



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

PRELIMINARY PUBLIC WORKSHOPS

September 2001

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

TABLE OF CONTENTS

1.	INTRODUCTION.....	2
	CAO Role and Procedures.....	3
	Formal Complaints and CAO and Response.....	3
II.	CAO MISSION APPROACH.....	4
III.	PUBLIC WORKSHOPS.....	5
	Introductory Remarks and Ground Rules.....	6
	Feedback from Situation Assessment Report.....	6
	Scoping Issues, Interests and Options.....	7
	Environmental Issues Table.....	8
	Socioeconomic Issues Table.....	11
	Consensus, Logistics and Next Steps.....	15
IV.	CONCLUSION.....	16

I. INTRODUCTION

Minera Yanacocha SRL (MYSRL), which began operations in 1993, is a joint venture gold mining operation. Newmont Mining Corporation of Denver, Colorado, USA holds a 51.35 % interest through its subsidiary, Newmont Second Capital Corporation with the Peruvian mining company, Compania de Minas Buenaventura SA holding 43.65% through its subsidiary Minera Condesa. The remaining 5% is held by the International Finance Corporation (IFC). The International Finance Corporation (IFC) is the private sector lending arm of the World Bank Group. Newmont Peru Limited is the manager of MYSRL.

When mining operations began nearly nine years ago, the company expected to be involved in the region for 5-6 years. With the discovery of additional deposits, Yanacocha now projects 35-50 years of mining activity. From the outset of its operations Minera Yanacocha has not had a clear policy of public relations with the immediate communities impacted by mining operations nor with the city of Cajamarca. As time has passed, patterns of estrangement have emerged between the mine and these communities. The estrangement has escalated to mistrust and led to various forms of objections, including litigation against the company and direct action to protest plans for expansion. In addition two formal complaints have been filed with the Compliance Advisor/Ombudsman (CAO) of the International Finance Corporation and Multilateral Investment Guarantee Agency (MIGA).

CAO Role and Procedures

The CAO was created in 1999 to provide an independent accountability mechanism for IFC/MIGA. Reporting directly to the President and to disclosing the results of its work to the public, the CAO has three main roles:

- To provide an avenue of complaint for individuals and communities directly impacted or likely to be directly impacted by a project involving IFC and/or MIGA by a variety of mediation and conflict resolution approaches to help redress concerns. Where these are not deemed workable or desirable, the CAO may undertake independent investigations of fact.
- To undertake independent compliance audits on projects of the IFC and/or MIGA at the request of the President and/or senior management or as and when the CAO feels appropriate.
- To act as an independent source of advice to the President of the World Bank Group regarding the environmental and social safeguard policies and the outcomes of the IFC and/or MIGA portfolio and projects.

Formal Complaints and CAO Response

The first formal complaint to the CAO was filed by the leaders of the community of Choropampa concerning the aftermath of the mercury spill that occurred there on June 2, 2000. The complaint raises issues regarding the follow-up to the spill including ongoing concerns about the long term impact on the environment, the health situation in Choropampa, compensation claims, the program of public works as well as the mine's failure to treat the communities with respect, or respond to the health and environmental situation.

A second formal complaint was filed by a local group of Rondas Campesinas in Cajamarca and detailed concerns related to environmental impacts of the mine, lack of consultation and outreach by the mine, social instability, and an alleged lack of compliance with a number of IFC safeguard policies.

In response to the complaints, the CAO has been working with the complainants, Minera Yanacocha, the shareholders (Newmont Mining Corporation, Buenaventura, IFC), NGOs, municipal bodies and leaders, provincial leaders, government agencies and others in the Cajamarca area to find approaches to the issues that they may be resolved.

Based on extensive discussions with the parties described above, the CAO convened a mission in July 2001 to understand and address these problems in a more comprehensive manner through the creation of a multi-party dispute resolution and dialogue process. In doing so, the CAO guarantees a neutral, independent space within which a problem-solving process can take root.

The CAO retained a team of experts in multi-party negotiation, dispute resolution and mediation to form an international team of facilitators to build, manage and support this process. The team led by Ms. Rachel Kyte for the CAO, under whose auspices all are working, includes Mr. William Davis, and Ms. Susan Wildau. Ms. Ana Maria Aguilar provides advice, coordination and support for the mission in Peru.

