



Process and Politics: Chinalco and the Resettlement of Morococha

In 2007, the Aluminum Corporation of China (Chinalco) acquired a copper mine in Peru's Junin province. The acquisition was welcomed by both countries: Peru because it sought foreign direct investment (FDI) to bolster its economy, and China because it needed metals and minerals to fuel its domestic growth and development plan. From the beginning, all parties understood that, in order to fully exploit the Toromocho mine, the adjoining small town of Morococha would have to be relocated.

Over the next five years, Chinalco embarked on what it knew would be an arduous process to upgrade the mine, launch production and build a new town for the 5,000 Morococha residents—most of them mine workers. But with copper prices on the rise, the payoff would be substantial. While Chinalco had paid \$792 million for Toromocho, it expected to produce some 1 million tons of copper concentrate a year once the mine was fully productive.¹ Chinalco in 2009 retained consultant Social Capital Group (SCG), which had worked with the previous mine owner, to oversee the resettlement project. SCG conducted numerous focus groups and public meetings and, in 2010, Chinalco chose the area of Hacienda Pucara as the site for the new city of Carhuacoto, to replace Morococha.

Morococha Mayor Marcial Salomé had consistently supported Chinalco's purchase and expansion of the mine. When the mayor in 2008 requested a Dialogue Table—a common negotiating approach in Peru to bring together private, public and civil society actors—to decide on conditions for the resettlement, Chinalco acquiesced. But it took time to create. To select 11 Table members from civil society, the organizing parties in November 2010 engaged a national public-nonprofit organization known as the Roundtable to Fight Against Poverty (MCLCP). MCLCP Executive Secretary Fred Goytendía Matos shepherded the lengthy civil society selection process and, in January 2012, became technical secretary of the new Dialogue Table for the Resettlement of Morococha (DTRM).

The Resettlement Table was to create a Unified Framework Agreement, a legal document setting forth commitments from the community, regional and local governments, and Chinalco for the resettlement process. But no sooner had the Resettlement Table gathered for its first meeting

¹ For some details on copper pricing, see: <http://www.chinalco.com.pe/es/producción-y-beneficios>

than fissures appeared. Mayor Salomé, in a surprise move, refused to participate. He claimed that the new town of Carhuacoto would be unlivable due to high humidity. He claimed to speak for some 20 percent of Morocochans who refused to move. Meanwhile, Chinalco continued to prepare Carhuacoto to receive its first residents.

Goytendía Matos felt responsible for bringing the parties together, and wanted to lure Mayor Salomé back to the table. He was certain that this project could become a model for others interested in investing in Peru's mines. It offered an unusual opportunity to set a global precedent for managing the environmental, social and economic consequences of extraction projects; its success or failure had consequences far beyond the borders of Junin.

But by September 2012, Goytendía Matos was finding it hard to do his job. He wanted to engage outside environmental experts to advise the Table, but the regional government resisted. Mayor Salomé also remained intransigent. Goytendía Matos wondered whether the process could be salvaged. How could he best advance the prospects for a fair and comprehensive unified agreement? Should he resign in protest? Should he approach the lead facilitators, Regional Vice President Americo Mercado and the archbishop of nearby Huancayo, Pedro Barreto? Should he mobilize community activists? Without action, he feared the Table would lose all effectiveness.

Peru: Mining Country

In Peru, a mining country since pre-colonial times, the mining sector after 2000 started to boom. From the early 1990s under President Alberto Fujimori, Peru had become increasingly open to foreign direct investment (FDI), adapting its regulatory framework to attract more private investors and significantly expanding its commercial ties with the world.² These reforms included laws that promoted FDI (Decree Law No. 662, September 1991); incentives for investing in natural resources (Decree Law No. 818, April 1996); and a legal framework for the creation of Social Management Directorates to "administer the Corporate Social Responsibility program in the mining sector" (Supreme Decree Law No. 066-2005-EM, January 2006).³

Revenue sharing. As revenues from mining increased, so did the pressure from regional and local governments to redistribute the monies. So Congress reformed the fiscal framework that established how mining revenues were shared among levels of government. The first *canon minero* (mining royalties) law (Ley N° 27506) was approved in 2001; it allocated 20 percent of income tax from mining companies to subnational governments in mining areas. Later, as part of a fiscal decentralization process, the percentage of income tax going to subnational governments was increased to 50 percent. Of that, 25 percent went to regional governments; 40 percent to municipalities of the mining region; 25 percent to municipalities in the mining province (regions

² For the political/administrative organization of Peru, please see Appendix 1

³ Alfredo Gurmendi, "The Mineral Industry of Peru," US Geological Service, 2007 Minerals Yearbook, May 2010.

were divided into provinces); and 10 percent to municipalities in the mining district.⁴ These monies were for public infrastructure, and university-based scientific and technological research.⁵

As subnational governments saw revenues from mining grow, they sought a greater role in determining where and under which conditions mines operated. Peruvian law gave the central government full authority to grant extractive concessions.⁶ However, by the late 2000s subnational governments were exerting influence through citizen polls, as allowed by law, on whether to accept projects that would disrupt their lives, such as large-scale mining. As local governments and communities grew more involved, the number of socio-environmental conflicts saw a corresponding increase.⁷ In early 2004, for example, the Peruvian Ombudsman (*Defensoría del Pueblo*) recorded 75 social conflicts throughout the country, of which 17 percent were classified as environmental (between residents and natural resource extraction companies).⁸ By late 2010, the number of annual recorded disputes had risen to 246, of which 47.6 percent were socio-environmental.⁹ In mining projects such as Conga, Tintaya and Espinar, local authorities and community members made it clear they were no longer willing to be mere observers, but were determined to become active decision-makers in projects that affected their wellbeing.

In addition to laws regulating mining activities, locals could reference those protecting indigenous communities. In 1994, Peru had signed and ratified the International Labor Organization's 169 Convention (ILO 169), which gave indigenous communities the right to participate in and be consulted on issues and activities that could affect their territories and ways of life. In 2011, Congress strengthened protection when it passed the Previous Consultation to Indigenous and Originative Communities Law (Ley 29785).¹⁰ As of 2012, however, the legal definition of "indigenous community" was still unclear, and the law was still untested.

In 2010, Latin America produced 46 percent of the world's silver, 45 percent of copper, and 19 percent of gold, among other metals.¹¹ Foreign direct investment in Latin America had nearly doubled in the preceding 10 years to more than \$150 billion in 2011. Even with the collapse of the world economy in 2008, commodity and oil prices continued to increase, due mainly to demand

⁴ *Ibid.*

⁵ "Ley que modifica diversos artículos de la ley n° 27506," *Ley de Canon*. September 4, 2003. See: http://www.minem.gob.pe/minem/archivos/file/Hidrocarburos/normas_legales/ley28077.pdf

⁶ Regional governments had a voice only in artisanal mining ventures

⁷ Authors' interview with Carlos Monge, Director of Revenue Watch Peru, on March 1, 2013, in Lima, Peru. All further quotes from Monge, unless otherwise attributed, are from this interview.

