that Yanacocha was out of compliance with several IFC social and environmental safeguard policies. Project Underground, as FEROCAFENOP's advisor, wrote the complaint, and more than 30 FEROCAFENOP members signed it. Areas of alleged noncompliance with IFC policies included

The mercury spill attracted national and international attention. It also raised public concern that Yanacocha was not fully disclosing important information about its operations and the potential risks they posed.

lack of adequate public consultation on the environmental impact assessment, technical gaps in the impact analysis, lack of recognition of affected communities as indigenous, unfair land purchasing practices, inadequate compensation for involuntary resettlement, and broken promises to local people regarding infrastructure and employment. The complaint also included a list of demands ranging from a popular referendum on mine expansion, to local participation in monitoring mine operations, additional technical assessments, more robust environmental mitigation measures, increased development projects for local people, and more frequent and substantive public consultations.¹¹

Although the nature and substance of the two complaints were related, the complaints were distinct in many key ways. For this reason, the CAO decided to pursue separate but overlapping interventions. To determine an acceptable path forward for addressing the Frente complaint, the CAO engaged in discussions with the various representatives of affected people and the leaders of the Frente.

To address the FEROCAFENOP complaint, a CAO team traveled to Cajamarca in July 2001 to conduct an on-site situation assessment of the conflict between the community and the mine. CAO formulated a proposal for engagement that summer, which it began to implement with key stakeholders in September 2001. The next chapter discusses how the Mesa evolved, along with the main challenges encountered, and lessons learned from the experience.



CHAPTER 2. CHALLENGES, ACTIONS, AND LESSONS LEARNED

During the formation of the Mesa, stakeholders faced numerous obstacles, which can be grouped into six main challenges:

1. Laying a solid foundation for dialogue
2. Building capacity for dialogue and mediation
3. Establishing a durable framework and system for ongoing engagement
4. Prioritizing issues and taking action
5. Establishing institutional standing for the Mesa
6. Holding participants accountable

The sections below explain these challenges, the actions taken to overcome them, and the lessons learned from Mesa successes and shortcomings. The lessons described are gleaned from interviews with Mesa participants, conveners, staff, consultants, critics of the Mesa who did not participate, interested observers outside the Mesa, and CAO staff.

CHALLENGE 1.

Laying a Solid Foundation for Dialogue

The initial CAO assessment of the conflict in July 2001 sought to understand the nature of the complaint and establish a basis for dialogue among diverse stakeholders. To do so effectively, the CAO synthesized suggestions from stakeholders for possible paths forward, convened public workshops, and worked to consolidate an inclusive membership base.

Assessing the nature of the complaint and the ripeness for dialogue

In early 2001, the CAO held meetings with the FEROCAFENOP complainants, community stakeholders, Yanacocha, and the IFC. From these discussions, the CAO concluded that an ombudsman intervention could potentially help catalyze improvements to the damaged community-mine relationship.

The CAO decided that understanding the conflict and laying the groundwork for dialogue were preferable to conducting a fact-finding assessment or a compliance audit that would issue specific findings on the past actions of the company, the complainants, and IFC. An audit might have responded more succinctly to some specific allegations in the FEROCAFENOP complaint concerning the mine's noncompliance with IFC requirements.

“People needed to start talking to one another.”

—The CAO senior ombudsman specialist

Most groups believed outside intervention could catalyze needed improvements in the community-mine relationship. The conflict appeared ripe for some level of conflict resolution led by third-party mediators.

The lack of agreement within the mining company about the form and function of community engagement proved to be a significant and ultimately insurmountable challenge for the Mesa.

However, the CAO's wide-ranging conversations with local stakeholders indicated that the potential for conflicts between the community and the mine was the central concern, overriding issues specific to IFC—at least in the beginning stages of dialogue.

"We could have conducted an audit and come up with our own judgment as the CAO," explained the CAO senior ombudsman specialist, "but because there was no forum for engagement between the mine and the community, the audit information probably would not have led to any concrete solutions. People needed to start talking to one another first."

The CAO hired an external group of four conflict resolution experts to conduct an impartial assessment of the conflict. As with the independent commission that investigated the mercury spill, ensuring the team's independence was essential to gaining public trust. Thus the CAO required that the mediators have no prior connections to Yanacocha or to the mining industry in general.

The CAO assessment team conducted more than 40 interviews with Cajamarcan stakeholders, including representatives of FEROCAFENOP, environmental and development organizations, the municipal government, local universities, religious groups, the Yanacocha Mining Company, and Newmont. The team explored questions focusing on stakeholder perceptions of the situation, their disposition to participate in a process to explore how the community and mine could coexist, and the potential for locally led activities to achieve an ongoing, transparent, independent process of cooperation and conflict resolution.

Stakeholder responses to these questions revealed various levels of community concern, crisis, and opportunity. The central concerns reflected those raised in the two complaints filed with the CAO, including adverse health effects of the mercury spill, environmental damage, threats to human health from polluted air and water, unfair treatment of landowners, repression of mining opponents, lack of meaningful community consultation, adverse social impacts, corruption of the regional and national government, and failure to fulfill promises to improve public works. The assessment team found that underlying these concerns was a profound lack of public trust in Yanacocha and in all levels of government. From the mine's perspective, certain civil society groups made allegations about mine impacts that were often unfounded, instigated violence against the mine, and were not trustworthy.

Although they shared a number of concerns, the groups that were interviewed came to different conclusions about what level of engagement with Yanacocha would result in positive change. Many groups acknowledged that Yanacocha was there to stay for several decades and that some level of engagement would benefit the region as a whole, rather than constant clashing.

Other groups questioned whether the commitment of Yanacocha and the CAO to meaningful dialogue would result in substantive benefits for the people of Cajamarca. First and foremost, these groups wanted acknowledgment that the mine had done wrong. They saw such a definitive admission as a necessary step in ensuring accountability by the mine, and they hoped for an assessment report along the lines of the mercury spill investigation, rather than a proposal for a dialogue process.

Within Yanacocha's management, the assessment team found some key company leaders who were willing to enter into a multistakeholder dialogue process, especially in light of the increasing protests against the mine and consequent threats to its operations. Nevertheless, company managers differed in their opinions about how to engage with the communities. Although some were inclined to participate in public dialogue that examined company policies and operations, others rejected the process as too complex and risky. Instead, they opted for strategic engagement with government authorities, through which they hoped to ensure public acceptance of the mine. The lack of agreement within Yanacocha about the form and function of community engagement proved to be a significant and ultimately insurmountable challenge for the Mesa. This issue is revisited later in the series.

The perspectives collected from the diverse set of stakeholders revealed "an intricate state of crisis and opportunity in the relationship between Yanacocha and the larger community," the team concluded in the assessment report. The team's summary of the types of crises and opportunities they observed is presented in table 1. The assessment report found that most if not all groups were not satisfied with the status quo, and feared an intensification of conflict. Mining company leaders were initially incredulous that such strong feelings against the mine existed. The company conducted its own survey of public opinion, which also indicated that community resentment was widespread and growing.¹² Most groups believed an outside intervention could catalyze needed improvements in the community-mine relationship and expressed willingness to participate in a dialogue process. In short, the conflict appeared ripe for some level of conflict resolution led by third-party mediators.

Table 1. Main Crises and Opportunities Observed in Cajamarca by the CAO Assessment Team in 2001

Crisis	Opportunity
Widespread belief that Cajamarca is socially, environmentally, and economically unsustainable	Existing openness to search for means to increase understanding and improve the way things are
Pervasive lack of trust, respect, and communication promoting division and preventing healthy relationships from taking root	The mining company's recognition that changes must take place in its relationship with the community and community recognition of the central economic role of the mine
A culture of dialogue has been largely missing from the experience of the parties	Experience in cooperative problem-solving exists within some parties
Omnipotence of the mine overwhelms all aspects of life in Cajamarca	Existence of strong civil society and social networks and changes in the national political scene theoretically could provide more support to participatory processes
Significant transformations in the community, creating conflict, challenging identities, and questioning core values	Change presents opportunity to shape a new future for the region and to find new expression of core values
Relationship between the mining company and the community is fraught with complex emotional issues, as well as differing perspectives	Sufficient overlap in identification of problems to allow problem-solving processes to develop

Source: CAO Assessment Report, September 2001.

Based on these findings, the team proposed returning to Cajamarca to hold a series of public workshops about the community-mine conflict with a diverse group of community stakeholders. The initial goal of the workshops was to agree on a process for establishing productive dialogue that could “build understanding, manage differences, and resolve problems stemming from the mining operation and the community’s relations,” the CAO assessment report said. The team also committed to sharing a draft of the assessment report with the parties and incorporating their feedback in the final version.

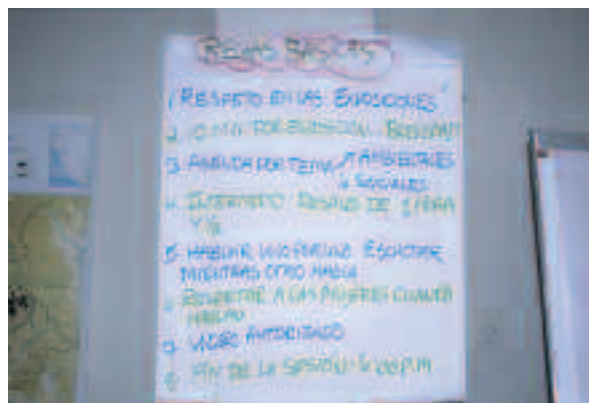
Convening and facilitating the public workshops

“People needed to vent. What the community had to say was hard for Yanacocha to hear but it needed to happen. It was like the Yanacocha wall finally had a crack in it.”

—A Mesa participant

In September 2001, the CAO team facilitated the first public workshop on community-mine issues in Cajamarca. The atmosphere of the first meeting was heated and contentious. In an open forum, participants voiced numerous grievances against the mine, ranging from neglect of the mercury spill victims to pollution and broken promises of development benefits. The interviewed participants and CAO mediators recalled that it was the first time that Yanacocha management had heard these complaints expressed by people affected by the mine. For many years, pressure between community members and the mine had been building, and much of the meeting was spent describing their frustrations. With facilitation from the CAO, frustrations and grievances were aired in the open, and the emotional effects on both community members and representatives from the mine were notable. One Mesa participant recounted, “People needed to vent. What the community had to say was hard for Yanacocha to hear but it needed to happen. It was like the Yanacocha wall finally had a crack in it.”