This report presents the results of CAO's September mission to Cajamarca and describes the outcomes of three preliminary public workshops held in Cajamarca September 13 – 15, 2001.

II. CAO MISSION APPROACH

The CAO mission started with an initial assessment of the situation completed in July 2001. The team interviewed numerous representatives of government, Minera Yanacocha and the community and produced a report summarizing themes and a proposal for next steps. The assessment report was distributed in August and attempted to provide answers to several questions:

- How do people from the mining company, government and civil society perceive the situation?
- Are people willing to participate in a process to increase understanding among different perspectives and perhaps cooperate?

- If there is willingness to participate in a process, what activities can take root and flourish to produce an ongoing, transparent, independent, locally based process of dialogue and problem solving that is focused on both long term and short term strategies, and not dependent upon a prolonged CAO presence?
- What challenges must be considered in launching and sustaining a successful process of dialogue and problem solving?

While we found that significant doubt, lack of trust and suspicion exists among those we interviewed, we also heard a consistent message that recent events have created a unique opportunity to forge a new vision for how to increase understanding and perhaps cooperate to improve the situation.

Based on the results of the situation assessment, the CAO organized a next visit September 5-16 to convene a series of follow-up bilateral conversations with key interest groups, conduct interviews with several additional individuals and groups, and facilitate three preliminary public workshops.

In preparation for these workshops September 13-15, the team met in bilateral discussions with representatives from Rondas Campesinas, District of Magdalena, Minera Yanacocha, ADEFOR, Provincial Municipality of Cajamarca, the Alcaldes of the Pueblos Menores of the Districts of La Encanada and Banos del Inca, the Cajamarca Chamber of Commerce, CARE, SEDACAJ, ITDG, PRO AGUA, the Private University of Antonio Guillermo Urrello, and Valle y Vida. In addition, the team visited the Defensor del Pueblo in Lima and the congressional delegation from Cajamarca. On September 14th, team members Bill Davis and Rachel Kyte traveled to Choropampa and met with a group of representatives from the community to discuss the complaint filed and situation there and to decide how to move forward.

The team also attempted to schedule meetings with the following groups: ECO VIDA, CIPDER, National University of Cajamarca and CEDEPAS. However, these groups did not attend the bilateral sessions, nor did they participate in the public workshops. The team was advised that these groups had decided to boycott the collaborative effort sponsored by the CAO. Since none of these groups indicated why they were adopting this position, the team makes no comment on their motives.

The Provincial Mayor of Cajamarca sent a representative to the bilateral meetings and a letter indicating his intention to attend and to be represented when he could not. However, there was no representative present at the public workshops. Some participants at the public meeting reported that the Council had voted earlier in the week not to participate for reasons that were not made known to the CAO team.

Valle y Vida sent a letter to the CAO indicating their intention to participate in future meetings of the dialogue.

People described a state of heightened tension in the Cajamarca community and some indicated they felt threatened. We were counseled by several participants and likely participants to “be careful”.

III. THE PUBLIC WORKSHOPS

Following the bilateral meetings with key interest groups, the CAO team convened and conducted three public workshops held on September 13, 14, and 15, 2001, from 3:00 - 6:00 p.m. Each workshop had a clear purpose and agenda. The overall goal of these workshops was to initiate a uniquely Cajamarcan process for building understanding, developing an effective working group, identifying problems, and resolving differences related to the Yanacocha mining operation and the community. The first workshop provided feedback to the CAO concerning the August report, *Report of the CAO Expert Mission to Cajamarca: Situation Assessment and Proposal for a Dialogue Process*. The second workshop scoped issues and interests pertaining to environmental and socioeconomic problems. The third workshop prioritized the issues and explored actions and next steps.

On average, 35 participants and 30 observers from key interest groups attended each workshop. The participants were representatives from Rondas Campesinas, the communities of Choropampa and Magdalena, the mayors of the centros poblados menores of the districts of La Encanada and Banos del Inca, Minera Yanacocha, ITDG, ADEFOR, CARE, SEDACAJ, and the Cajamarca Chamber of Commerce.