⁸ Defensoría del Pueblo "Reporte N° 23, Conflictos Sociales Conocidos por la Defensoría del Pueblo al 31 de enero de 2006," Resumen Ejecutivo, *Defensoría del Pueblo*, March 28, 2006. See: http://www.defensoria.gob.pe/modules/Downloads/conflictos/conflictos_sociales23.pdf

⁹ Defensoría del Pueblo "Reporte de Conflictos Sociales N° 82, Adjuntía para la Prevención de Conflictos Sociales y la Gobernabilidad," *Defensoría del Pueblo*, December 2010. See: <http://www.defensoria.gob.pe/modules/Downloads/conflictos/2011/reportes-82.pdf>

¹⁰ In Spanish, the 2011 law was called *Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios, Reconocido en el Convenio 169 de la Organización Internacional del Trabajo* (OIT).

¹¹ Juan Carlos Guajardo, "Comentarios sobre el Mercado del Cobre y la Industria Minera en América Latina", *CESCO*, Junio 30, 2011.

from an expanding China. By 2010, the government had granted 16.7 percent of Peruvian territory (212,822,978 hectares plus an additional 93,300 hectares offshore) in concessions for mining, oil and gas exploration and exploitation.¹²

By then, Peru led global production of multiple minerals; it was the second largest producer worldwide of silver, copper and zinc, and among the top producers of gold, tin, arsenic trioxide, lead, bismuth, molybdenum and rhenium. Between 2000 and 2010, mining exports increased almost nine-fold. As mineral prices rose to new heights, Peru became a magnet for mining investments from around the world, attracting five percent of the global mining exploration budget for 2010. By 2011, mining had become the backbone of Peru's economy, representing 61 percent of exports, 28.2 percent of income tax and \$53 billion in expected investments from both foreign and domestic investors.¹³

Chinalco arrives

Starting in the 1980s, the Chinese government adopted strategies for rapid economic growth and industrialization, pouring money into infrastructure projects, State-Owned Enterprises (SOEs), and export industries. Within 30 years, China had established itself as the world's top exporter and second largest economy. For this, it needed vast quantities of imported raw materials from reliable suppliers—countries outside North America and Europe, where China's relationships were fraught. Latin America was one target. China increased its FDI in Latin America from \$285 million in 2004 to \$1.6 billion in 2009, almost a six-fold increase in five years, making China the third largest direct investor in the region.¹⁴ China's investments were concentrated 59 percent in metals, 14 percent in food and tobacco, and four percent in oil and natural gas.¹⁵ Brazil, Peru, and Venezuela represented nearly 40 percent of China's mining investment portfolio (see Appendix 2).

Chinalco, the Aluminum Corporation of China, was one of China's favored SOEs. It was the country's largest alumina producer, the third largest primary alumina producer in the world, and it aimed "to become a poly-metallic mining company with a worldwide presence."¹⁶ In August 2007, Minera Chinalco Peru S.A., a subsidiary of Chinalco, acquired all the shares of Peru Copper Inc., a Junior Canadian company that owned Minera Peru Copper (MPC). Chinalco paid US\$6.22 per share for a total of US\$792 million.

¹² Luis Miguel Castilla, "Importancia de la Minería en el Desarrollo Peruano," Ministro de Economía y Finanzas, May 2012. See: http://www.mef.gob.pe/contenidos/comun_notp/presentaci/2012/simposium_oro.pdf

¹³ *Ibid.*

¹⁴ Barbara Kotschwar; Theodore H. Moran; Julia Muir, "Chinese Investment in Latin American Resources: The Good, the Bad and the Ugly", *Working Paper Series*, Peterson Institute for International Economics, February 2012. Also Economic Commission for Latin America, "Foreign Direct Investment in Latin America and the Caribbean", *United Nations*, 2011.

¹⁵ Kotschwar, Moran and Muir.

¹⁶ From Chinalco website. See: <http://www.chinalco.com.pe/en/chinalco>

In May 2008, MPC transferred all assets of the Toromocho project to Chinalco.¹⁷ The Toromocho mine was one of the largest copper reserves in Peru—itself the second-largest producer of this mineral worldwide. The mine, which included small amounts of other minerals as well, would help supply China's growing need for natural resources: one million tons of copper concentrate, 10,000 tons of molybdenum oxide, and 4 million ounces of silver a year.¹⁸ Chinalco undertook to administer Toromocho for 40 years.

In June 2009, Chinalco and Peru signed an investment contract. Chinalco Peru committed to invest US\$2.152 billion over eight years and seven months.¹⁹ The investments included labor, purchases, and other costs—but not resettlement, which the company would fund separately. The contract also provided certain tax incentives. In March 2010, Chinalco requested and obtained an amendment to the contract which reduced the investment to US\$2.052 billion over three years and five months, retroactive to a start date of July 2009.²⁰

Chinalco made it clear from the beginning that, to be successful, it would have to resettle the residents of Morococha. The town lay right beside valuable deposits. To fully exploit those, Chinalco proposed to create a new town in the vicinity. This was not a new idea. The previous owner had also proposed to move the town. Minera Peru Copper in 2006 had hired Social Capital Group (SCG), an international consultancy specializing in the “management of social issues and risks associated with public and private investment projects,” to manage the resettlement process in Morococha.²¹

Baseline. SCG, in partnership with Peru’s statistics agency (INEI), in 2006 conducted a baseline survey to learn who qualified as a resident of Morococha. SCG identified some 1,200 families (approximately 5,000 people) as having lived in the town for more than a year. Over 85 percent of them rented; many of the actual property owners lived in the region’s capital city, Huancayo.

SCG also held meetings to determine how willing residents were to resettle. Its surveys showed that 71.6 percent of the community agreed to move, 8.1 percent were indifferent, and 8.6 percent did not want to move. A high percentage (65.3 percent) thought that resettlement would bring benefits. This accorded with what the local mayor had discovered when he called a public meeting to discuss the issue in 2006. But then the property switched hands. As of 2007, resettlement was Chinalco’s problem.

¹⁷ See: http://www.chinalco.com.pe/en/about_us

¹⁸ See: <http://www.chinalco.com.pe/es/produccion-y-beneficios>

¹⁹ The investment period was stipulated as starting in June 2003. It is unclear why the contract was retroactive.

²⁰ *Adenda de Modificación del Contrato de Inversión Celebrado con Minera Chinalco Perú S.A.*, July 27, 2010.