The facilitators then oriented the group toward next steps. The group created a draft scoping document listing issues of concern and possible options for future discussion. The CAO team synthesized community concerns in a table, presented in appendix B. Issues of concern ranged widely, from environmental contamination to lack of employment opportunities and adverse social impacts. Proposals for next steps were agreed upon, including the organization of three independent studies: one on the watersheds affected by the mine; one on the health impacts of the mercury spill; and one on environmental contamination in the town of Choropampa. These priorities became a blueprint for future action by the Mesa, combined with the Mesa protocols described in the



discussion of Challenge 3. Because the dialogue process had expanded to incorporate groups beyond FEROCAFENOP, the plan of action addressed some but not all issues raised in the original FEROCAFENOP complaint—a modification to which FEROCAFENOP leaders agreed.¹³

At the workshops and in other meetings, the CAO team solicited comments on the draft September 2001 assessment report. Feedback was abundant and diverse, and the CAO recorded participant comments to incorporate into the final report. On reflection, many groups believed that the CAO team's analysis was accurate and that the final report took into account their feedback. According to one observer, "The CAO assessment was the first time anyone from the outside reflected back to us what was going on. It didn't point fingers. It laid out what the problems were and suggested ways to fix them. The report was absolutely essential to solving community problems."

However, groups that later chose not to participate in the Mesa maintained that the report missed vital parts of the story of community-mine conflict and Yanacocha's wrongdoing. One outside observer reflected, "What they wrote was way too easy on Yanacocha. The fact was, everyone was mad because the mine was doing bad things. They were really *doing* them. And the report looked over their past wrongs; it didn't even mention the critical findings of the independent commission's report on the mercury spill." At some level, these divergent perspectives translated to different levels of support for and participation in the Mesa.

In the months that followed, two more workshops were held. At each meeting, approximately 35 groups with at least one representative and 30 nonaffiliated individuals were present. The central challenge for the CAO team was to maintain a level of productive discussion that focused on how to address the most salient community concerns, based on the initial blueprint.

Participants left the first meetings with widely differing expectations and assessments of the potential for a successful dialogue process. To gauge their level of commitment to a long-term mediated dialogue, the CAO team met with key participating groups on an individual basis. The team found their interest and disposition to dialogue was still solid, although some harbored doubts about the extent to which dialogue could lead to substantive solutions. Many participants were encouraged by the ability to express their concerns directly to Yanacocha representatives in a neutral forum, and they were eager for meetings to continue. Other participants were frustrated by the lack of discussion of specific issues, and even doubted that such discussions could occur.

Some groups were so skeptical that they remained firm in their decision not to participate in any of the public workshops. These groups decided to maintain an unwavering position of opposition to the mine, and rejected the Mesa. By some accounts, these opposition groups pressured other potential participants not to join the Mesa and went so far as to threaten participating groups with exclusion from future community projects and programs. Although the extent to which such pressure was applied remains unclear, the anti-Mesa stance of some NGOs presented a clear barrier to expanding Mesa membership. Some groups that had initially expressed interest in participating in a dialogue process abruptly changed positions and opted

not to participate. Staff of these groups who remained interested and committed to a dialogue process had to participate on an individual basis, rather than an institutional one.

Nevertheless, the CAO team perceived a significant demand for continuation of the process from a broad base of representative civil society groups, and convened a second set of workshops in October 2001. In these October meetings, participants formally requested a long-term process, and the Mesa began.

Consolidating the initial Mesa membership

Building from the public workshops, the CAO team set out to convene a comprehensive and inclusive Mesa that represented a critical mass of stakeholders. The historical divisions and power dynamics that overlay the community-mine relationship added complexity to the formation of the Mesa. The CAO recognized that overcoming these divisions was essential and would take time. The success of the Mesa as a public forum for dialogue and conflict resolution would, to a large extent, depend on the credibility and scope of community and company participation. The membership composition of the workshops shaped the type and tone of the discussion and ultimately the concerns and issues that would be addressed.

Initial members of the Mesa included the following groups and representatives:

- Minera Yanacocha
- FEROCAFENOP
- The Regional Coordinator of Watersheds Affected by Mining in Cajamarca (CORECAMIC)
- The Association for the Rural Development of Cajamarca (ASPADERUC)
- Cooperative for Assistance and Relief Everywhere (CARE), an international humanitarian NGO active in the area
- The Cajamarcan Chamber of Commerce
- Intermediate Technology Development Group (ITDG)
- Civil Association for Forest Development Research (ADEFOR)
- National University of Cajamarca
- Private University of Antonio Guillermo Urrello
- Vicary of Ecumenical Solidarity
- The Peruvian Ministry of Energy and Mines (MEM)
- The Sanitation System Provider of Cajamarca (SEDACAJ)
- The mayors of Choropampa, Magdalena, and San Juan
- The mayors of small population centers in the districts of La Encañada and Baños del Inca.¹⁴

Representing different sectors of Cajamarcan society, these groups included the mine, rural and urban Cajamarcans, environmental and development-oriented NGOs, local businesses, the two universities in Cajamarca, the Catholic Church, and local and regional government. Among these groups, the class and cultural divisions ran deep, making communication and trust difficult. In addition, some groups were involved in bilateral relationships with Yanacocha, hindering the

The historical divisions and power dynamics that overlay the community-mine relationship added complexity. The CAO recognized that overcoming these divisions was essential and would take time.

building of trust.¹⁵ Nevertheless, the Mesa provided a space for these widely diverse groups to begin working together to address common concerns. Indeed, the historical divisions were present and strong but appeared bridgeable with time and collaboration, as evidenced by the initial agreements on a blueprint for action by the Mesa.

Potential stakeholder benefits and risks of participation in the Mesa

The potential benefits and risks of participating in the Mesa process varied widely across groups, depending on their respective objectives relative to the mine, trust of other participating groups, and their predictions of success for the Mesa, among other factors. Some groups that chose to participate in the Mesa cited the following reasons for attending the first meetings:

- “We hoped that the mine in a formal setting would take the complaints more seriously and change...We knew the CAO was a serious organization and would hold the mine to its word.”
- “We needed a space to listen to the community that wasn’t in the streets and in the heat of a protest. Yanacocha hoped the Mesa could provide this and wanted to address concerns before they turned into out-of-control conflicts.”
- “We had tried talking one-on-one with the mine. Sometimes it didn’t work because the mine was so much more powerful than us. We thought maybe in [the Mesa setting] it would.”
- “Our issues were not ones of protest. We wanted the mine to engage with more local businesses. The Mesa, we hoped, would be a place to discuss that.”
- “What other option did we have? The government wasn’t doing anything. IFC wasn’t. So why not try the roundtable and see how it would advance? It was an experiment.”

Participant expectations thus varied widely. Many hoped the Mesa would level the playing field between the mine and community, creating a space for change in the mine-community relationship that benefited their respective groups as well as Cajamarca as a whole. At the same time, some groups also believed participation in the Mesa could boost their status in the Cajamarcan community. Other groups that had already established some level of dialogue with Yanacocha hoped that participation in the Mesa could increase their leverage in such discussions.

As these diverse groups became firmer in their decision to participate, others arrived at opposite conclusions about the Mesa’s potential for benefiting their groups. Their divergent objectives and strategies, combined with pressure from some groups not to participate and the general lack of trust, limited the Mesa membership. The groups that opted not to participate cited the following main reasons for making this choice:

- “The [dialogue process] proposal avoided the issue of Choropampa explicitly. We wanted the mine to be held strictly to fixing the problem. It was not time for conflict mediation and discussion of less urgent issues. The mine is very good at talking about its good deeds. We were sick of their talk. We wanted to know when will they do something that the people need, and they were not discussing this in earnest at the Mesa.”

Convening a critical mass of participants was a constant challenge, and the Mesa struggled to expand its membership to include a wider cross-section of Cajamarcan civil society.

- “We thought the Mesa would be a general distraction from Yanacocha’s true goal: to go ahead and exploit Quilish and continue expanding and polluting. In no way did we want to be part of a distraction.”
- “We knew the history and objectives of some of the participating groups and did not trust them, so we did not go.”
- “The CAO could not be a neutral broker because it is part of IFC, a shareholder in Yanacocha. We placed more hope in a separate Mesa that formed under the auspices of the regional government.”

Although not explicitly mentioned, the “reputational” risks that potential Mesa participants faced also discouraged some groups from joining the Mesa. In the past, some reputable individuals and groups that had attempted to engage with Yanacocha had “fallen from grace” as community division and divisiveness grew, according to some Mesa members and to the CAO assessment report. Collaborating groups were sometimes referred to as “*Felipillo*,” after the sixteenth-century Incan translator who allied with Pizarro to betray the Incan King Atahualpa. One local participant noted, “The act of cooperating with Yanacocha is like a contagion. If someone works with the mine, they are treated by many as contaminated. It can destroy trust.” The CAO assessment report noted that, “The divisiveness is so pervasive that some NGOs whose clients and constituents might have benefited from collaborating with the mine on joint goals around development are reconsidering their cooperation because of the stigma, the potential damage to their reputation, their independence, and their integrity within civil society.” Indeed, the various barriers to joining were high, and the CAO team sought to keep the dialogue open to ensure that concerns were shared and common ground created on which trust could be built.

In addition to these social barriers, logistical barriers prevented some concerned groups and directly prevented individuals in rural areas from participating. The mine’s area of influence extends to areas as far as 10 hours away by bus from the city of Cajamarca, and travel was too arduous for some interested groups.

As the Mesa progressed, convening a critical mass of participants was a constant challenge, and the Mesa struggled to expand its membership to include a wider cross-section of Cajamarca civil society. Motivations for joining or not joining the Mesa were affected by historical social divisions and changed within the volatile political context. Lack of trust between the community and the mine, and also among Cajamarca institutions, remained a significant barrier to progress. Despite these setbacks, the process continued and Mesa members committed to addressing issues of concern and engaging in dialogue with one another.

CHALLENGE 1.

Laying a Solid Foundation for Dialogue

LESSONS LEARNED

- **A substantial up-front investment of time and resources may be needed to understand the historical context, social dynamics, and stakeholder perspectives underlying the conflict.** To accurately gauge the potential for successful dialogue, assessors should thoroughly understand the diverse opinions and willingness of key stakeholders to engage in mediated dialogue.
- **An understanding of stakeholder relationships and the representational base of participants in a dialogue process is needed to ensure a legitimate forum that can meet its central objectives.** Facilitators should periodically assess the objectives of participants, as well as their status and standing in the broader local context.
- **Assessment missions should clearly define and communicate their purpose and scope.** There is a significant difference between assessing a conflict for the potential for future mediation and undertaking fact-finding to assess project impacts, audit institutional due diligence, or verify complaint allegations. Different stakeholders in the conflict may prefer distinct types of assessments, depending on their objectives. The assessment team should understand these objectives and clarify the assessment approach to all stakeholders from the outset.
- **Establishing the independence and impartiality of assessors and conveners is essential to building a foundation of trust.** In an atmosphere of distrust, care must be taken to demonstrate independence, using transparent criteria for the selection of facilitators and other process conveners. Often conveners must prove their independence over time, especially if they have previous associations with governments or the private sector. To enhance prospects for the sustainability of a dialogue process, conveners should begin building local capacity to oversee and lead the process as soon as possible.

CHALLENGE 2.

