

**A Retrospective Analysis of CAO Interventions
Trends, Outcomes and Effectiveness**

May 2006

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1 Introduction

At CAO's annual meeting with the World Bank Group Committee on Development Effectiveness (CODE) in 2005, the CAO was asked to circulate a paper that should include some analysis of the trends in complaints that have emerged over the last several years, and identify which operational procedures attract the bulk of complaints¹. In addition, CODE asked CAO to consider the effectiveness of its three functions, namely Ombudsman, Compliance and Advisory.

This paper presents a retrospective analysis of CAO's experience since its establishment in 1999 through its complaints, audits and advisory interventions. The review focuses on:

- i. mapping the trend in complaints and other interventions of the office;
- ii. the extent to which CAO's activities have contributed to its mission to enhance the development impact and sustainability of IFC and MIGA projects and fostering a higher level of accountability.

The review was conducted, and this report written, by a team of consultants retained by CAO to provide a more objective perspective on CAO's effectiveness.²

1.1 *What is the CAO?*

The IFC/MIGA Compliance Adviser/Ombudsman (CAO) is an independent post which reports directly to the President of the World Bank Group. Its mandate is to assist the International Finance Corporation and the Multilateral Investment Guarantee Agency (MIGA) in addressing complaints by people affected by projects in a manner that is fair, objective and constructive, and to enhance the social and environmental outcomes of projects in which these organizations play a role³.

The CAO has three distinct roles:

The Ombudsman role: Responding to complaints by persons who are affected by projects and attempting to resolve fairly the issues raised, using a flexible problem-solving approach.

The Compliance role: Overseeing audits of IFC's and MIGAs social and environmental performance, particularly in relation to sensitive projects, to ensure compliance with policies, guidelines, procedures, and systems.

The Advisory role: Providing a source of independent advice to the President and the management of IFC and MIGA. The CAO will provide advice in relation to broader environmental and social policies, guidelines, procedures, strategic issues, trends, and systemic issues.

¹ CODE Green Sheet, August 29, 2005

² The consulting team comprised Warren Van Wicklin, Jill Shankleman, and Roger Batstone.

³ CAO Operational Guidelines, April 2004

Overseeing audits of IFC's and MIGA's social and environmental performance, particularly in relation to sensitive projects policies, guidelines, procedures, and systems.



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1.2 *How CAO Does Its Work*

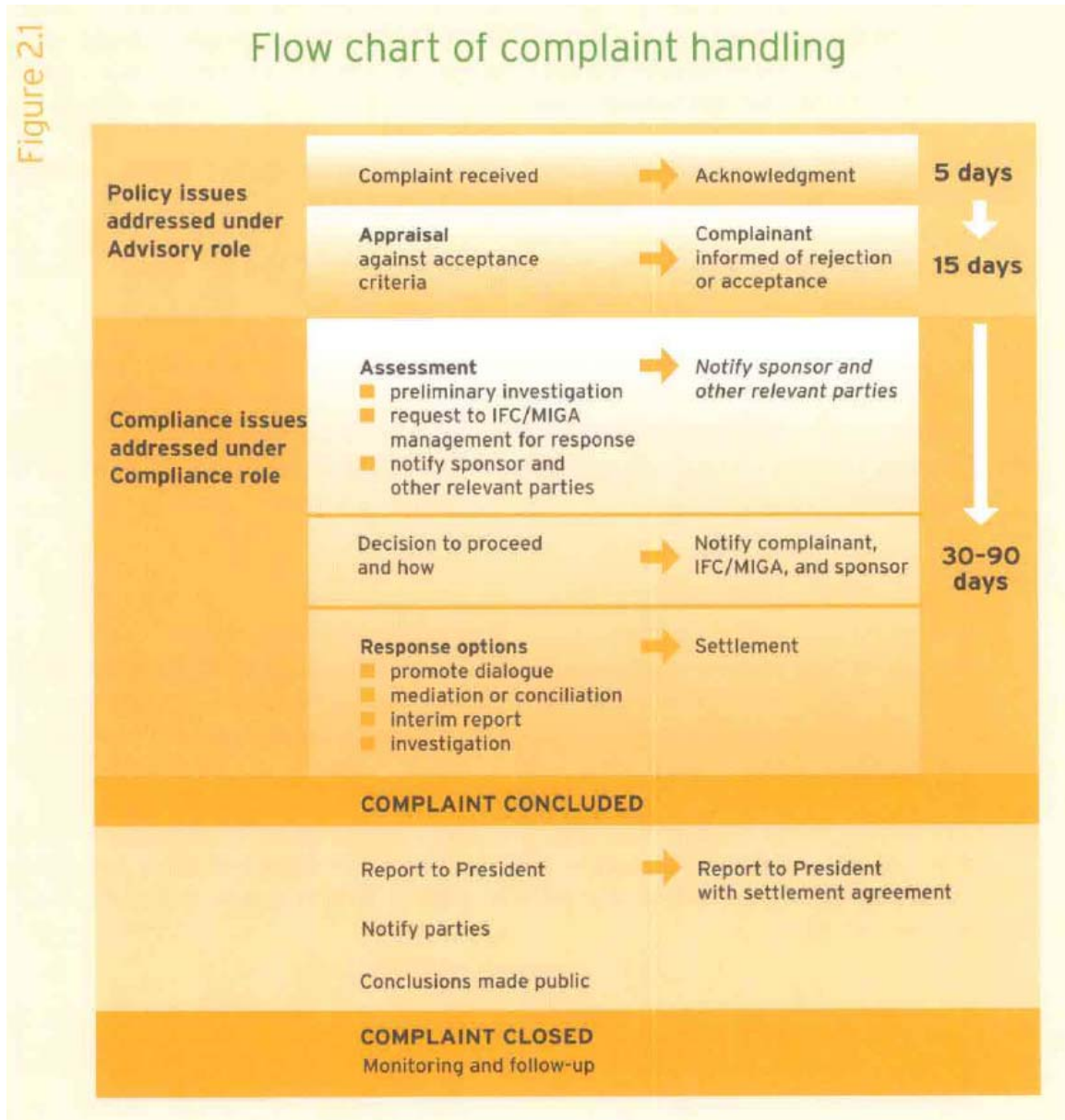
This section briefly describes the processes by which CAO undertakes its Ombudsman, Compliance, and Advisory functions.⁴