²¹ See: <http://www.s-c-g.net/SCG/content/aboutus.php>

Morococha and the Toromocho Project

For nearly a century, the area near Mount Toromocho in the Junin region had been a mining zone. The American Cerro de Pasco Copper Corporation had started operations in the neighboring town of La Oroya as early as 1922.²² The town of Morococha, a mining center since its founding in the early 1900s, lay just next to Mount Toromocho. Initially populated by miners and engineers from across Peru, during boom times it boasted up to 15,000 residents. The vast majority worked in the mining sector or its subsidiaries. Originally classified as a mining settlement, or *campamento*, in 1907 it became a *centro poblado*, a recognized population center. Over the years, its size waxed and waned with the mining economy, quadrupling during booms and downsizing in recessions. The diverse origins of the population resulted in a fragmented community.

Decades of mining, often without adequate environmental controls, had taken a harsh toll on Morococha and the region. When Chinalco acquired the property, the town was in “alarmingly insalubrious conditions,” said Washington Mori, secretary of the regional Environmental Dialogue Table.²³ Poverty was rampant. Basic services were scarce. What water was available was polluted, and 39 percent of citizens drank untreated water. The town had limited sewage systems; 35 percent of households lacked basic sanitation facilities. Finally, education levels were alarmingly low: over 47 percent of the city’s population had completed only primary school or less.²⁴

The mayor. Mayor Marcial Salomé had run Morococha since 2003. He had been reelected twice, with his third term running until 2014. In the 2010 election, however, he won with only 30 percent of the vote.²⁵ Furthermore, in recent years he had faced allegations that he misused public funds. Mayor Salomé had traditionally supported mining projects in the area. He had a good relationship with mining companies such as Pan American Silver Corp., which until Chinalco’s arrival had the right to exploit minerals near Morococha.

Until 2010, Salomé also endorsed the Toromocho project and Chinalco, including the need for resettlement. In 2006, the mayor himself had called the first public meeting to discuss it. “He openly supported the project, and the vast majority of the people present, probably over 95 percent of them, expressed that they were also in favor of both the project and the resettlement,” explains Alan Dabbs, a partner at SCG.

There was enthusiasm. Morocochans analyzed what they currently had and, given that they perceived that this project

²² Doe Run acquired it in 1997.

²³ Author’s interview with Washington Mori on February 27, 2013 in Huancayo, Peru.

²⁴ Social Capital Group presentation, September 2011

²⁵ Oficina Nacional de Procesos Electorales. See:

http://www.web.onpe.gob.pe/modElecciones/elecciones/elecciones2010/resultados_erm/index.php

would make them better off, felt optimistic. Back then, the tailings [mine waste] were in schoolyards.²⁶

A "New" Morococha

One of the first priorities when Chinalco acquired the project was to identify a new location for the town that would replace Morococha. Three plausible locations had been on the table since Minera Peru Copper's time: Pachachaca, Hacienda Pucara and Llanten Pampa. All three were close enough for residents to commute to the mine. From 2007 to 2009, as Chinalco set up operations and determined where the new town would be, public engagement lessened. But in 2009, resettlement deliberations began in earnest. Chinalco was aware of the requirement under ILO 169 and Peru's domestic law that local communities have a voice in developments that affected their lives. So it engaged SCG, the company that had conducted surveys and meetings for the previous owner.

In April-May 2009, SCG held community workshops, conducted house visits, and scheduled small meetings of up to 25 people and two facilitators. Invitations to meetings were handed out door-to-door, or posted in public places. To ensure participation, workshops were conducted both at 5 pm and 10 pm, when mining shifts ended. Onsite daycare services were provided, so women could take part. During the meetings, which took approximately two hours, consultants described the possible locations for the new town, and surveyed residents about their willingness to move by asking for a show of hands.²⁷ The consulting group claimed it found significant support for relocation to Hacienda Pucara.²⁸

SCG also organized four "open houses," which drew over 1,000 people. At these, the company talked about the resettlement process and conducted surveys about what locals would like to see in the new town. The results informed the design of houses: individuals could choose among scale models a design they preferred, and also choose a neighborhood. SCG reported that over 85 percent of the local population participated in the consultation process. As it drew to a close, SCG scheduled special meetings for those unable to attend till then.

In late 2009, Chinalco, based on SCG's consultation work, settled on Hacienda Pucara. The company explained that the other two locations had significant drawbacks: Pachachaca was located in a different district, which meant Morococha would disappear as an administrative unit if

²⁶ Authors' interview with Alan Dabbs on February 25, 2013 in Lima, Peru. All further quotes from Dabbs, unless otherwise attributed, are from this interview. "Tailings" are the scrap left behind by mining operations.

²⁷ SCG also took advantage of the meetings to update census data.

²⁸ Details on SCG's methodology are listed in its Environmental Impact Assessment, p. 75. It says in part: "El nuevo proceso de consulta incluyó un programa de visita casa por casa para recoger las principales dudas y preguntas de la población sobre el reasentamiento. A partir de lo recogido en las visitas a cada hogar, se desarrollaron 22 talleres barriales y 7 talleres con organizaciones locales de Morococha. En total asistieron a los talleres 848 personas, de las cuales el 69% mostró su preferencia por la ex Hacienda Pucará como sitio de reasentamiento, el 13% aceptó ambos sitios como posibles lugares y un 12% prefirió Pampa Pachachaca. Sólo el 2% de los asistentes dieron a conocer su rechazo al reasentamiento y el 4% tuvo opiniones singulares al respecto." See:

<http://www.chinalco.com.pe/sites/default/files/Resumen%20ejecutivo%20del%20estudio%20de%20impacto.pdf>

relocated there; while the Llanten Pampa property faced multiple administrative challenges, including a drastic increase in the sales price once the owners realized that Chinalco was interested. The new town Chinalco intended to build in Hacienda Pucara would be called Carhuacoto.

Chinalco proposed to give a house in Carhuacoto to all property owners living in Morococha, owners not living in Morococha and renters with at least one year of proved residency. As compensation, Chinalco paid owners a fixed USD\$9 per square meter, plus an extra USD\$69 to USD\$129 depending on the condition of the house (e.g., adobe vs. cement). All residents would be paid using the same criteria, regardless of when they decided to sell. If a higher price were negotiated later, early sellers would be compensated accordingly.

Meanwhile, moves were underway to engage the community more explicitly in the resettlement process through the creation of a targeted dialogue table. While the location of the new settlement had been decided, the Dialogue Table would finalize compensation terms and guide the ongoing relationship between Chinalco and the people of Morococha, setting out their mutual responsibilities for the duration of the 40-year contract. It would also determine how the government would assist in the resettlement process. Finally, it would estimate the environmental, social and economic impacts of the mining project as a basis for compensation rates. The one thing the Table would not address—because it was already decided—was the selection of a resettlement site.