Building Capacity for Dialogue and Mediation

As the Mesa's participant base began to coalesce, the need for improvements in the participants' dialogue and group collaboration skills became apparent. Although the release of long-held frustrations was necessary as a first step in the 2001 workshops, lasting improvements in the community-mine relationship could occur only through productive multistakeholder dialogue in which solutions were arrived at collectively. Initially, stakeholders' approaches to communication and decision making varied widely between rural and urban groups and across classes and ethnicities. This hindered progress of the Mesa.

"The name of the game," one CAO facilitator recalled, "was 'shout and shout louder.' We needed to change that dynamic in order to move forward toward solutions." Most significantly, inequalities of power—rooted in a long history of race, class, and gender divisions in Cajamarca society—made productive dialogue and conflict resolution difficult. Although some groups were savvy about negotiation, others—especially women—were intimidated, and often were not heeded when they spoke. These profound differences in cultures, combined with disparities in power and skills, were thus a barrier to the progress of the Mesa.

In light of these local realities, the CAO team initiated a comprehensive capacity building program to train Mesa participants in dialogue skills, including communication, consensus building, negotiation, problem solving, conflict resolution, and mediation. The training aimed to help participants develop and share a common language and framework for dialogue, and to provide the necessary tools for community members to assert their voice, influence, and concerns about the mine in a powerful way to achieve fair and mutually acceptable solutions.

At the same time, an investment in dialogue building involved significant resources and certain trade offs that displeased some groups. For example, to create a less



Lasting improvements in the community-mine relationship could occur only through productive multistakeholder dialogue in which solutions were arrived at collectively.

charged and more comfortable space to build capacity in dialogue, the conveners decided that issues specific to Yanacocha would not be discussed at the skills-building workshops; rather, such discussions were reserved for the Mesa assembly meetings.

A CAO facilitator explained, “We began to create a dialogue process incrementally and with an intentional sequencing. In order to address major issues of conflict, Mesa members realized they first had to build the skills and develop a working relationship. This foundation and skill set could enable members to articulate their interests and demands and thus help balance power.”

Most of the Mesa participants believed that building capacity for dialogue would improve the effectiveness of the Mesa and that any potential Mesa member should be trained in effective dialogue and conflict resolution. Participants reflected on the groups’ need for skill building at the time:

- “We needed to take a step back from the heat of the discussion and just learn to talk to and listen to each other.”
- “People knew dialogue and conflict resolution skills were valuable. Everyone wanted to know what the capacity building could lead to at the Mesa.”

From November 2001 to December 2002, the Mesa oversaw a series of workshops led by two mediators from the Argentinean Libra Foundation, an organization specializing in mediation, alternative dispute resolution, facilitation, and consensus building. The general objectives of the workshops, as explained in the facilitators’ December 2002 report, were to:

- Restore harmony among various sectors of the community
- Establish relations based on cooperation for the appropriate resolution problems, and
- Make optimum use of dialogue for interactive conflict resolution.

The workshops included two levels of training. The first, “Basic Training,” comprised three levels, each 16 hours long. The subject matter included effective communication, teamwork, and organization. Roughly 60 people completed at least one of the basic training levels. To adapt to cultural differences and the disparate levels of literacy among participants (many of whom were illiterate), the team used media that were accessible to different educational levels and focused

on conversations rather than written communication. The workshops featured small group activities, role-playing, and discussions among participants. The group worked through simple hypothetical dilemmas that all members could understand and engage in collaboratively. The workshop leaders sought to ensure that participants of distinct cultural backgrounds and social classes interacted in small groups.

As participants mastered various concepts and skills in simple situations, the practice simulations became more complex and came to include multiparty development conflicts that resembled some of the issues presented at the Mesa. Facilitators designed this progression to ensure that participants could apply the process to simple situations before extending it to the complex issues that were facing the Mesa.

A second level of workshops, "Training for Trainers," sought to create a multiplier effect of mediator capacity building. Fifteen of the most interested and active participants underwent 40 hours of training and were certified as "trainers" in conflict mediation. Building from examples used in the general workshops, the facilitators introduced complex examples of hypothetical conflict situations for the trainees to address and mediate. As one CAO facilitator explained, "Our strategy was to create a group within the group that would build up social capital, create a new way of looking at the conflict, and build the capacity to address the problems facing the Mesa." Various factors eventually prevented them from mediating and training other potential mediators (see monograph 3). Nevertheless, many Cajamarcans greeted the overall focus on building local capacity to resolve conflicts as a contribution to improving public discourse and strengthening civil society in Cajamarca.

Reflecting the sentiment of many participants, one participant stated, "We were all thankful for these workshops because for once we had training that we could apply to our lives and our work. I was very eager to continue teaching others about it and stop the constant fighting that keeps our communities from progressing."

Beyond skills-building and communication among disparate groups, the workshops created a space for the participants to agree on a motto for the Mesa that would be incorporated into the Mesa's guiding principles and appear in all of its future publications:

"It is time to put aside differences; let's start dialogue and resolve conflicts. Dialogue means: everyone is different, we all have part of the answer, and together we have the solution."

Participants also jointly created slogans that were posted at each Mesa meeting to set the stage for dialogue and consensus: "No to debate. Yes to dialogue;" "Be hard with the problem, soft on people;" "Build consensus, don't vote." Intended to unify stakeholders, these slogans were also greeted with skepticism from some groups, which were wary of the emerging focus within the Mesa of finding common ground, when they believed there were many profound areas of community-mine disagreement and wrongdoing by the mine that should be openly debated.

For many participants, the workshops improved communication skills and group collaboration. At the same time, the exclusion of specific issues and lack of consistent participation of key representatives deflated some stakeholders' hopes for immediate action by the Mesa.

Long-term capacity building vs. immediate problem solving

Most participants and outside observers believed the workshops were a positive contribution to improved dialogue that would bear fruit in the long term. However, some participants and outside critics thought the workshops were, at best, a waste of time, and at worst, a calculated distraction from addressing Yanacocha's problems and alleged wrongdoings.

Still, the vast majority of participants noted that the capacity building led to improvements in Mesa meetings, in which people refrained from shouting and recognized the value of following rules of discussion, as well as improved communication and understanding among disparate groups. Indeed, from the perspective of some groups, the decrease in the number of street protests against Yanacocha during this time period was attributable to the Mesa's provision of the space and skills needed for conflict resolution. Several participants also pointed to the skills they acquired from the workshops and the potential for trained local individuals, rather than outsiders, to lead future mediations. Participants provided the following positive reflections:

- "The Mesa discussion became much more manageable because people learned how to talk in a civilized and organized manner."
- "The workshops taught me how to listen to people I previously would never listen to. I had never really talked to such different people from the countryside before. It was good for all of us city people to hear them out. The workshops facilitated this type of understanding that had never occurred in Cajamarca before on issues related to the mine."
- "We *Rondas* leaders were already confident, but many of the other *Ronderas* had never stated anything in a public setting before. Sure, many remained quiet, but they really did take away a lot of confidence and trust just from having conversations with mine people and city people."

On the more critical side, the lack of focus on issues specific to Yanacocha was frustrating to some Mesa participants and outside critics, who sought immediate vindication and empowerment of groups affected by the mine. One participant reflected, "The workshops took up so much time that we never made the next step to significantly changing the mine." One Mesa critic who participated in some but not all capacity building workshops stated, "We found it unrealistic and damaging that everyone was perceived as equal in the workshop role-plays. The role-play about two kids fighting over an orange is an example, as if the conflict in Cajamarca between the people and the mine were comparable to this situation! We all know that the power balance was in reality skewed, and the Mesa workshops did nothing to deal with this obvious problem." Some critics concluded that the Mesa considered capacity building as an end in and of itself, rather than a means of holding the mine accountable. They voiced these critiques publicly and continued to challenge the Mesa's effectiveness. However, most Mesa members believed the workshops were both necessary and effective in enabling the group to build the trust and skills necessary to resolve conflicts over the long term.

A CAO facilitator, reflecting on these concerns, explained the rationale for the training's focus on skills building: "If training is conducted using the actual situation as the context for a skills practice, people become so focused on the substance that they learn nothing about the process and are

unable to transfer knowledge, skills, and a more powerful tool box to real life conflicts. Regrettably, some observers perceived the training to be something that did not address the real issues. In fact the purpose of the training was to arm the participants with the most effective tools for dialogue so they could be effective representatives and influence the dialogue at the Mesa. In addition, at the most basic level, the workshops did not have a mandate from the Mesa to make decisions.”

The investment in building trust, cooperation, and dialogue and conflict resolution skills laid a foundation for multistakeholder dialogue. For many participants, the capacity-building workshops improved communication skills and group collaboration. At the same time, the exclusion of specific issues and lack of consistent participation of key representatives deflated some stakeholders’ hopes for immediate action by the Mesa on identified problems. Nevertheless, over time, these skills enabled some local actors to assert their interests, understand the diversity of stakeholder perspectives, and begin to establish a durable system for collectively addressing issues of common concern.

CHALLENGE 2.

Building Capacity for Dialogue and Mediation

LESSONS LEARNED

- **With stakeholder input, conveners should determine the appropriate balance between capacity building and addressing specific, thematic issues.** Activities that seek to build capacity rather than address immediate problems may disillusion those participants who are seeking immediate redress to issues specific to the project. To avoid confusion and ensure stakeholder trust and interest, a dialogue process should lay out a clear path for addressing both sets of issues in the short, medium, and long term.
- **Participation in training by key decision makers is important for ensuring that participating groups adopt and uphold dialogue principles.** Moreover, consistent participation reflects a commitment to seeking a durable outcome of the dialogue. It also builds trust and confidence in the process.
- **Parties must be prepared to negotiate their interests without feeling compelled or pressured to reach agreement.** Such preparation can help ensure that the process is owned by the participants, rather than controlled by a powerful party that seeks to stifle criticism or gain political advantage.



Most Mesa participants agreed that any sustainable system for dialogue and dispute resolution would have to be locally owned and organized.

CHALLENGE 3.

Establishing a Durable Framework and System for Ongoing Engagement

Most Mesa participants agreed that any sustainable system for dialogue and dispute resolution would have to be locally owned and organized. Determining the form that such a system should take, along with the structure and resources needed to ensure its durability, was a demanding process. The Mesa sought to define operational protocols, determine the role of participants, establish the governance and organizational structure, create a credible funding mechanism, build trust in the independent facilitators, and create an administrative structure that could become self-sustaining.

Defining the Mesa's protocols

Soon after the Mesa began in late 2001, the Coordinating Committee (which would later become the board of directors, or Comité, as described below) developed protocols that defined the Mesa's mission, objectives, governance structure, and rules of conduct. Development of the protocols involved intense discussions among key Mesa members about what the Mesa aspired to become and which groups should be at the center of the dialogue process. Initially agreed upon in January 2002, the protocols were revised and finalized in February 2003. Mesa members approved both versions through voting in the Mesa general assemblies.