Introductory Remarks and Ground Rules

Following the introduction of participants and remarks by Yanacocha affirming their strong commitment to participate in this dialogue process, the group identified some basic ground rules to keep their conversations constructive. The dialogue guidelines are outlined below:

REGLAS BASICAS

- Respecto en las exposiciones
- 10 minutos por exposición...brevedad
- Agenda por tema: ambientales y sociales
- Intermedio: Después de 1 hora y ½
- Hablar uno por uno: Escuchar mientras otro habla
- Respetar a las mujeres cuando hablan
- Video autorizado
- Fin de la sesión: 6:00 p.m.

Feedback from *Report of the CAO Expert Mission to Cajamarca: Situation Assessment and Proposal for a Dialogue Process*

People were generally satisfied with the situation assessment report. However, we did receive a variety of specific comments, including but not limited to the following:

- The report did not adequately capture the economic impact of mining on the Cajamarca region.

- Several participants rejected the report’s use of the word “fundamental” when describing the importance of the mine to the economy of Cajamarca.
- The report did not touch sufficiently upon the situation in Choropampa.
- Some of those interviewed in July were speaking as individuals, not as representatives for their organization.
- It was suggested that the government should participate in the consultations.
- Health related impacts should be expanded upon in the report.
- Some people raised the concern that other groups in Cajamarca might be suspicious or distrustful of any efforts or proposals put forward by the CAO because the IFC (International Finance Corporation) is a 5 % shareholder in Minera Yanacocha.

Some comments were submitted to the CAO in writing. The August report will be revised according to the comments provided by participants. The revised edition will be made available

Scoping Issues, Interests and Options

Participants in the public workshops were asked to educate each other about the issues they hoped to discuss during the dialogue, as well as highlight their concerns, needs, fears and goals related to the environmental and socioeconomic problems that were raised. During the workshops, participants also shared some of their ideas and proposals for resolving the issues.

The following table represents a synthesis of workshop discussions and written proposals presented to the CAO by participants in the public workshops. Several important conditions should be noted with regard to the table:

- Participants in the discussions did not attempt to build consensus agreements about the definition of the problems or the solutions, other than the agreements noted in the consensus section of this document. The table captures viewpoints and proposed actions presented to date.
- Information is presented in summary fashion due to the nature of the discussion process and may require further explanation.
- The table outlines key problems and potential options organized by categories. The table is designed to assist people to think comprehensively about problems and solutions.
- The chart is not an exhaustive list of either problems or options. We recognize and welcome that participants will identify other important measures in future meetings.
- It is important to recognize that this dialogue process may not be the appropriate forum to deal with every issue identified by participants during the workshops. It will be necessary to determine which issues are suitable for what forum to achieve resolution.

**KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: ENVIRONMENTAL ISSUES**

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 “cuencas”, rivers, and canals, if there is contamination ❑ Achieve access to potable water in every “caserio” ❑ 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 villages “de las cuencas”. ❑ 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.

**KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: ENVIRONMENTAL ISSUES**

Category	Problem Description: “How to...”	Potential Options
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.
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 bio-diversity 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.

**KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: ENVIRONMENTAL ISSUES**

Category	Problem Description: “How to...”	Potential Options
Cerro Quilish	<ul style="list-style-type: none"> □ What is the future of Quilish? 	<ul style="list-style-type: none"> □ Respect “la intangibilidad Quilish”. □ 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.

KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: SOCIOECONOMIC ISSUES

<p>Work at the Mine</p>	<ul style="list-style-type: none"> ❑ Increase the opportunities for local businesses and individuals to find employment at the mine ❑ Inform the community re: job opportunities, job descriptions, standards and criteria used by Yanacocha to hire local individuals or businesses to provide products, skills and services to the mine ❑ Prepare local businesses and potential employees with the skills and abilities required to provide services to the mine so as to meet Yanacocha's need for quality and predictability ❑ Create a system of accountability between Yanacocha and their subcontractors to reduce problems between the community and Yanacocha subcontractors ❑ Address concerns regarding working conditions—abuses by subcontractors, unfair working hours, aggressive work environment, poor nourishment, bribes, threats, etc. 	<ul style="list-style-type: none"> ❑ Provide work opportunities to people and businesses from the Cajamarca region. ❑ Develop a capacity building program for local businesses so they are able to provide Yanacocha with the level and quality of products and services on a sustainable basis. ❑ Select 80% of the workforce from the affected basin areas (“cuencas afectadas”). ❑ Provide work in the mine for 50% of the residents from affected villages. ❑ Provide work opportunities to those without a prior criminal record. ❑ Track and make public to the community: a) the number of “Cajamarquinos “ who are employed by the mine; b) local businesses who provide the mine with goods and services. ❑ Develop a system to address and resolve worker concerns.
<p>Relationship between the community and Minera Yanacocha</p>	<ul style="list-style-type: none"> ❑ Build an effective working relationship between the community and Yanacocha that is characterized by mutual trust and respect ❑ Ensure the mine is more integrated into the community rather than being a class apart ❑ Create and maintain respect and recognition for all, including agriculturists, campesinos, women, miners, etc. 	<ul style="list-style-type: none"> ❑ Yanacocha provides a guarantee of no contamination as a foundation for increased trust and cooperation from the community. ❑ Develop a dispute resolution system to prevent, raise and address problems and conflicts between the community and the mine, throughout the life of the mine. ❑ Develop a communication system between the community and the mine that promotes transparency, gives both groups the information they need from each other, in a timely manner and provides for input

**KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: SOCIOECONOMIC ISSUES**

	<ul style="list-style-type: none"> ❑ Help everyone feel valued ❑ Replace arrogance (shown by some at the mine toward residents and authorities in the community) with respect ❑ Improve communication between the community and Yanacocha 	<p>from the community on issues that affect them.</p>
<p>Sustainable Economic Development</p>	<ul style="list-style-type: none"> ❑ Provide economic development opportunities that are meaningful to the affected community ❑ Assess impact of mining activity, if any, on agriculture, fishing and livestock ❑ Maintain the character of communities ❑ Cushion the impact of change 	<ul style="list-style-type: none"> ❑ Build a vision for sustainable development. Create a comprehensive sustainable development master plan for the Cajamarca region, based on a thorough assessment of environmental and socioeconomic factors. Consider social, technical, economic, and environmental issues and address impacts created by mining activity. ❑ Yanacocha drafts a comprehensive action plan focused on both medium and long-term strategies concerning future mining activities and related social, environmental, development and contingency issues. Plan would include intentions of the company, its environmental protection measures (remedial and preventative), approach to potential social and economic consequences, etc. Discuss the plan in a series of public meetings, “Forum de Concertación”, attended by interest groups from the community. The goal of these discussions is to reach agreement on key components of the plan and plan implementation. ❑ Obtain an agreement from Yanacocha to stop buying “cerros” that have been reforested, i.e., Cerro Negro. ❑ Preserve the city of Cajamarca, not just the historical section. Relocate company vehicles and heavy machinery (Ferreyros, Ransa, Cosapi, MY, Translei) from beautiful areas of the valley and city to other locations in accordance with the city’s “Plan Regulador”.

**KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: SOCIOECONOMIC ISSUES**

<p>Issues concerning Choropampa, Magdalena, San Juan</p>	<ul style="list-style-type: none"> ❑ Assess the community health situation in Choropampa ❑ Understand whether and why certain anomalies are occurring such as lowered intellectual levels among children in school, loss of memory, increased aggressive behavior, etc. ❑ Fairly compensate those affected ❑ Provide insurance that is recognized by health care providers ❑ Determine impact on agriculture and cattle ❑ Provide treatment and medicine that is effective and affordable 	<ul style="list-style-type: none"> ❑ Team of renowned medical doctors, conduct health assessment of persons who still experience symptoms related to the mercury spill. ❑ Evaluation of the environment by recognized specialists designated and agreed to by the community to determine whether or not there is contamination, what the source is, etc. ❑ Develop a comprehensive health program for the Choropampa community including: a permanent medical specialist, effective medical products, a nutrition program, ongoing monitoring program of the soil and air, access to health and environmental assessment results, access to health insurance that is recognized by health care providers, etc. ❑ Create a sustainable fund for those affected by the June 2nd mercury spill and their families. ❑ Construct a health clinic that specializes in the detoxification of heavy metals.
<p>Concerns of Minera Yanacocha</p>	<ul style="list-style-type: none"> ❑ Committed to meaningful social and economic development in the region ❑ Concerned that expectations of the community are not realistic. For example, it is unrealistic to expect Yanacocha to become a substitute for the government. Community is confused about what the mine's legitimate role and responsibility are, and where the limits of that responsibility lie. Will need to select areas in which sustainable achievements can be attained, while also avoiding long-term dependency. ❑ Perceives a gap exists between perceptions by people in the community and reality. Mine is 	