Dialogue Table for the Resettlement of Morococha (DTRM)

As early as 2008, Mayor Salomé had called for the establishment of a Dialogue Table to discuss and negotiate conditions for the resettlement of his town. Dialogue Tables were a common mechanism in Peru to bring together private, public and civil society actors and provide a space for discussion and negotiation. But it took a long time to secure permission. Only in April 2010 did Junin Regional President Vladimir Cerrón Rojas officially authorize the Dialogue Table for the Resettlement of Morococha (DTRM).

It was to include two facilitators, two observers, civil society organizations representing the citizens of Morococha, and representatives from Chinalco, the Morococha municipal government, and the national and regional governments. Cerrón Rojas selected as facilitators Americo Mercado, vice president of Junin's regional government, and Huancayo Archbishop Pedro Barreto, a respected civic leader who had previously defended the environment and vulnerable communities. Selecting representatives from civil society, however, posed a bigger challenge given Morococha's fragmented and weak civic organizations.

UFA. DTRM's main purpose was to create a Unified Framework Agreement (UFA). As described by a ministerial resolution (Nº 131-2012-PCM), the UFM would be a legal document recording commitments by government, the community and the company to secure the social, economic, and environmental wellbeing of Morocochans before, during and after the resettlement process. Ideally, DTRM would allow the parties to reach agreement on Chinalco's compensation mechanism, details of the resettlement, and other key issues.

In November 2010, the existing members of DTRM considered how to choose representatives from Morococha's civil society. To shepherd the challenging selection process, the Table engaged a well-respected organization in Junin: the Roundtable to Fight Against Poverty (MCLCP), a national public-civic organization created in 2001 that brought together representatives from government and civil society to fight poverty.²⁹

Fred Goytendía Matos was the executive secretary of MCLCP. A 57-year-old anthropologist and native of Huancayo, Goytendía was dean of the *Colegio Profesional de Antropólogos de la Región Centro del Perú* (Professional School of Anthropologists of the Center Region of Peru). He was respected by both civil society and government bodies charged with promoting sustainable development in Junín. The Dialogue Table asked MCLCP and Goytendía to design a methodology for selecting which civil society organizations would join the Table. So Goytendía called for organizations to register; then ranked them by key competencies; and finally reviewed the applications. The Table could accept 11 civil society organizations, each represented by one permanent and one alternate representative.

Morococha had a weak civil society, so Goytendía made a special effort to cast a wide net. "When we were assigned this task, we devised a methodology that considered two main issues," he explains.

First, legality. Were these organizations legally constituted? We gave them multiple options to legalize their status. They could show proof of public registration [via] a notary, a justice of the peace.... anything where they could show the 'birth certificate' of the organization. The other key issue was legitimacy. Who and how many were they representing? We wanted to see some proof of their meetings, acts, any confirmation of their legitimacy.

Goytendía gave organizations every chance to participate. He posted notices in public places, and extended the registration deadline several times. "Among the organizations we finally chose, we made sure to include vulnerable populations as well as rural communities," he says. "Even children were represented at the Table, through leaders they selected in school." It took nearly a year, but by December 2011 the Table included representatives from a wide range of organizations: homeowner and renter associations (including one bearing the name of the mayor); native Morocochans; youth groups; a commercial workers association; and vulnerable populations.³⁰

Despite the care taken, there were criticisms. The mayor in particular complained that some groups had been excluded. Yet when Goytendía investigated, he found those groups did not meet the criteria: they had very few members, and had been recently formed, to all appearances solely for the purpose of joining DTRM. Goytendía recalls: "The mayor... wanted certain specific

²⁹ The full name was *Mesa de Concertación Para la Lucha Contra la Pobreza*. See: <http://www.mesadeconcertacion.org.pe/index.php>

³⁰ See Appendix 5.

groups to be at the Table. We were always open to meeting and supporting his allies, including the civil society organization that carries his own name. But we had to strive to go beyond them and have as many sectors of society as possible represented."

In January 2012, the 11 civil society organizations requested that Goytendía—deemed someone who could lead negotiations impartially—serve as technical secretary of DTRM. When he accepted, the Table unanimously approved the nomination. On March 1, 2012, the National Executive Committee of MCLCP (his employer) approved Goytendía's appointment, and in May 2012, the Presidency of the Council of Ministries (PCM) ratified Goytendía as technical secretary. "It was a formal appointment, approved by a ministerial resolution, as the law requires," says Goytendía.

Goytendía's position as technical secretary was unpaid and voluntary—but it carried real responsibilities. His main function was to coordinate DTRM and support its facilitators, members and technical committees established for specific discussions. He was also tasked to inform members about agreements, organize and protect Table archives, strengthen the capacity of DTRM members, coordinate events, manage the budget, and suggest projects. Chinalco would provide resources for DTRM's operation.

Whose Choice Carhuacoto?

Over the 20 months it took for the Table to come together, there had been numerous developments. First of all, Chinalco had moved forward with plans for the new town of Carhuacoto and submitted an Environmental Impact Assessment (EIA). The Ministry of Energy and Mines had to approve the EIA for an extractive project in Peru before operations could begin. It detailed existing environmental conditions, and outlined the possible impact of the project on its surrounding area. In December 2010, the ministry approved Chinalco's EIA through Resolution 411MEM/AAM. The EIA established Carhuacoto in Hacienda Pucara as the designated resettlement location, with homeowner moves to start in October 2012.

By January 2012, construction of Carhuacoto on the parcel Chinalco had purchased was well underway. The development had all basic services, including water, sanitation, and electricity for every house. It also had four schools, a health center, a church, paved roads, sidewalks, recreational parks, and a building for the municipal administration. Each resettled Morocochan would get a house of approximately 40 m² on a plot measuring 108 m². Foundations allowed for the construction of two more floors if desired. Every recipient of a house was to be made its legal owner. However, Chinalco was still negotiating with the government to change the legal status of Carhuacoto from privately owned property to a public township. So as houses were finished, new homeowners were given temporary ownership documents pending approval of a final registry.

The progress at Carhuacoto presented Goytendía with one of his first dilemmas. The problem was that DTRM, when first proposed, was to help select the resettlement site. But by the time it finally convened in 2012, the site was long since approved. To complicate matters, opposition had emerged to Carhuacoto. A group of community members led by Mayor Salomé

voiced multiple objections. They pronounced themselves ready to resettle—but not to Carhuacoto in Hacienda Pucara.