With regard to the Mesa's mission and objectives, members disagreed about how to strike a balance between dialogue and dispute resolution on the one hand, and oversight of the mine's operations and fulfillment of its specific community commitments on the other. Although some Mesa member groups preferred that the Mesa focus on creating a space for dialogue, others saw more value in directly overseeing the mine, and advocated focused discussion on Cerro Quilish. In their final version, the Mesa protocols accommodated the various perspectives but excluded the Quilish issue because the Comité decided the ongoing deliberation on Quilish in Peruvian courts precluded productive discussion at the Mesa until after a formal decision had been rendered. The protocols were separate from the initial blueprint of issues that the Mesa participants developed in September 2001 (see appendix B).

On the issue of Mesa governance, substantial discussions occurred over participants' roles and ultimate power over the Mesa process. FEROCAFENOP believed that, as the main complainant, it should be recognized as a central actor with more decision-making authority than other groups. Other members disagreed with this proposal, maintaining that the Mesa by its very nature did not give more formal power to one specific group over another. This latter position was formalized in the final version, although FEROCAFENOP's assertion of its desire for more central authority continued to emerge throughout the life of the Mesa.

The protocols defined the Mesa mission as "prevention and resolution of conflicts between the public and private sectors of civil society and Yanacocha." Specific Mesa objectives included:

- Addressing conflicts in a framework of good faith, respect, cooperation, and tolerance, looking for solutions through consensus that satisfy the interests and needs of the parties
- Promoting and spreading the mechanisms of prevention of conflict through dialogue and active participation, with the objective of maintaining harmony into the future
- Supporting actions that have as their purpose the improvement and preservation of the environment and respect for individual differences, poverty alleviation, and care for cultural patrimony, and
- Promoting the development and socioeconomic potential of the region and managing its resources in a sustainable manner.

The protocols also outlined a set of rules that required members to act in good faith, share accurate information, and organize into issue-specific working groups to advance Mesa assembly proposals between meetings. Combined with the September 2001 table of specific issues of community concern (see appendix B), the protocols served as a framework for the functioning of the Mesa. That their development was locally owned indicated important improvements in capacity and collaboration within the Mesa. At the same time, the protocol's lack of specificity of the expectations of key members, and the level and time over which the CAO would support the Mesa, left room for some confusion in the future.

Determining the roles of participants

For the Mesa to function effectively, participant roles had to be clearly defined. The final protocols determined that no group had more decision-making authority than the others. However, it was clear that some were more central to the conflict than others, and therefore some level of distinction among participants was needed. The facilitators decided that the centrality of each group to the discussions would depend on its stake in the mine-related conflicts and the size of its representational base.

For obvious reasons, Yanacocha was central to the discussions, as was FEROCAFENOP, the original complainant group that represented a substantial sector of rural people affected by the mine. At some Mesa meetings, FEROCAFENOP members accounted for over a third of the participants, thus demonstrating the group's significant investment in the Mesa. In addition,

the Association of Smaller Population Centers (ACEPAMY), representing 12 rural communities affected by the mine, was a central participant. The extent to which the Mesa would allow these two groups to voice their opinions and demands remained central to Mesa debates. Other groups—including NGOs, the public and private universities, and the various private and governmental entities—were in many senses secondary to the community-mine conflict. These groups mostly participated in Mesa discussions when the subject matter was relevant to their respective institutions.

The CAO conveners decided that the discussion should remain focused on Cajamarca and that therefore IFC should not sit at the Mesa. The question also emerged as to how and in what capacity Project Underground, as a non-local NGO, should participate.

Early in the Mesa process, IFC's participation was considered. Although some groups thought that IFC, as both a shareholder in Yanacocha and a development institution, had responsibility to be at the table, others maintained that Yanacocha shareholders should speak with one voice. Moreover, these groups believed that IFC was not a legitimate stakeholder in the debates about local issues. For its part, IFC preferred that Yanacocha interact directly with community members on issues of conflict, with the CAO serving as mediator, and IFC pursuing on a separate track its technical capacity-building programs with local government and the company. IFC remained an observer of the process throughout the Mesa's life but did not participate in the Mesa. Although some groups, especially at the international level, wanted IFC's compliance with its social and environmental policies to be addressed, the Mesa leaders determined that such a focus was not warranted, given the immediate local concerns. After some consideration, the CAO conveners decided the discussion should remain focused on Cajamarca and that IFC should not sit at the Mesa.

The question also emerged as to how and in what capacity Project Underground, as a non-local NGO, should participate, and whether it would be permitted to videotape Mesa assemblies. Although many groups, including the CAO facilitators, recognized Project Underground as an advisor to FEROCAFENOP, the NGO's broader mission of opposing extractive industries was seen by many as somewhat separate from that of FEROCAFENOP. Furthermore, many believed that FEROCAFENOP representatives could speak for themselves and did not always need Project Underground to be present. The head of the CAO explained, "We knew that the representatives of FEROCAFENOP would not hesitate to assert themselves in Mesa meetings, and we also were not convinced that Project Underground would necessarily represent the *Rondas'* interests and concerns accurately, as they had their own mission in mind."

After substantial deliberation, the Mesa participants agreed that Project Underground could be an observer but not an official participant in the Mesa, and that it could videotape the proceedings. From Project Underground's perspective, its separate seating from FEROCAFENOP created an unfair impediment and signified a deliberate attempt to stifle full and honest debate at the Mesa.

Project Underground's critique of the Mesa and stakeholder reactions

Project Underground's trust in the Mesa and the CAO decreased substantially over time. As one Project Underground representative noted, "It appeared the CAO facilitators didn't want Project Underground as part of the discussions because they didn't want them to raise and press hard issues and advise FEROCAFENOP on how to do so." Indeed, this issue was just one of many highlighted in a critical report published by Project Underground in July 2002.

The report was a harsh critique of the CAO and the Mesa process, characterizing the Mesa as a “corporate engagement exercise that avoids grappling with the most substantive issues raised in the [original FEROCAFENOP] complaint.” Specifically, the report focused on four central criticisms and allegations: the lack of concrete Mesa achievements; Yanacocha co-optation of the Mesa as a public relations forum; CAO marginalization of Project Underground; and lack of Mesa attention to IFC noncompliance.

Project Underground published the report on the Internet and distributed it locally. For some NGOs, the report was consistent with their accusations that the Mesa was not focusing on critical problem areas and was dominated by some participant groups that lacked credibility. For many members of the Mesa, the report was inaccurate. The Mesa board of directors (Comité) wrote a letter of response, taking issue with many of the report’s allegations. FEROCAFENOP distanced itself from the report’s contents. In the months that followed, FEROCAFENOP’s relationship with Project Underground ended.

Project Underground had previously raised to the CAO many of the concerns highlighted in the report, and the CAO believed it had addressed them adequately. The CAO did not issue a formal response to the report, though it remained in communication with Project Underground until Project Underground ended its intervention in Cajamarca.

Forming the Coordinating Committee and board of directors

At the October 2001 Mesa assembly, participants decided to create a smaller representative Coordinating Committee with decision-making responsibility to guide the Mesa agenda and ensure its implementation in between the assembly meetings. Toward this end, the Coordinating Committee provided advice to the CAO team on how the Mesa could address community concerns most effectively. In late 2002, as the Mesa and the CAO sought to build local leadership and responsibility for leading the Mesa, the Coordinating Committee became a more formal board of directors, known as the Comité Directivo, or Comité. Over time, the Comité became the central, driving force of the Mesa, and the CAO served as its advisor. Comité members led the process of the development of the protocols. The functions of the Comité, as described in the Mesa protocols, were to:

Over time, the Comité became the central, driving force of the Mesa, and the CAO served as its advisor.

- Co-organize with the coordinator and convene the Mesa meetings
- Advise the CAO facilitators about the themes, goals, and strategies of the meetings
- Propose to the assembly the creation of the working groups
- Propose work and sustainability strategies to the Mesa assembly, and
- Represent the Mesa to the community and the media, although no member could speak in the name of the Mesa.

The assembly agreed that each major stakeholder group would have a membership position on the Comité and that the president of the Comité should be from one of the two Cajamarca universities because of their neutral and respected status in Cajamarca. Each Comité member

was nominated and then voted on in the assembly. The Comité membership initially included the following representatives:

- Municipality of Cajamarca
- Yanacocha
- National Public University
- FEROCAFENOP
- ACEPAMY
- SEDACAJ
- The Cajamarcan Chamber of Commerce

Immediately after the initial membership selection, two *Rondas* leaders argued that they should both have a seat on the Comité because the *Rondas* were the central complainants to the CAO and comprised several organizations. Although some Mesa members agreed, others argued that the Mesa protocols clearly stated that only one representative was acceptable. After much deliberation, the Mesa Comité decided that the *Rondas* would have two representatives, one from CORECAMIC and one from FEROCAFENOP. This exception exemplifies a Mesa governance issue that continued to resurface and is discussed further in monograph 3.

Creating a credible funding mechanism

To ensure independence of the Mesa process, the CAO established an independent bank account to which Yanacocha contributed a significant amount of funding for the Mesa. All funds were managed solely by the CAO. The Comité reviewed and approved the budget and presented it to the Mesa assembly. All budget information was presented in an appendix in the assembly reports, and total Mesa costs (averaging approximately \$300,000 per year) were reported in the CAO's annual reports. The water study and other technical work had separate budgets that were also publicly reported.

Despite these measures, some suspicions remained that Yanacocha's financial support for the Mesa precluded it from being a truly neutral and impartial forum. From the perspective of the Mesa and the CAO, it was appropriate for a central party to bear the cost of conflict resolution—under the strict condition that the funds be managed independently. Moreover, no alternative funding sources were apparent. As one Mesa leader recalled, “We weren't going to be paralyzed like some wanted us to be. The key was proving independence through our actions and keeping the books clean.”

Building trust in the CAO facilitators

Although the need for outside facilitation was widely recognized, the debate over the impartiality of the CAO team continued throughout the Mesa's life, requiring the CAO team to diligently build and maintain trust among Mesa participants and outside observers. As impartial facilitators, the



CAO team's main role in the first phase of the Mesa was to create a space for productive dialogue, empower all members to assert their interests, and help Mesa participants reach mutually acceptable agreements. In addition, the Mesa asked the CAO facilitation team to undertake specific tasks, including setting the agenda with input from participants, recognizing speakers and holding them to a time limit, tracking the commitments made in meetings, taking the official meeting notes, and publishing summary reports on the CAO Web site that included meeting minutes approved by the assembly. Initially, the CAO team undertook all these activities. With the formation of the Coordinating Committee, the CAO team shared some responsibilities with the Committee. In December 2002, these activities became the responsibility of the Comité and the Mesa coordinator. The CAO team continued to provide strategic advice and financial support, and served in a monitoring capacity.

As the Mesa evolved into a more locally led organization, the CAO devolved various responsibilities.

In addition to these activities, the CAO sought to improve and expand the Mesa by collecting divergent community perspectives. The CAO team met individually with stakeholder groups on a regular basis and took into account their ideas for improvements of the Mesa. As the Mesa evolved into a more locally led organization, the CAO devolved responsibility for this activity, and others, to the coordinator.

