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**To: Compliance Advisor/Ombudsman, IFC/MIGA**  
**From: Oxfam International**  
**Date: February 9, 2007**  
**Re: Comments on draft revised CAO operational guidelines**

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Oxfam International welcomes the opportunity to submit comments on the revised operational guidelines for IFC/MIGA's Compliance Advisor Ombudsman (CAO). We believe the CAO can play an important role in addressing the concerns of communities impacted by IFC/MIGA projects and holding the institutions accountable for compliance with their social and environmental safeguard policies.

We offer the following comments:

1. **Post-divestment complaints.** The guidelines should explicitly state that the CAO will address complaints on IFC/MIGA projects even after the institutions have divested from the projects. This would in part address a larger problem with IFC's definition of "sustainability", which is limited to the time in which it is involved in a project. There may be little the CAO can realistically do in a post-divestment complaint unless it has the cooperation of the sponsor. But reviewing such complaints would be an important acknowledgement that IFC's commitment to sustainability cannot be limited only to the time it is involved in a project. This is particularly important with extractive industries projects, given that the worst environmental impacts may not manifest themselves until many years after the project begins.

The IFC-financed Marlin mining project in Guatemala is an important recent case in point in this regard. IFC's support was instrumental in establishing the project in 2004 and increasing the project sponsor's comfort with investing in a country considered risky for foreign investment. The CAO also played an important role in assessing problems, including violent conflict, that quickly emerged during the project's construction phase. The CAO concluded its involvement in the project after it was unable to obtain the cooperation of the sponsor or the local communities. At that time, the CAO noted that significant tensions remained that could easily devolve into further conflict. Such tensions remained unresolved as of late 2006, when the project sponsor (Goldcorp) paid

back IFC's loan, thus ending the corporation's direct financial relationship with the project.

In such a situation IFC clearly bears some responsibility for the problems surrounding the project (as the CAO noted in its assessment.) The corporation also must acknowledge a degree of responsibility for problems that may emerge following divestment. In this situation it would be appropriate for the CAO, if asked to do so by local communities, to support sustainable resolution of social and environmental problems related to the project.

2. **Employment of former CAO staff by IFC/MIGA and client companies and industry associations.** Under section 1.3 "Independence and Impartiality" (p. 5), CAO staff should be barred from employment with IFC, MIGA, IFC clients and industry associations for a period of two years following termination of employment with the CAO. This will help strengthen the actual and perceived independence of the office.
3. **Communications with complainants.** Section 1.4 "Communication" should explicitly state procedures for communication by the CAO with complainants. This should include, at a minimum, commitment to respond within 48 hours to all inquiries received from complainants and a monthly update on the status of the complaint and actions taken by the CAO further to it. In areas where communications are problematic due to lack of computer and/or phone access of complainants, the CAO should work with complainants to establish mechanisms for ensuring regular communication and dissemination of information on complaint status. The CAO should commit to addressing any needs for translation.
4. **Relationship with WBG president's office.** Guidelines should explicitly state powers of WBG president vs. the CAO, including president's ability to withhold disclosure of CAO reports.
5. **Disclosure of reports** (p. 6): The CAO should publicly communicate when "affected parties" have imposed "reasonable limitations" on disclosure of the CAO's reports.
6. **Past vs. future** (p. 7). Under "Overview of the Ombudsman role" (p. 7), the sentence "Generally speaking...focus is on...future...rather than the past" should be deleted. Many of the critical concerns of CAO complainants have to do with issues that were not dealt with properly in the past, e.g. negotiations over land deals, resettlement, etc. The CAO should be involved in trying to address these past issues, especially if they are the result of IFC negligence and/or non-application of its own policies.