In their view, Chinalco had chosen the site unilaterally. They asserted that there had been no formal consultation process, and recalled that in 2006 (under the previous owner), residents had actually expressed a preference for Pachachaca, not Hacienda Pucara.³¹ They claimed Hacienda Pucara was too humid and would affect their health. Moreover, they deemed the compensation for Morococha houses inadequate. According to them, some 20-30 percent of residents did not want to move. Says one opposition member:

The mining company has done things according to what was most convenient for them. In 2006, they organized workshops to determine the best place to resettle. Pachachaca received the most votes. In 2009, they presented the same options again, but this time they claimed Carhuacoto won. This is why we wonder if things have been done properly. We are demanding a popular consultation. If Morocochans really selected Carhuacoto we will have to go there, but until now we have no certainty about this.³²

Those opposed claimed to feel abandoned. As an older woman born in Morococha explains: “The government has done nothing for us. They come here as a formality, but in the end they do nothing. Carhuacoto is still a private area, but despite that, the government has allowed the transfer of all basic services. We are being left with nothing.”³³ Chinalco, however, claimed that it had completed all necessary evaluations and assessments for Carhuacoto, including the approval of both the Ministry of Energy and Mines and the Ministry of Housing. Chinalco also defended its consultation process as exemplary, far more participatory and transparent than customary in the Peruvian mining sector.

Goytendía made it his business to review the history of the project. He concluded that Chinalco had most likely taken a stronger lead than justified on the selection of the location for Carhuacoto. ILO 169, for example, set a high bar for community involvement. In Article 6, it said:

1. In applying the provisions of this Convention, governments shall:
 - (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures that may affect them directly;
 - (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programs that concern them;

³¹ The casewriters were unable to find any independent verification of how residents voted.

³² Authors' interview with local residents on February 27, 2013 in Morococha, Peru.

³³ *Ibid.*

(c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

But in Chinalco's defense, reasons Goytendía, the company had duly followed all Peruvian requirements. ILO 169 as yet had not been applied in Peru. Moreover, there was no definition of what constituted "indigenous communities" and whether Morocochans, as Andean urban dwellers, could be classified under this term. He clarifies:

[The company] did not fully consider what the ILO 169 agreement establishes. [But] Chinalco did hold information meetings, where it shared the EIA with the people of Morococha. In part, our laws are to blame. They do not clearly define the mechanisms for consultation, and require only that you provide information, not that you reach agreement.

As if to further emphasize the legitimacy of the process, Chinalco in May 2012 commissioned SCG to implement one last survey to identify recipients entitled to new houses. The list of beneficiaries was published in several public places so residents could verify whether their names were there. Those who did not find their names on the list but felt entitled to a house could appeal to a commission established for the purpose. The commission included representatives from various organizations including the Ministry of Environment, the ombudsman, the provincial vicar, local NGOs and SCG. The commission received over 530 claims. Of those, 427 submitted the required documentation, and the commission approved over 50 percent.

Dialogue Table in Action

Meanwhile, the Dialogue Table began operations. Its first official meeting was held in December 2011 with the installation of members and facilitators. Monthly meetings began in January 2012. Those, as well as workshops and extraordinary sessions, took place in the provincial capital, Huancayo. The goal was to have a Unified Framework Agreement finished and ready for signing by the end of 2012.

Members gathered on the last Thursday of every month; at the end of each meeting, the agenda was set for the next meeting. Extraordinary sessions could be called either by the facilitators or by two thirds of the members, and addressed a specific topic. The facilitators, through the technical secretary, called sessions at least five days before ordinary and two days before extraordinary meetings via official letters indicating date, time, agenda and location—an important detail, as even the regular monthly meeting moved from place to place. In addition, technical committees were created to address specific topics, such as the Table's internal rules and decision-making procedures.

Mayor Salomé did not attend DTRM meetings, insisting that the process was biased in favor of Chinalco and against civil society. As he represented the municipal government, some regarded his absence as an attempt to delegitimize the Table. But other members came faithfully.

As technical secretary, Goytendía felt that the Unified Framework Agreement should be ambitious. He wanted it to serve as a global model for other companies planning a project in an extractive industry: Morococha could build a new society focused on human development, while Chinalco could become a prototype for responsible mining. He elaborates:

At the moment when we started discussing the terms of the framework agreement, we realized there wasn't a vision of a truly unifying, long-lasting agreement. We are talking about 40 years of mining! This is going to impact not only the economic, but also the social and environmental life of Morococha, and of the region and the country.

By the end of April 2012, Table members had what some might have considered a utopian proposal—but they meant it sincerely. Recalls Goytendía: “We proposed that, through the Unified Framework Agreement, we build together a new type of society.” The problem was, members were not sure what that would look like. DTRM realized it needed help. Goytendía suggested they seek global experts. Table members needed to learn about best practices. What were the options for a comprehensive agreement that would protect Morococha residents for years to come? Who had devised which models, and did they work? “We could not just improvise an agreement,” he says.

We had to look beyond our case for successful examples not only in Peru, but around the world. We realized that we couldn't do this alone. We needed external help from experts in the matter. Even if this had been our fulltime job, which it wasn't, we would need advice from specialized consultants.

DTRM members were enthusiastic. They agreed in principle to hire expert consultants to help draft the Unified Framework. They also voted to seek additional support for the technical secretary's office. Although Goytendía collected no salary, DTRM needed money to conduct its work. It had no regular budget; instead, Goytendía had to formally request funds to cover the cost of each meeting—food, venue and the like. At a meeting on June 28, the Table formally requested that Chinalco establish a fund to support the functioning of the technical secretariat.

To ensure transparency, the Table resolved that Caritas, a respected and independent charitable organization that worked closely with the archbishop's office, should manage the funds. If Chinalco agreed to the terms, the company would transfer funds directly to the charity, which would administer them for DTRM. The Table proposed a budget of S/. 250,000 (around \$90,000), of which S/.70,000 (\$25,000) would pay for external advisors. The remainder would cover transport to meetings, accommodation, food, training, staff and other expenses for the next six months.

The Table also instructed Goytendía to develop an operational plan. In response, he proposed that DTRM organize regular public presentations on the status of negotiations between Chinalco and its stakeholders. He also wanted to organize a public meeting and invite all Morococha residents once a final UFA draft was ready. He believed a public launch and opportunity for comments would strengthen the agreement's legitimacy and preclude conflict. Moreover, he thought DTRM should oversee the move to Carhuacoto. A smooth resettlement

process with wide participation—representatives of social organizations, local government, the company and regional and national government—could go a long way toward preventing disagreement.

Build Capacity. Goytendía also realized that his fellow Table members themselves needed training; many had only minimal education. So between March and July, DTRM held eight training workshops for its own members. Experts from various government agencies came to discuss the areas encompassed by the Environmental Impact Assessment, including the project's environmental and social consequences. "We brought in experts in fields such as corporate social responsibility and community relations to train civil society leaders, representatives from various ministries, as well as professionals that shared other experiences that could be a reference," says Goytendía. The goal was to educate in particular DTRM civil society members on the implications of the mining project and on the strategic goals and structure of a Unified Framework Agreement. Participants in the workshops also discussed community needs, and how those could be incorporated into the agreement. Some 30 individuals attended each training session.