Trust in the CAO team's impartiality varied among participants. Some Mesa participants and outside observers believed the CAO's performance at the Mesa, as well as the investigation of the mercury spill, demonstrated that the Office was sufficiently independent to convene the dialogue process. Reflecting the opinion of many, one participant noted, "The CAO acted with integrity and people trusted that they were neutral because they helped build capacity for dialogue with the mine and held everyone to task." Other outside observers maintained that because the CAO was housed within IFC, it was inherently biased and would manage the conflicts in a way that was most beneficial for the mining company and IFC. Such skeptics cited as an example the lack of focus on problems specific to Yanacocha in the dialogue and conflict resolution workshops. The CAO team maintained a long-term focus on enhancing dialogue and proving its independence through its actions over time.

Enhancing organizational structure

As discussions continued, the Mesa took several steps toward establishing itself as a local public institution able to function without direct facilitation support from the CAO. Many argued that this institutionalization would lend the process the stability, continuity, and authority needed to establish effective dispute resolution—and eventually, environmental oversight. At the same time, some participants acknowledged the risks that such institutionalization could create, including politicization and domination by certain Mesa members.

Many Mesa members called for a central Mesa office and a coordinator to keep the Mesa process on track. One participant made the case that: “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 entity that will support ongoing conversations between the mine and the community to resolve our issues transparently and democratically.” In June 2003, the Mesa inaugurated the official office of the Mesa, where citizens could raise concerns and solicit Mesa support.

After an extensive search and interview process led by the Comité, the Mesa hired as coordinator an economist from Lima with nonprofit leadership experience. He began at the Mesa in July 2003. His responsibilities were to facilitate meetings, help implement the Mesa agenda, conduct outreach, and mediate community-mine discussions when the Mesa’s intervention was solicited. Over subsequent months, the Comité and coordinator facilitated Mesa meetings and set and guided the Mesa agenda, respectively, thus enabling the CAO facilitation team to devolve responsibility. In December 2003, the coordinator stepped down, and the Comité elected the former municipal government representative to the Mesa, to assume the position in February 2004.

Another important step toward institutionalization of the Mesa was gaining certification as a legal entity in the public registry. The registry process began in 2002 and was concluded in 2005. This status enabled the Mesa to solicit funding from other entities and provided it with some level of security against detractors who claimed it was operating “unofficially” and “illegally.”

The debate about whether “CAO” would be part of the Mesa’s official name revealed divergent estimations of the durability of the Mesa. Most participants agreed that the Mesa could quickly dissolve, as a decentralized forum of different institutions without a formal umbrella institution. Many Mesa participants thus argued that the CAO’s name should be included because it both distinguished the Mesa from other forums and demonstrated the external support that it was receiving. The CAO initially stressed to the Mesa that the CAO name should not be included because the dialogue process was intended to be “of and by Cajamaricans” and that the CAO would withdraw its operational support of the Mesa once it established itself. However, recognizing the fragility of the Mesa and its need for institutional support during its early stage, the CAO agreed that the “Mesa de Diálogo y Consenso CAO-Cajamarca” could become the official name.

Stakeholders were mixed in their assessments of CAO support and the institutionalization of the Mesa. Some participants and outside observers expressed the following opinions:

- “The Mesa has lasted longer than any others because people know it is there and will be there for awhile. The office enabled people to drop by and bring up issues. The coordinator kept things organized. There is no way it could have worked without these solid entities.”
- “The CAO created an NGO that is dependent on it. The reason the Mesa continues is because it is being propped up, not because there is a base of social support for it.”

With an office and staff, the Mesa gained stability, identity, and cohesion as an organization. As the Comité and the Mesa coordinator assumed more leadership, the CAO stepped back from its facilitation role. At the same time, budgetary support from the CAO, as well as reliance on its overt public support of the process began to create a level of dependency that would later make the transition to self-sufficiency difficult (as further discussed in monograph 3).

CHALLENGE 3.

Establishing a Durable Framework and System for Ongoing Engagement

LESSONS LEARNED

- **The extent to which institutional representatives have legitimate decision-making power will directly affect the ability of a dialogue process to create significant positive change and gain the public’s respect.** Without the active participation of representative decision makers, deliberations are inefficient and often ineffective.
- **Transparent processes for determining and disclosing funding and budget allocation are essential to building public trust.** Proactive public disclosure of information enables dialogue participants and the wider community to oversee a process and evaluate its legitimacy.
- **Taking steps to acknowledge and balance disparities in power among process participants can enhance trust in the structure, mandate, and operational protocols of a process.** It is important for facilitators and conveners to help ensure that less powerful participants have a clearly established space for asserting their concerns, making demands of more powerful members, and receiving thorough responses.

CHALLENGE 4.

Prioritizing Issues and Taking Action

The Mesa remained focused on more technical issues, which were in many ways easier to measure and track than socioeconomic ones.

As the capacity-building workshops progressed in early 2002, the Mesa assembly and Comité meetings continued in parallel. Because community concerns were wide ranging, most Mesa participants agreed that a prioritization of issues was in order. After the initial cataloging of key issues of community concern in September 2001, the challenge became determining which of the major concerns should be addressed and how. Through a series of Mesa discussions involving affected groups, participants selected as top priorities two of the three issues from the initial prioritization: Yanacocha's impact on regional water quality and quantity, and the health of the mercury spill victims. In addition, participants determined that socioeconomic concerns, although not requiring urgent action, warranted Mesa attention.

Framing the water discussion

At the Mesa meetings, many of the participants, both rural and urban, expressed their concern about the mine's impact on the quality and quantity of local water sources. Some farmers in the area of direct influence of the mine reported dramatic changes in quality and quantity.

Competing sources of information made opposing claims about the state of the region's waterways and the mine's impact on them. Some alleged that the water contained life-threatening pollutants, while others claimed that the water was completely safe. Some NGOs said they had found excessive amounts of mine-generated pollutants in the water sources supplying the city of Cajamarca. Yanacocha denied the claim, arguing that the mine was adhering to appropriate quality and quantity standards.

To advance a productive dialogue about water issues, Mesa members decided that additional technical data were needed that would be trusted by the public. There was general consensus that such information could be gathered only by an independent, unbiased scientific source. At the November 2001 Mesa meeting, participants discussed the terms of reference for such an independent study, and the CAO selected a group of scientists to undertake the study. Unlike the independent commission that investigated the mercury spill, which focused on one incident, the Mesa and CAO agreed that the water study would be participatory and would examine the broader effects of the mine on local water sources. Monographs 2 and 3 describe the water study and water monitoring efforts in detail.

Attempting to implement an independent health study

As the water study moved forward, the issues surrounding the mercury spill became increasingly contentious. The high level of public alarm, distrust in public officials, community divisions, and the prospect of lawsuits complicated the search for possible solutions to the mercury spill issue. Local

frustration with the management of the spill and its aftermath increased as Yanacocha and public officials claimed their response had been adequate. Several protests erupted in Choropampa.

During various private meetings, members of the Frente and other residents affected by the mercury spill conveyed concerns to the CAO that the adverse health effects of the spill were worsening. Several people from Choropampa, Magdalena, and San Juan attended the Mesa in early 2002 to reiterate their concerns about the health effects of the spill and to register their request for support from the Mesa. In response, Mesa participants suggested possible steps toward resolution of community concerns. However, because the case was specific to the three towns, most of the discussions regarding the health study occurred outside the Mesa among the CAO, Yanacocha, the Peruvian government, and the people affected by the spill. The CAO updated the Mesa on the progress of the discussions.

In early 2002, the CAO agreed to organize an independent, international evaluation of the health of the people affected by the spill. The objective of the study was not to provide a comprehensive or complete assessment of the health status of these communities; rather, it would focus only on identified, exposed people. The CAO clarified these points on several occasions so as not to raise expectations about the purpose and scope of the study. Various community members and representatives, as well as Yanacocha, wanted the study to go forward. Although local supporters of the study saw it as a way to decrease uncertainty and rumors about the safety of local water supplies, Yanacocha was confident the study would show that the health effects were not as serious as much of the public believed.

Notwithstanding this support, many barriers, both legal and technical, stood in the way of progress toward an independent health evaluation.¹⁶ Many spill-affected people decided to pursue legal channels and file suit against the company. As lawsuits against Yanacocha developed, it became clear that any evidence collected by the health evaluation could be used in court. In addition, the responsibility for treating potentially affected victims was undefined. This issue became a central point of negotiation and discord among the CAO, Yanacocha, and the regional health authorities.

Meanwhile, divisions had sprung up among the people affected by the spill. Although some accepted the compensatory package that Yanacocha offered and agreed not to pursue legal action, a separate group filed a suit in U.S. courts against U.S.-based Newmont Mining Corporation, with a prominent U.S. law firm serving as their counsel.

Technical complications were also significant. A long period of time elapsed between the spill and the planned initiation of the study, and the acute effects of the exposure had disappeared in many cases. Thus the number of people exposed would be difficult to detect because the mercury had been expelled from their blood and urine. Allegations also emerged that some people were lying about their health symptoms to get compensation. To complicate matters, no baseline of health conditions before the spill existed against which to measure current health problems. The logistical protocols for conducting such a study—with blood and urine samples shipped to a lab in the United States—would prove difficult to execute under Peruvian law and World Health Organization (WHO) regulations.

The CAO attempted to overcome these issues in the course of organizing and designing the health evaluation. In August 2002, the CAO contracted an Argentinean physician to conduct a preliminary assessment to determine the scope and methodology for the study. The CAO continued to meet with various health officials within Peru, the representatives of the affected communities, and Yanacocha. At Mesa meetings, the CAO solicited participants' support in calling on government officials to enable the evaluation to go forward.

After two years of effort, the CAO determined that the study would not be possible in the current context of legal and technical difficulties. Moreover, the CAO realized a potentially inherent conflict with its ombudsman role. As the head of the CAO explained, "An ombudsman intervention usually cannot function effectively when a legal case is pending, much less when some affected people do not welcome a study."

In November 2003, the CAO sent a letter to the parties explaining the reasons for its decision not to proceed with the health study. As of May 2007, court cases continue in both Peruvian and U.S. courts.

Addressing socioeconomic issues

Though addressing the issues of water quality and quantity and the health of mercury spill victims were priorities for the Mesa, many Mesa participants also pressed for more positive development impacts from the mine as well as appropriate mitigation of the potentially adverse social effects, such as increased alcoholism and prostitution. In early 2002, the Mesa formed a working group to discuss and address socioeconomic issues.

The group planned to provide suggestions for the direction of two new initiatives: Yanacocha's new foundation, Asociación Los Andes de Cajamarca (ALAC), and its joint initiative with IFC to support local small and medium enterprises (SMEs). These initiatives represented progress toward addressing local demands for more significant and sustainable contributions to local development. However, although Yanacocha reported on the progress of the ALAC and SME initiatives at the Mesa, the working group was unable to garner consistent, active local participation in these undertakings. Yanacocha did not solicit consistent engagement from the Mesa, and little momentum among Mesa members existed to press the issue.