KEY CAJAMARCA REGION CONCERNS AND POTENTIAL OPTIONS
RE: SOCIOECONOMIC ISSUES

	<p>concerned that some in the community don't want to see how the mine actually functions.</p> <ul style="list-style-type: none">❑ Committed to improving relations between Yanacocha and the community of Cajamarca❑ Concerned regarding treatment of workers❑ Troubled that at times there is a lack of transparency on the part of some groups. Concerned the mine is being used by some political groups to further their own political agenda.❑ Among competing versions of reality, the mine's view of the situation is often dismissed, ignored, or rejected without any consideration. Mine receives no recognition for their contributions to the community.❑ Commitment to participate with the community in solving problems together.	
--	---	--

Consensus, Logistics and Next Steps

On the final day of the public workshops, participants reached the following agreements:

1. There is consensus from participants at the table that the CAO organize an independent investigation concerning the quality of water in the “cuencas afectadas”. The inquiry will be transparent to all stakeholders and the general public. The workshop participants will develop the terms of reference for qualified scientific experts who will complete the scientific inquiry and other information-gather tasks. Part of the role of participants will be to help determine the appropriate questions to be asked, receive the results of the inquiry, assist in analyzing the implications of the outcomes, and develop recommendations as indicated by the report. The process of scientific inquiry will operate independently of influence from all directly interested parties.
2. Workshop participants will review the proposal described above with their constituencies between now and the October 15th meeting. If there is agreement in October to proceed with an independent assessment of water quality, participants will focus on developing the terms of reference for the chairperson of the independent investigation.
3. A report summarizing the September Mission of the CAO will be prepared and distributed by electronic mail to the Rondas Campesinas, Minera Yanacocha, ONG’s, etc. The Mayors of the Centros Poblados Menores agreed to permit Minera Yanacocha to distribute the report to them. Ms. Violeta Vigo will supply the report to the Choropampa, Magdalena and San Juan communities.
4. The next meeting of the group will be Monday, October 15, from 9:00 a.m. until 5:00 p.m. It will be convened and facilitated by the CAO facilitation team. The place will be announced.
5. The CAO facilitation team will conduct bilateral meetings with each of the interest groups during the week of October 8th, in preparation for the October 15th meeting. Ms. Ana Maria Aguilar will be in touch with each group to schedule these meetings.
6. The CAO met with representatives from the community of Choropampa on September 14, 2001. At the meeting, the community requested that CAO:
 - Invite a team of international medical specialists to conduct a follow-up evaluation/diagnosis of all people affected by the mercury spill that occurred on June 2, 2000. The assessment will give highest priority to school-age children and people in a poor state of health. It will also assess the adult population in general.
 - Invite an international team of environmental investigators to conduct a follow-up study of the environmental situation in Choropampa to confirm whether or not there is environmental contamination in Choropampa.
 - Convene and facilitate a meeting between representatives from Yanacocha and the Choropampa community when the CAO mission returns in October.

Choropampa community representatives prepared and submitted a letter formalizing these agreements. The letter was submitted to the CAO on September 15, 2001.

It was agreed at the meeting that the first point, the health assessment will be worked on immediately and the CAO is working on to establish a mediation session between the communities impacted by the mercury spill and the mine. The issue of the environment impacts will be further addressed there.

IV. CONCLUSION

The dialogue process currently has full and comprehensive participation from the rural communities. It should be noted that these communities, Rondas Campesinas and the villagers of Choropampa, are the authors of the complaints filed in the office of the CAO. The new leadership of the interests of Minera Yanacocha have publicly committed to continue participating in the dialogue process as a means to address the environmental, health, and socioeconomic concerns surrounding the current and future plans of the mine.

In our opinion favorable conditions exist for the dialogue process to continue. However, not all the interests of the residents of the city of Cajamarca and its immediate environs are represented in the process. In the Report of the First Mission of the CAO, the issues that most concerned these groups were the environment and water. The decisions of the participants in the Dialogue Process to commission several independent studies on these precise topics will address these concerns. If the real concern of these groups is to obtain impartial and highly competent scientific evaluations on the impact of the mining operations on the environment, water and bio-diversity, the dialogue process has taken decisions to do these very actions.