⁴ The flow charts and other details are contained in the CAO Operational Guidelines on the CAO website, at http://www.cao-Ombudsman.org/html-english/about_operational.htm

The Ombudsman role: The Ombudsman role contains the following steps.

- **Step 1:** Receipt of complaint
- **Step 2:** Appraisal of complaint and acceptance or rejection of complaint
- **Step 3:** Assessment of complaint
- **Step 4:** Action in response to complaint: facilitation, mediation, investigation
- **Step 5:** Conclusion and closure of complaint
- **Step 6:** Monitoring and follow-up

The flow chart below describes how CAO does its Ombudsman work.



The Compliance role: The Compliance role contains the following steps.

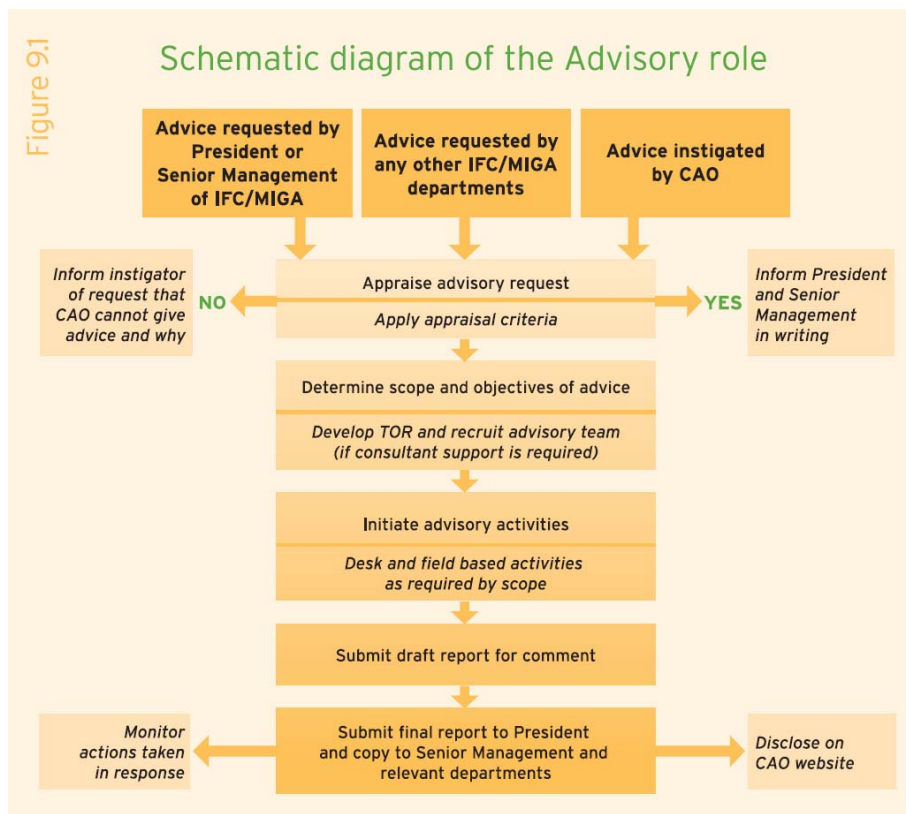
- **Step 1:** Receipt of audit request or CAO initiation of audit
- **Step 2:** Appraisal of audit request and acceptance or rejection of audit request
- **Step 3:** Determine scope and objectives of audit
- **Step 4:** Conduct compliance audit
- **Step 5:** Submit audit report to IFC/MIGA management for response
- **Step 6:** Clearance by the President followed by public release with IFC/MIGA response
- **Step 7:** Monitoring and follow-up