The Mesa remained focused on more technical issues that were in many ways easier to measure and track than socioeconomic ones. As one participant noted, "People felt more empowered focusing on technical issues where they could see progress, step by step. For social issues, it is much more amorphous and difficult to measure."

The lack of consistent focus and progress in the social working group was a disappointment to some Mesa members, though all acknowledged this was attributable to the group consensus to prioritize water issues, rather than a lack of interest in socioeconomic issues. According to one participant, "We never moved past water issues...I recognize that these are key issues, but they

are not really immediately relevant to me or my constituency. I joined the Mesa hoping there would be more discussion of socioeconomic issues.”

A Yanacocha representative said, “The mine conflict is just as much social as it is environmental. That the Mesa didn’t put the same effort into addressing these issues as it did with the water issues was a disappointment, but it was understandable given the complexity of the social issues.”

On a more general level, maintaining the energy and focus needed to progress with different working groups proved difficult for the Mesa. A Mesa facilitator recalled, “People wanted working groups with more specific mandates for good reason. However, achieving consistent progress often required more energy and initiative than most participants could invest, given the other demands on their time.”

Nevertheless, progress was made on some of the key issues that Mesa members voiced concern over, though the Mesa did not focus on them. On local employment and procurement, the company committed to hiring more local people and working with local businesses to increase company procurement of local goods. Though the Mesa was not directly involved in these initiatives, it provided an additional forum for the company to hear and respond to local socioeconomic concerns.

Thus the Mesa made significant progress in developing a trusted and participatory water study that would address a central community concern about the mine’s impact on the region’s waterways. Not surprisingly, the intensive focus on water issues involved some trade-offs. The Mesa was less successful at tackling other issues related to Yanacocha’s socioeconomic impact on Cajamarcan society. In a separate vein, complicated political, social, and legal factors thwarted progress on the health evaluation of the mercury spill victims. The challenge of prioritizing issues realistically, in light of the related trade-offs and the external barriers to progress, continued throughout the Mesa’s life. This challenge is further explored in monographs 2 and 3.

CHALLENGE 4.

Prioritizing Issues and Taking Action

LESSONS LEARNED

- **Process protocols should be locally led and owned, and should reflect the capacity of participants to fulfill the stated mandate.** An honest and rigorous assessment of these key elements, as well as participants' disparate needs and expectations, should underlie the drafting and adoption of final protocols for a process. Over time, midcourse adjustments may be required as social demand and capacity evolve.
- **While participants may initially aspire to address a wide range of issues, the process may benefit from limiting the initial scope of work to a finite subset of issues.** In this way, a process can build from proven successes and strengthen credibility over time without creating unrealistic expectations. Incremental expansion of the scope of a process to more complex issues can occur over time.
- **Because technical issues are more tangible and verifiable, they are often more amenable to multi-stakeholder problem solving than social issues.** Assessing technical issues can be an important first step for developing a collaborative, trusting, and productive environment in which more complex problem solving on other issues can later take place.
- **Litigation often precludes successful mediation.** When parties enter into litigation, it is often impossible to pursue a course of mediation among the parties, even if some members of the parties request it. To avoid raising expectations and confusion, process leaders should clearly outline criteria for assuming or excluding issues of community concern that are pending or under litigation.

CHALLENGE 5.

Establishing Institutional Standing for a Dialogue Process

The Mesa's status within the complex social and political landscape of Cajamarca was ambiguous from its inception. Many Cajamaricans were confused about its legitimacy and its mandate: whether it was a quasi-governmental entity with enforcement authority, an NGO with a distinct mission, or an informal space for dialogue. Such confusion and doubt about the Mesa made communication and coordination with outside groups difficult, but all the more necessary.

Communicating with the broader public

In its early stages, the Mesa did not have a systematic approach to communicating the substance of its meetings and describing its organizational structure. Thus outside critics were able to generate misinformation. As one participant stated at the time, "People don't know who we are or how we are doing our work. There have been several condemnations of the CAO and no information to overcome the misperceptions that have been spread by some people in the community. In the absence of us telling our own story, others will tell it for us, twisting it for their own purposes."

In the face of criticism from some sectors of Cajamarca, many Mesa participants stressed that more effective public communication was essential. One participant emphasized, "We needed to get our story out. We needed to communicate broadly about what we are doing in our water study and at the Mesa."

In addition to announcing meetings and updates on the radio, the Mesa began posting assembly summaries on the Internet, publishing budgets, and, in June 2003, opened an office to the public. It also held meetings with non-Mesa members to inform them of Mesa progress. By many accounts, these efforts helped spread understanding of the Mesa but were still somewhat limited in their consistency and ability to reach rural groups. Over time, the Mesa continued to invest in public communication.

Coordinating with the CTAR Mesa

Two months after the Mesa de Diálogo y Consenso CAO-Cajamarca was established, the newly elected national government initiated a separate, nation-wide mesa program that convened mesas in the capital cities of each region. Their principle mandate was to introduce the new government's Regional Transition Administration Council (CTAR, in its Spanish abbreviation) and examine the broad development issues facing each region of Peru. The CTAR Mesa of Cajamarca focused on mining issues and Yanacocha.

There was substantial overlap in the membership of the CAO-convened Mesa and the CTAR Mesa. The CTAR Mesa included the regional and municipal governments and the national congressional delegation from Cajamarca, additional government ministries, groups of *Rondas* separate from FEROCAFENOP, and environmental NGOs.

Overlapping issues between the two mesas created some public confusion over which mesa had more scientific and political authority. Thematic overlaps were also apparent. The first CTAR Mesa meeting in November 2001 produced a 14-point action plan, which included the creation of an independent laboratory for water quality analysis in Cajamarca, an environmental audit of Yanacocha, and various economic development activities. The CTAR action plan did not include the controversial subject of Quilish, which the Mesa had also decided to set aside from its list of three priority actions because the case was being deliberated in the courts.¹⁷

The relationship between the two mesas was often adversarial, notwithstanding some efforts at coordination. Some critics questioned the CAO Mesa's role and authority within the existing social and political framework, and relative to the CTAR Mesa. One observer recalled, "We often asked, 'What is the legitimacy of the CAO Mesa's findings and agreements under Peruvian laws and regulations?' The CTAR Mesa was clearer because it was of the government." Thus the institutional status of the Mesa continued to be a source of confusion. The CAO's legal standing was not under question.

Despite the shared membership and subject matter between mesas, most of the participants in the CAO Mesa preferred that the two mesas function separately, according to Mesa participants and CAO facilitators interviewed for this monograph. These Mesa members preferred the focused attention on their initial concerns and the lack of domination by more politically powerful groups. Moreover, many Mesa members had little faith that the CTAR Mesa would last for the length of time needed to reach its goals. Thus they resisted proposals to merge the two mesas.

In early 2004, the CTAR Mesa dissolved. Although many of the points in its original action plan were left unaddressed, the environmental audit (described in monograph 2) was completed in 2003, and a follow-up assessment of the implementation of the recommendations occurred in early 2006.

Overall, the Mesa overcame communication and coordination challenges with mixed success. The Mesa took proactive steps toward coordinating with other relevant public institutions. However, it was difficult to clarify its public role because of its ambitious, wide-ranging mandate and ambiguous institutional status—especially in the face of other separate, government-sanctioned mesas.

CHALLENGE 5.

Establishing Institutional Standing for a Dialogue Process

LESSONS LEARNED

- **Periodic public communication and discussion of a dialogue process' funding, mission, and activities can prevent the spread of misinformation and misconceptions about its purpose.** Process spokespeople should be prepared to explain these institutional components and engage critics in public and on a regular basis.
- **Coordination with other existing processes can promote synergies and prevent redundancies, ill will, and public confusion.** Depending on the local context, more than one process may be appropriate to address relevant issues, and some members may overlap. Periodic communication and clear definition of roles and scopes of work can ensure that simultaneous processes are complementary, rather than competitive or even antagonistic.
- **Process leaders should seek to maintain dialogue with nonparticipants about their central criticisms and concerns.** Regular dialogue and solicitation of input can help clarify misconceptions and incorporate diverse perspectives into the proposed solutions.
- **How a process relates to the existing governance structures or regulators should be clearly defined from the outset to prevent parallel and competing oversight programs.** Ultimately, environmental and regulatory enforcement is the responsibility of government. Dialogue processes should seek to support, rather than replace, this role through their organizational and technical contributions.

CHALLENGE 6.

Holding Participants Accountable

As the Mesa worked to address issues of community concern, it sought to maintain a consistent level of engagement and ensure fulfillment of Mesa agreements. Over time, the creation of a system of accountability emerged as a central Mesa challenge, as expectations and commitment varied widely across member groups.

Maintaining consistent participation

Although a handful of groups attended Mesa meetings regularly, many member groups were less consistent. In the dynamic social context of Cajamarca, such consistency was difficult to maintain because changes in institutional leadership led to high turnover of representatives to the Mesa. In some cases, institutional familiarity with and, at times, support for the Mesa decreased as a result.

This lack of consistency and clarity was an issue for other forms of Mesa participation in the water study and water quality monitoring, and was a source of frustration for members who sought to engage with a more dedicated and broadly representative group of Mesa participants.

A representative of Yanacocha summarized the company's perspective: "If the Mesa represents a small slice of the population, then it will get a small slice of our attention. There are many conflicts that arise outside of the Mesa that require our immediate attention." As a result, a dilemma emerged in which Yanacocha sought to participate at a level proportional to the Mesa's representative base, and at the same time, potential Mesa participants hesitated to invest fully in the dialogue process because they believed Yanacocha and other important institutions were not fully committed.

To some extent, the lack of participant consistency threatened to damage the Mesa's image. For example, some outside critics suggested that the only Mesa participants who remained members sought to form private

allegiances with Yanacocha. Nevertheless, a core group of members persisted, and Mesa membership grew as the independent water monitoring and reporting of results increased interest in the Mesa, as explained in monograph 3.

Fulfilling agreements and commitments made at the Mesa

As the Mesa dialogue progressed and members began to assert their interests, the eagerness to formulate and reach agreements increased. However, though there were many requests for agreements from the dialogue process, institutional representatives were often not empowered to make commitments or were unable to clearly convey institutional perspectives on certain issues. Because various public institutions, as well as the mining company, had distinct internal deliberation and approval processes, it was not clear to the Mesa when and how agreements would eventually be approved and implemented. This uncertainty, combined with the lack of representatives' decision-making power, slowed Mesa processes for achieving and implementing commitments. While the Mesa protocols offered some guidance on how the Mesa would function, they did not define how members should make and uphold commitments.

The creation of a system of accountability emerged as a central challenge to the Mesa, as expectations and commitment varied widely among member groups.