The Table had attracted national attention. Goytendía twice—in March and August 2012—traveled to Lima with other DTRM representatives to present to the prime minister on its progress. It was unusual for local mining-related conflicts to go to the highest levels of central government. In these presentations, Goytendía described the selection process for civil society members; the multiple training sessions for DTRM members; and the progress made in drafting an agreement.³⁴ By August 2012, Goytendía considered that the Unified Framework Agreement had made significant progress. It was about 70 percent complete and had a defined structure, which included:

- antecedents to DTRM
- UFA objectives
- the legal framework governing its operations
- commitments from key players (civil society, Morococha municipality, Chinalco)
- areas of strategic development: social, economic, environmental and institutional
- action plan for resettlement
- DTRM guarantors: national, regional and local governments
- penalties and sanctions
- mining project calendar
- conflict resolution mechanisms
- oversight committees

But one key element was still missing. Goytendía was convinced that the UFA did not fully anticipate all the risks a mining project of this duration could have for Morococha's social, economic, environmental and institutional future. He says:

We wanted external experts to assess in detail the possible risks and include them in the agreement, along with respective mitigation strategies across all four development axes. Only such a profound technical analysis

³⁴ In March 2012, the prime minister was Oscar Valdes; by September, he had been replaced by Juan Jimenez Mayor.

would make the UFA a document capable of truly preventing and mitigating conflict.

In plenary session, DTRM decided that, to finish the UFA draft, it would hire a consultant to determine the impact of mining across the four areas. But this strategy—to hire external advisors and hold a public meeting in Morococha to present the final version of the UFA—implied more delays. Chinalco, meanwhile, was under increasing pressure to initiate excavations so it could start expanded mining operations according to plan in January 2014. A delay would be detrimental not only to the mining project, but also to the regional government, which expected additional revenue from Chinalco.

Storm Clouds

In September 2012, when it came time to actually approve the funding for the outside experts, the regional government balked. At first, the government had not opposed DTRM's plans. Granted, Regional Vice President Mercado—one of the Table's facilitators—had made no comment when Goytendía presented the terms of reference (TOR) for hiring the experts. But other regional government representatives had also been at the presentation and engaged in group discussion about how to pay such consultants.

But now there was no mistaking the intention. "When we got to the time of actually requesting the funds [from Chinalco], which the regional government had to approve as it was a key member of DTRM, it was not willing to do so," says Goytendía. Regional President Cerrón Rojas publicly disagreed with the proposal and refused to sign the TOR. He suggested instead that experts from the Ministry of Mines and Energy finish drafting the Unified Framework Agreement. But Goytendía was convinced that the ministry, which had already approved the EIA, could not provide objective advice.

Pushback. Slowly, DTRM's work ground to a halt. The regional government was not the only obstacle. Mayor Salomé still refused to engage. For its part, Chinalco had yet to respond to the request to fund the technical secretary's office. By early September, Goytendía was growing frustrated. He sensed diminished high-level support for the Table from all sides, and felt unable to do his job. He had taken the position of technical secretary seriously. He had communicated conscientiously with Table stakeholders, sending them reports, drafts (including evolving versions of the UFA), and minutes of meetings. He had kept them apprised of activities, plans, the budget and so forth. In response, he had gotten mostly silence: no answers, approvals, observations or formal feedback.

Goytendía wanted DTRM to succeed; he believed in its goals and was ready to work hard to achieve them. At the same time, he already had a fulltime job with MCLCP and had to question whether further involvement with the Table was the best use of his time. He was proud of the Table's achievements since January, including the training sessions, the establishment of technical committees and the progress in writing the Unified Framework Agreement, now significantly advanced and missing primarily a stronger technical analysis of potential risks and mitigation strategies across the four development axes. He was committed to keep pushing for a legitimate

UFA, technically sound and properly disseminated to guide the resettlement process in a peaceful manner.

Then in mid-September 2012, the archbishop and the national president of MCLCP approached Goytendía. Even though Goytendía had always considered them long-standing allies, they asked him to resign from the Table, arguing that tensions with the regional government were affecting its stability. They wished to avoid any confrontation, and believed that cooperating with the regional government was key to the Table's progress. To maintain the integrity of both DTRM and MCLCP, they suggested, it was better for Goytendía to step aside. Regional Vice President Mercado, the other Table facilitator, also exerted pressure. According to Goytendía:

The regional vice president as Table facilitator pulled strings to force my resignation. He did not ask for my resignation literally. Instead, he suggested that [the regional government] couldn't continue being part of the Table if I continued as technical secretary. I was an obstacle to their own interests and intentions.

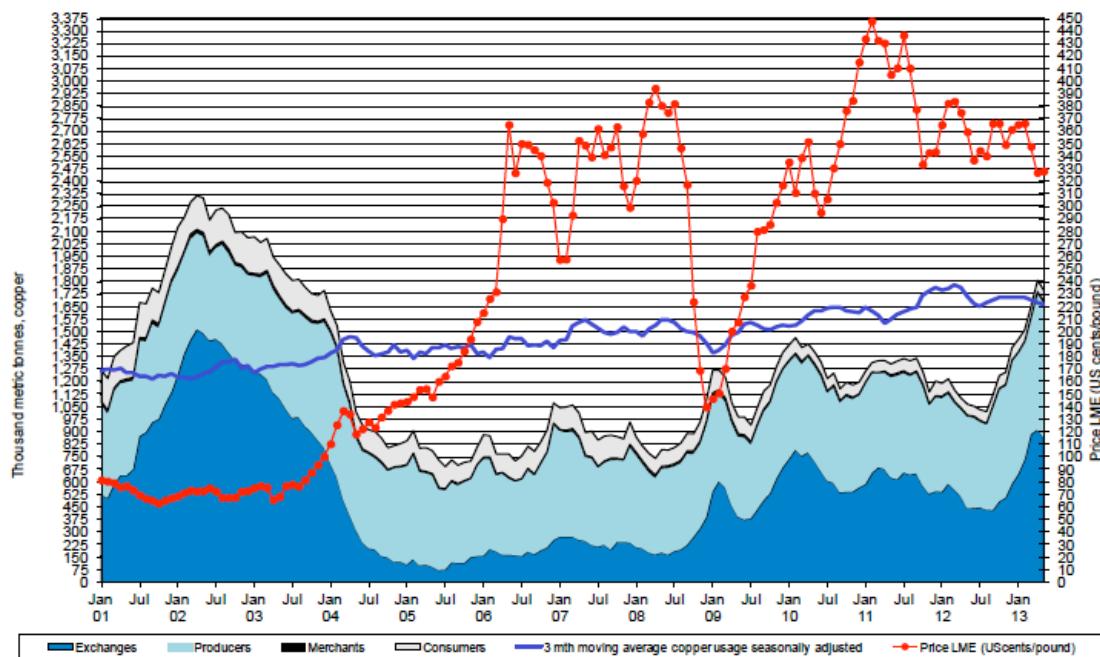
Goytendía had to decide: bend to these pressures and resign, or fight for the Table's democratically voted decisions and publicly defend his elected role? Goytendía feared that the Table was failing. Was there anything he could do to turn it around? If he resigned, would that shock the participants into greater cooperation? Or would they, on the contrary, push through the resettlement quickly and without transparency? Were the two facilitators, Mercado and the archbishop, part of the solution or part of the problem? Perhaps he should align with Mayor Salomé and mobilize public protests on behalf of the Table. Or was the DTRM mechanism already too compromised to achieve anything legitimate?