The Mesa leadership sought to ensure that agreements and commitments were upheld. At Comité and assembly meetings, the coordinator would revisit the previous meeting minutes and call on pertinent institutions to report on progress. Commitments ranged from providing information relevant to a certain topic to reports by the company on what it was doing to address a concern raised by a community member at the previous meeting. Notwithstanding this general continuity, certain members frequently failed to honor their commitments. The lack of consistent attendance led to gaps in knowledge over what had been agreed upon in past meetings. Without a rigorous system for holding members accountable, these inconsistencies continued.

As the Mesa progressed, members began to articulate their expectations of Yanacocha in particular. Because the mine was at the center of the dialogue process and perceived as the most powerful member, other members believed it should lead the process of making and fulfilling its commitments. Though expectations were somewhat vague when the Mesa began, the dialogue training and enhanced discussion that resulted from the training enabled members to assert these expectations more clearly. For example, members began to request that the company solicit input from Mesa members about its community initiatives, adapt its operations in response to the technical recommendations of Mesa studies, and acknowledge the contributions the Mesa had made to improving the overall community-mine relationship. More fundamentally, many members hoped the company would demonstrate respect for the Mesa's stature, dialogue processes, and hard work. Yanacocha would often agree to these ideas in principle at meetings, but many members perceived little tangible follow-through. As mentioned, opinions about how to engage with the Mesa differed among company leaders. These internal differences may explain some of the perceived inconsistencies and confusion about company commitment to the Mesa.

The November 2002 meeting report summarized the broad concerns about Yanacocha's commitment to the Mesa:

For any dialogue process to succeed, it must be taken seriously by its most powerful members. The Mesa is looking for evidence that the mine is committed to making full and proper use of the Mesa to resolve problems and conflicts with the community...

[It] is important that the mine give credit to the Mesa and recognize the direct linkage between its actions and decisions and the dialogue at the Mesa. It is the perception of many at the Mesa that the mine hears concerns or needs from the community and takes unilateral actions based on the dialogue process without involving the Mesa further and without any reference to it. This perceived pattern of giving no credit and working unilaterally is interpreted by many in the community as an indication of disrespect and of the mine's hesitancy to make a full commitment to the Mesa. This hesitancy to fully commit has impeded the progress of the Mesa.

People have their hands outstretched waiting to be asked to help, be involved, and contribute their ideas (for example, the Mesa working group on small businesses)... When they are not asked [by Yanacocha] to lend a hand, not only is the mine's good intention lost but such unilateralism creates even more hostility.

From the perspective of Yanacocha, many Mesa participants' expectations and the timeframe for which they called for change were unrealistic. According to a Yanacocha representative, "The Mesa members often expected the mine to change as they demanded overnight. But the mine has an internal process for decision making and also engages in various other forums with communities. This meant change would take time as dialogue improved." In addition, when other institutions did not fulfill their own pledges, some representatives from Yanacocha believed they often blamed the mine instead.

The CAO facilitators sought ways for the Mesa to overcome this significant barrier to progress. During the initial stages of the Mesa, trust among parties was so low that the CAO team did not believe formal commitments or strict accountability systems should be demanded. Instead, the facilitators sought to build trust and community capacity to state concerns to Yanacocha directly. The CAO kept a record of meeting minutes and the sentiment of the membership, which it published. The CAO team thought such enhanced communication would enable participants to arrive at their own solutions for ensuring accountability. Over time, however, this progression was limited. The issue of accountability became even more challenging as the CAO team stepped back and the local coordinator and Comité assumed ongoing leadership of the Mesa.

Divergent expectations and inconsistent commitment of some participants thus underpinned many of the Mesa's perceived shortcomings. Mesa progress depended on the commitment of key stakeholders to change their respective modus operandi based on Mesa agreements, and

the hesitancy or inability of some key stakeholders to make and uphold commitments became a significant barrier to Mesa success. As a convener and facilitator, the CAO sought to empower Mesa members to assert their interests and compel other members to uphold commitments. However, the limits in the system of accountability made it difficult for the Mesa to achieve durable solutions to some of the community-mine disputes. The barriers to overcoming this challenge continued to grow over time.

CHALLENGE 6.

Holding Participants Accountable

LESSONS LEARNED

- **Resolving profound conflicts between a community and large company requires fundamental changes in relationships and institutional modus operandi.** A dialogue process should maintain an orientation toward change and ensure up front that members commit to substantively improving their operations and relations with other stakeholders as a result of the dialogue process.
- **Agreements or ground rules for engagement, functioning, and accountability should be established and upheld.** Initial general agreements to engage in a dialogue process can lay a foundation upon which more formal mediation agreements can be built. As neutral parties, conveners and facilitators should seek to strengthen and encourage adherence to ground rules and agreements. For all agreements, a system for measuring progress can ensure that expectations are realistic and that members are held accountable. Agreements should include the following elements:
 - Commitments from the leadership or key representatives of each party to engage in dialogue
 - Commitments to principles of collaborative processes, such as transparency, integrity, and mutual respect
 - Definition of roles and responsibilities of all participants
 - Definition of facilitator/mediator roles, expectations, and benchmarks
 - Definition of what will and will not be addressed during the process
 - Benchmark indicators for success, including timelines and consequences for unfulfilled commitments, where appropriate
 - Participatory mechanisms for assessing success and improving procedures at key moments throughout the process.
- **In order to ensure integrity, conveners should clearly define their expectations and requirements from participants.** In the event that process leaders fail to uphold a framework agreement, violate dialogue principles, or do not act in good faith, conveners should terminate their intervention.
- **Sometimes the most difficult form of negotiation happens *within* participant groups, rather than between groups.** Without a unified set of principles, strategies, or proposals within a stakeholder group, negotiation among groups is difficult. When significant internal disagreements emerge, facilitators should help parties formulate internal consensus.

CONCLUSION

During its early stages of formation and functioning, the Mesa overcame the challenges it encountered with varying degrees of success. As the Mesa developed into an open forum for dialogue among previously divergent community actors, Mesa members prioritized issues of community concern and sought to establish a durable institutional structure for addressing them. Capacity building in dialogue and mediation helped participants overcome significant cultural barriers and improved Mesa discussions and collaboration. The Mesa made significant strides toward addressing the technical aspects of community concerns about water in a credible and participatory manner.

Nevertheless, in a complex social context the Mesa struggled to effectively communicate and execute its comprehensive mandate. The divergent expectations and inconsistent commitments of its key members limited the Mesa's ability to create as robust a system of accountability as many members had initially hoped for.

The lessons learned are intended to apply to other dialogue roundtables, or Mesas, undertaken in distinct contexts. Some of the lessons outlined in this monograph are also applicable to the challenges presented in monographs 2 and 3, and will be reaffirmed in their respective sections. They are drawn from both the successes of the Mesa and various shortcomings.

APPENDIX

APPENDIX A. PEOPLE INTERVIEWED FOR THIS MONOGRAPH SERIES

Each person was interviewed at least once: in late 2004 (October–December), in 2006 (March), or in both years. Affiliations are as are of the time of the first interviews, which for some individuals is different from their affiliation during their involvement with the Mesa. Individuals are listed alphabetically by organization.

U.S.-based organizations	
World Bank Group	
CAO (Office of Compliance Advisor/Ombudsman)	Meg Taylor
	Ana María Aquilar
	Rachel Kyte ^a
IFC (International Finance Corporation)	Mauricio Athie
	Doug Lister
	Shawn Miller ^b
Yanachocha	
Newmont Corporation	Chris Anderson
Consultants	
CDR Associates	Susan Wildau
DPK Consulting	Bill Davis
Stratus Consulting, Inc.	David Atkins ^c
	Kate LeJeune
	Josh Lipton
	Ann Maest
	Connie Travers
NGOs	
Project Underground	Erica Etelson
	John Gilber
External reviewers	
CAO 2003 External Review Team	Ben Dysart, Dysart & Associates
	Tim Murphy, Independent consultant

Continued on next page

Peruvian-based organizations

Mesa

Mesa staff	Laura Alarcón
	Carlo Calderón
	Elizabeth Morales
	Luis Ara Valera
Mesa Comité (board of directors) ^d	José Marchena Araujo, SEDACAJ
	César Briones, Mesa Technical Commission
	Segunda Catrejon, FEROCAFENOP
	Marieta Cervantes, INIA
	José Delgado, Private University of Cajamarca
	Carlos Díez, Solidaridad International
	Ramón Huapaya, Minera Yanacocha (second delegate)
	Ismael Linares, Town of Combayo
	Julio Marín, CORECAMIC
	Gil Paisic, Town of Yanacancha Grande
	Segundo Sandoval, Cajamarca Chamber of Commerce
	César Torres, COMOCA

Yanachocha

	Nick Cotts
	Alejandro de Bary
	Brant Hinze
	Michael Myers
	Carlos Sanchez

Government groups

Regional Fisheries Directorship	Rebecca Iglesias
Ministry of Energy and Mines (MEM)	Maria Chappuis
	Ricardo Giesecke
MEM Regional Office	Elmer Portilla
Municipality of Cajamarca	Rodolfa Orejuela

Catholic Church

Vicaria de Solidaridad	Padre Efraín Castillo
------------------------	-----------------------

Community groups and NGOs	
ALAC	Violeta Vigo
ASPADERUC	Pablo Sánchez
Cajamarca Chamber of Commerce	Horacio Gálvez
	Víctor Gutiérrez
CONAM	Eduardo Dios
Ecovida	Nilton Deza
Frente de Defensa de Cajamarca	Reinard Scheiffer
Futuro Sostenible	Antonio Bernales
Canal users	
	Manuel Carrasco
	Rafael Castrejon
	Luís Gilberto
	Daniel Heras Flores
	José Enemesio Ilman
	Leonides Taica Valdivia
Veedores (independent oversight observers)	
	Alfredo Chávez, SEDACAJ
	Gilberto Cruzado, IUDER
	Ulises Pajares Gallardo, ADEFOR
	Zenaida Mirez Gallardo, FEROCAFENOP
	Humberto Marín, CORECAMIC
	Fanny Rimarachín, Municipality of Cajamarca
	Cesar Torres, COMOCA
	Cleotilde Villanueva, FEROCAFENOP
Conflict resolution students	
	Anita Araujo
	Ronnie Ruben

- a. With the CAO at the time of participation in the Mesa.
- b. With the IFC until 2004.
- c. With Stratus Consulting, Inc. until 2005.
- d. The first delegate was the main and only delegate for his/her organization until the second replaced him/her to be the only delegate

Appendix B. Issues and Concerns Identified in the September 2001 Mesa

Category	Problem Description: “How to...”	Potential Options
Water quality	<ul style="list-style-type: none"> • Know whether or not there is contamination of the water • Assess the level of contamination that exists, if there is contamination • Identify the source of the contamination • Provide for better treatment of the water in the <i>cuencas</i>, rivers, and canals, if there is contamination • Achieve access to potable water in every <i>caserio</i> • Provide transparent, accurate information regarding water quality on a regular basis. 	<ul style="list-style-type: none"> • Conduct an independent water quality study performed under the auspices of the CAO, using international experts that are credible. Publish the results of the study. Inform the residents of the results of water quality tests, going from house to house. Communicate results in Spanish and Quechua. • Develop an ongoing monitoring program with adaptive management strategies. • If there is contamination, develop ways to improve the treatment of the water in the contaminated areas. • Install potable water for the <i>villages de las cuencas</i>. • Create a fund to clean the irrigation canals, employing shifts of workers from the affected villages. • Conduct tests on water quantity and quality on a regular basis (i.e., twice a month), through an independent commission under the auspices of the CAO, using standards and protocols from the U.S. • SEDACAJ, the National University of Cajamarca, and Yanacocha create an Institute for the Environment, complete with a world-class laboratory that is adequately equipped and prepared to carry out environmental assessments, water quality analysis, etc. The institute and the laboratory should be administered by an independent, trusted board of directors selected by Cajamarcan institutions and managed by ethical professionals recognized for their scientific and technical abilities.
Water quantity	<ul style="list-style-type: none"> • Determine whether or not there is reduction of water quantity, and if so, why • Determine how a sustainable, reliable predictable water supply can be made available for multiple uses. 	<ul style="list-style-type: none"> • Discuss as an economic development issue.
Land, soil, and air	<ul style="list-style-type: none"> • Determine whether and to what extent the land, soil, and air is contaminated • Identify the source of the contamination, if any • If the water is contaminated, assess the impact of contaminated water on the land and soil • Assess the impact of the dust on health of people and animals. 	<ul style="list-style-type: none"> • Yanacocha invests in state of the art equipment to prevent contamination.