Appendix 1³⁵

Copper Stocks, Prices and Usage

Thousand metric tonnes and US cents/pound

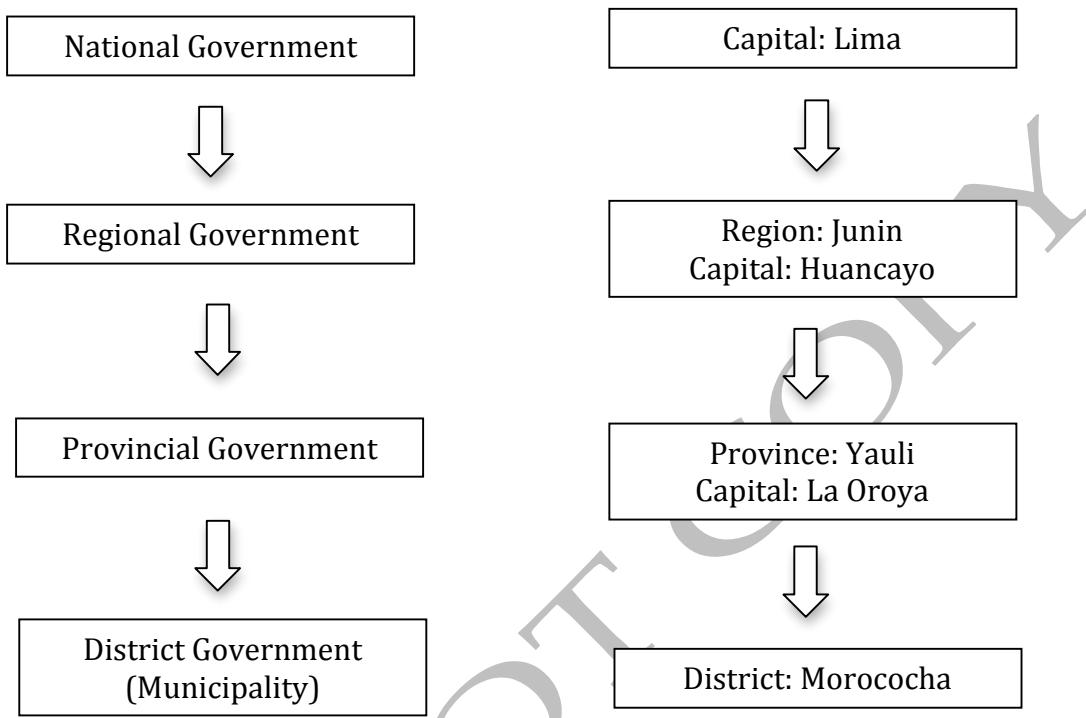
Source: ICSG



³⁵ <http://www.icsg.org/index.php/component/jdownloads/finish/170/1188>

Appendix 2

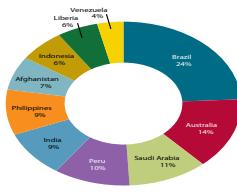
Peru's Political/Administrative Organization



Appendix 3

Top 10 destinations for Chinese mining investment, 2003-11³⁶

Figure 1 Top 10 destinations for Chinese mining investment, 2003-11



Source: IDB Markets.

Table 1 Chinese FDI in Latin America mining (2003-11)

	Millions of US dollars	Rank
Argentina	47	4
Bolivia	2	7
Brazil	11,449	1
Colombia	10	6
Ecuador	n.a.	n.a.
Guyana	1,000	3
Peru	4,000	2
Venezuela	15	5

FDI = Foreign direct investment

Source: IDB Markets.

21

³⁶

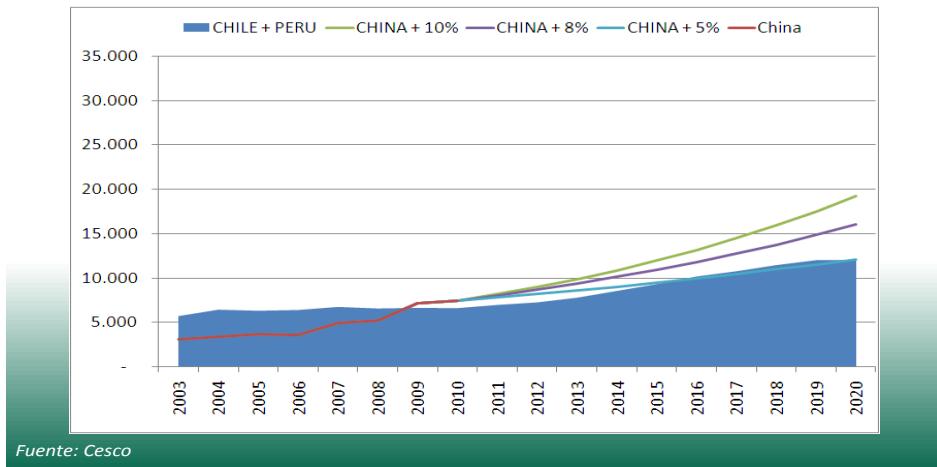
Barbara Kotschwar; Theodore H. Moran; and Julia Muir, "Chinese Investment in Latin American Resources: The Good, the Bad and the Ugly," Working Paper Series, Peterson Institute for International Economics, 2012.

Appendix 4

Trends of Chinese copper consumption, and the two major producers, Chile and Peru³⁷



Tendencias del principal consumidor mundial de cobre (China) y de los mayores productores (Chile y Perú)

³⁷

Juan Carlos Guajardo, Presentation “Comentarios sobre el Mercado del Cobre y la Industria Minera en América Latina,” Chile: CESCO, Centro de Estudios del Cobre y la Minería, 2011.