Category	Problem Description: “How to...”	Potential Options
Fauna and flora	<ul style="list-style-type: none"> Identify whether and why certain species are disappearing and why they are born with deformities. 	<ul style="list-style-type: none"> Conduct a biodiversity study.
Hazardous materials and emergency response	<ul style="list-style-type: none"> Provide for public safety Engage in advanced planning and anticipation of incidents before they happen Provide information to the community concerning the transport of hazardous materials in a transparent and timely way. 	<ul style="list-style-type: none"> Develop an emergency response plan and educate the community. Develop a communications plan to inform citizens about the transport of hazardous materials.
Cerro Quilish	<ul style="list-style-type: none"> What is the future of Quilish? 	<ul style="list-style-type: none"> Respect <i>la intangibilidad Quilish</i>. Conduct baseline study of air, water, and soil conditions. Using an independent, credible team of scientific and technical experts, determine the nature and extent of environmental and socioeconomic impacts, including impacts on water quality and quantity that will be produced by the development of Quilish. Develop prevention and mitigation strategies and a specific plan for how Quilish can be developed in an environmentally and socially responsible manner. Following an extensive, transparent consultation process with the community, make a final determination about whether to move forward with Quilish.
Mitigation measures	<ul style="list-style-type: none"> What principles should inform mitigation of environmental and socioeconomic impacts? 	<ul style="list-style-type: none"> Measures taken to compensate for environmental damage should be related to the damage done. For example, if water is contaminated, construct another water storage reservoir rather than a school; if an event occurs such as what happened in Choropampa, San Juan, and Tembladera, evacuate and rapidly attend to people rather than give money for a fiesta.

Note: <http://www.cao-ombudsman.org/html-english/documents/CAOSEpt2001Meetingsenglish.pdf>

NOTES

1 Because of the sensitivity of some of the issues discussed, the CAO will not attribute quotations to individual interviewees.

2 Mine facilities expand and close on a regular basis. The description of the mine was accurate when the technical studies described in these monographs were conducted but may be different now.

3 UNDP Peru. 2006. "Cuadros estadísticos: Índice de desarrollo humano a escala departamental, provincial y distrital."
www.pnud.org.pe/idh/Informe2006/indh_2006_12_CuadrosEstadisticos.pdf

4 Aramburú, Carlos Eduardo, and María Bustinza Navarte. July 2006. "Contribuciones para una visión de desarrollo para Cajamarca." In *Volume 1: Cajamarca: el proceso demográfico*, ed. Francisco Guerra García. Asociación Los Andes de Cajamarca.

5 Ibid.

6 "Cuanto-Peru en numeros 2004." Cited in "Grupo Propuesta Ciudadana." *Informe Regional Cajamarca: Minería, descentralización y desarrollo*. Volume 4, September 2005, p. 5. This assumes a conversion of 3.3 nuevo soles to the U.S. dollar in 1996 and 3.5 nuevos soles to the U.S. dollar in 2003.

7 "Grupo Propuesta Ciudadana." *Informe Regional Cajamarca: Minería, descentralización y desarrollo*. Volume 4, September 2005, p. 4.

8 The network of *Rondas Campesinas* is an important component of Cajamarcan society. Originally formed in the 1970s as local neighborhood watch groups to prevent cattle theft, the network's mission has since grown to encompass economic development and political advocacy for its constituencies. In Cajamarca there are various groups of *Rondas*, one of which is FEROCAFENOP.

9 Project Underground, founded in 1996, had as its central mission "to expose environmental and human rights abuses by extractive industries and build community capacity to achieve economic and environmental justice," as stated on its Web site, www.moles.org. The organization led campaigns to support communities opposing harmful impacts of oil and mining industry operations in Africa, Asia, Eastern Europe, Latin America, and North America. It dissolved in 2003, following a decline in funding related to the departure of its founders.

10 The full report is available at http://www.cao-ombudsman.org/html-english/complaint_yanacocha.htm.

11 As local complaints about lack of consultation increased, IFC urged Yanacocha to conduct additional public consultations about the proposed La Quinoa expansion. The company did so and created an addendum to the environmental impact assessment, which included documentation of these additional public meetings. IFC determined that these measures met IFC standards. Nevertheless, the additional consultations did little to assuage growing public concerns about Yanacocha's environmental and social impacts.

12 Yanacocha made some effort to educate its staff about the negative community perceptions of the mine. For example, it required staff to watch a dramatized play about the existing tensions between the community and mine staff, and the ways in which the behavior of mine personnel exacerbated them.

13 The issue of the recognition of FEROCAFENOP as an indigenous group (mentioned in the original complaint to the CAO) remained a source of discussion between the CAO and FEROCAFENOP for several months. It was ultimately agreed that this legal issue was beyond the purview of the Mesa and the CAO and should be addressed by the Peruvian government.

14 La Encañada and Baños del Inca are two districts in the Department of Cajamarca located within the area of influence of the Yanacocha mine. Some of the small population centers within them border mine property.

15 Bilateral relationships with Yanacocha ranged widely, from agreements on public works projects for rural towns to environmental mitigation programs managed by NGOs, and purchasing contracts facilitated by the Chamber of Commerce.

16 The specifics of the mercury spill case present complex scientific, medical, legal, and social issues. Moreover, the case is pending in U.S. courts. Accordingly, this monograph series did not interview individuals affected by the spills.

17 Although it was not a priority action for the Mesa because of the court deliberation, Quilish was listed in the table of key community concerns in September 2001 (see appendix B).

ABBREVIATIONS

ACEPAMY	Asociación de Centros Poblados Menores Afectados por Minera Yanacocha (Association of Smaller Population Centers Affected by Minera Yanacocha)
ADEFOR	Asociación Civil para la Investigación y Desarrollo Forestal (Civil Association for Forest Development Research)
ALAC	Asociación Los Andes de Cajamarca (Cajamarca Los Andes Association)
ASODEL	Asociación para el Desarrollo Local (Association for Rural Development)
ASPADERUC	Asociación para el Desarrollo Rural de Cajamarca (Association for the Rural Development of Cajamarca)
CAO	Office of the Compliance Advisor/Ombudsman
CAR	Comisión Ambiental Regional (Regional Environmental Commission)
CARE	Cooperative for Assistance and Relief Everywhere
CDR	CDR Associates
COMOCA	Comité Técnico y Científico de Monitoreo del Agua (Scientific and Technical Committee for Monitoring Water)
CONACAMI	Coordinadora Nacional de Comunidades Afectadas por la Minería (National Coordinator of Peruvian Communities Affected by Mining)
CONAM	Consejo Nacional del Medio Ambiente (National Environment Council)
CORECAMIC	Coordinadora Regional de Cuencas Afectadas por la Minería en Cajamarca (Regional Coordinator of Watersheds Affected by Mining in Cajamarca)
CTAR	Consejo Transitorio de Administración Regional (Regional Transition Administration Council)
DESA	Dirección Ejecutiva de Salud Ambiental (Executive Authority for Environmental Health)
DIGESA	Dirección General de Salud Ambiental (General Directorate of Environmental Health)

DREM	Dirección Regional del Ministerio de Energía y Minas (Regional Authority for the Ministry of Energy and Mines)
EIA	Environmental Impact Assessment
FEROCAFENOP	Federación de Rondas Campesinas Femeninas del Norte del Perú (Federation of Female <i>Rondas Campesinas</i> of Northern Peru)
IFC	International Finance Corporation
INGETEC	Ingenieros Consultores (Engineering Consultants)
INIA	Instituto Nacional de Investigación y Extensión Agraria (National Institute for Agrarian Research and Extension)
INRENA	Instituto Nacional de Recursos Naturales (National Natural Resources Institute)
ITDG	Intermediate Technology Development Group
IUDER	Instituto Universitario de Desarrollo Regional de la Universidad Nacional de Cajamarca (University Institute for Regional Development of the National University of Cajamarca)
MEM	Ministry of Energy and Mines (Peru)
MIGA	Multilateral Investment Guarantee Agency
MY	Minera Yanacocha (Yanacocha Mining Company)
NGO	Nongovernmental organization
SEDACAJ	Empresa Prestadora de Servicios de Saneamiento de Cajamarca (Sanitation System Provider of Cajamarca)
SME	Small and medium enterprise
UNALM	Universidad Nacional Agraria–La Molina (National Agrarian University–La Molina)
UNC	National University of Cajamarca
US EPA	U.S. Environmental Protection Agency
WHO	World Health Organization

Further Information about the CAO

The CAO aims for maximum disclosure of reports and findings of the CAO process by reporting results on our Web site. Our Operational Guidelines and all other public publications are available in print and online. Most Web content is in English, French, and Spanish. The guidelines are available in these languages as well as Arabic, Chinese, Portuguese, and Russian. The guidelines and Web site include a model letter to the CAO's office to assist people in filing a complaint.

For more information about the CAO, please visit www.cao-ombudsman.org

Editors: Nancy Morrison, Falls Church, VA, and Kate Kopischke, CAO

Design: Studio Grafik, Herndon, Virginia

Photo credits: CAO staff and consultants



COMPLIANCE/ADVISOR OMBUDSMAN

2121 Pennsylvania Avenue NW

Washington, DC 20433 USA

Telephone: 202-458-1973

Facsimile: 202-522-7400

E-mail: cao-compliance@ifc.org

www.cao-ombudsman.org



World Bank Group
Multilateral Investment
Guarantee Agency

MEMBERS OF THE WORLD BANK GROUP