Appendix 5

Members of the Dialogue Table for the Resettlement of Morococha

II. ACTORES PRIMARIOS:

1 Gobiernos Locales:

- Municipalidad Distrital de Morococha
- Municipalidad Provincial de Yauli
(Titular y alterno debidamente acreditados)

2 Representantes de la Sociedad Civil de Morococha:

Constituyen la población objetivo del distrito de Morococha y asumen la representatividad de las demandas y necesidades de sus agremiados y población en general a quienes se deben, teniendo el compromiso y la responsabilidad de informar permanentemente de sus actos.

- **Los titulares.-** Tiene derecho a voz y voto durante las Sesiones del Pleno, dos inasistencias injustificadas continuas o tres alternadas se auto descalifica su representatividad y se declarará su vacancia, siendo remplazado por el alterno. En este último caso se deberá designar a un nuevo alterno por la organización correspondiente.
- **Los Alternos.-** Tienen derecho a voz, en caso de ausencia del titular tiene derecho a voz y voto, y cuando se declara la vacancia del titular asumen sus funciones.

La Secretaría Técnica será la encargada de informar y notificar lo anteriormente descrito a las organizaciones respectivas para los fines convenientes.

Las Organizaciones representantes de la Sociedad Civil de Morococha son:

- 1) Asociación de Propietarios de Morococha que Negociaron sus Bienes e Inmuebles con Minera Chinalco S.A. (Titular y Alterno)
- 2) Asociación de Vivienda Marcial Salomé Ponce: (Titular y Alterno)
- 3) Asociación de Ex Propietarios de Bienes Inmuebles del Distrito de Morococha – ASEPROBIM: (Titular y Alterno)
- 4) Asociación de Comerciantes y Pequeños Empresarios del Distrito de Morococha – Yauli: (Titular y Alterno)
- 5) Asociación de Vivienda Morococha I: (Titular y alterno)
- 6) Asociación de Vivienda Morococha II: (Titular y alterno)
- 7) Asociación Civil de los Hijos Nacidos en Morococha: (Titular y Alterno)
- 8) Asociación de Morocochanos Residentes en Huancayo y el Valle del Mantaro: (Titular) y Empresa de Transportes Turismo “Toro Mocho” S.A.C (Alterno)
- 9) Junta de Vecinos Barrio Alto Perú, (Titular) Junta Vecinal Barrio “Yanke Alto” Morococha Vieja (Alterno)
- 10) Asociación de Jóvenes Integral para el desarrollo del Distrito, (Titular) y Asociación de Comerciantes del Mercado la Paradita (Alterno)
- 11) Población Vulnerable de Morococha (Titular y Alterno)

En caso de retiro, renuncia o abandono de alguna organización, esta será remplazada por otra organización, previo proceso de calificación y selección correspondiente, dispuesto por el Pleno.

3 Empresa Minera Chinalco Perú S.A.:

Es la Empresa Ejecutora del Proyecto Toromocho en el Distrito de Morococha, participará en la MDPRPM, informando y asumiendo sus competencias y responsabilidades antes, durante y después del proceso de reasentamiento.(Titular y alterno debidamente acreditados), conforme a las normas, a las obligaciones asumidas en el EIA y en principios de responsabilidad social y del reasentamiento conforme a las normas del IFC

4 Por el Gobierno Nacional:

Los Ministerios y Organismos Públicos Nacionales aplicarán y orientarán, y de ser el caso, elaborarán normas sectoriales de su competencia orientada a facilitar los acuerdos y consensos.

- a. Presidencia del Consejo de Ministros
- b. Ministerio de Energía y Minas
- c. Ministerio de la Mujer y Desarrollo Social
- d. Ministerio del Ambiente
- e. Ministerio de Desarrollo e Inclusión Social
- f. Ministerio de Vivienda, Construcción y Saneamiento.
- g. Ministerio de Cultura
- h. Ministerio de Agricultura

5. Representantes Regionales:

Gobierno Regional Junín, las Direcciones Sectoriales Regionales y Organismos Públicos Regionales aplicaran, orientaran o dictarán, de ser el caso, normas sectoriales de su competencia orientadas a facilitar los acuerdos y consensos.

- a. Gobierno Regional Junín y sus Direcciones Sectoriales
- b. Dirección Regional de Educación de Junín
- c. Dirección Regional de Salud de Junín
- d. Dirección Regional de Vivienda, Construcción y Saneamiento de Junín
- e. Dirección Regional de Energía y Minas
- f. Dirección Regional de Agricultura
- g. Mesa de Concertación para la Lucha Contra la Pobreza Regional de Junín.
- h. Mesa de Dialogo Ambiental Regional de Junín.

III. ACTORES SECUNDARIOS:

6. Representantes Provinciales y Distritales:

Los representantes Provinciales y Distritales aplicaran, orientaran o dictarán, de ser el caso, normas sectoriales de su competencia orientadas a facilitar los acuerdos y consensos.

- a. Vicaría Provincial de Yauli – La Oroya

IV. ACTORES TERCIARIOS:

7. Instituciones Veedoras:

Los representantes de las Instituciones Veedoras orientarán, recomendaran y velaran por la correcta

aplicación de la normatividad pertinente y el respeto irrestricto de los derechos fundamentales orientadas a facilitar los acuerdos y consensos.

Los Veedores solo tienen derecho a voz mas no a voto, y ellos son:

- a. Defensoría del Pueblo de Junín
- b. Fiscalía del Ambiente de Junín,
- c. Fiscalía de Prevención del Delito
- d. Fiscalía Anticorrupción
- e. Procuraduría Pública de Junín

En caso de considerarse pertinente, el pleno podrá solicitar la intervención de veedores internacionales.

8. Invitados especiales:

Solo tienen derecho a voz cuando consideren necesario.

- a. Municipalidad Distrital de Yauli.
- b. Comunidad Campesina San Francisco de Asís de Pucara (Titular y Alterno), *tienen voz y solamente tendrán voto en los temas que sean involucrados.*
- c. Niños, Niñas y Adolescentes: (Titular y Alterno)

9. Comisiones Técnicas:

Son aquellas que se constituyen para que desarrollen actividades específicas y están integradas por miembros del pleno pudiendo incorporar especialistas si fuera necesario; estos informan al Pleno y/ a los facilitadores.

10. Secretaría Técnica:

Está conformada por uno o más técnicos y profesionales pertenecientes a entidades integrantes del pleno o invitadas, que cuentan con capacidades especializadas reconocidas en el tema de conflictos sociales/ambientales y que muestran desempeño funcional con ética y eficiencia, a quienes se les brindarán facilidades correspondientes; mantienen cooperación y coordinación estrecha con los facilitadores, de acuerdo a las funciones que éstos y/ o el Pleno les asigne.

Photographs from meetings of the Dialogue Table for the Resettlement of Morococha (DTRM)