A revised procedure for the compliance function was recently agreed upon with the Office of the President. This revision allows for the IFC or MIGA to respond to the CAO's audit in writing and for both the institutional response and the CAO report to be cleared by the President. Once cleared, the document will be simultaneously made public and released on the CAO's website.

The Advisory role: The Compliance role contains the following steps.

- **Step 1:** Receipt of request for advice or CAO initiation of advice activity
- **Step 2:** Appraisal of request for advice and acceptance or rejection of request for advice
- **Step 3:** Determine scope and objectives of advice
- **Step 4:** Conduct advisory activities
- **Step 5:** Submit advisory report
- **Step 6:** Monitoring and follow-up

The flow chart below describes how CAO does its advisory work.



2 Mapping CAO's Ombudsman and Compliance interventions

This section presents an analysis of emerging trends based on the CAO's portfolio of complaints and audit requests since its inception in 1999. The data for this analysis is presented in Annex 1 and reflects CAO interventions in nineteen IFC and MIGA projects. Discussion of the CAO's Advisory interventions is presented in Section 3.8.

2.1 What kinds of intervention requests does CAO receive?

2.1.1 Requests for CAO intervention

CAO receives complaints about projects that IFC and MIGA are involved in (or are considering involvement in) from people directly affected by projects and from non-governmental originations – acting on behalf of project-affected people or on their own account. CAO also receives requests from IFC, MIGA or the president's office to undertake audits in relation to specific projects and can initiate audits following complaints. CAO can also undertake advisory activities at the request of the President, IFC/MIGA senior management, or IFC/MIGA departments, or may initiate its own advisory activity.

CAO is currently involved in one percent of IFC/MIGA projects. Between 2000 and end-2005, CAO received complaints or audit requests in relation to only twenty one IFC/MIGA projects. Of these, all complaints on two projects were rejected, two were the subject of CAO audits only and seventeen were the subject of Ombudsman - or Ombudsman and audit - engagement by CAO. For some projects receiving several complaints, some were accepted and some rejected.

Some projects, e.g. BTC, have been the subject of multiple complaints. For the purpose of this effectiveness review, all complaints or CAO interventions related to a single IFC or MIGA project have been grouped together.

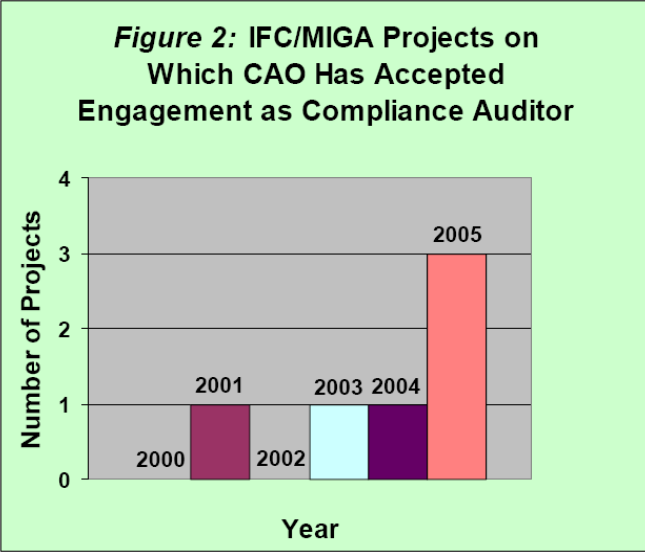
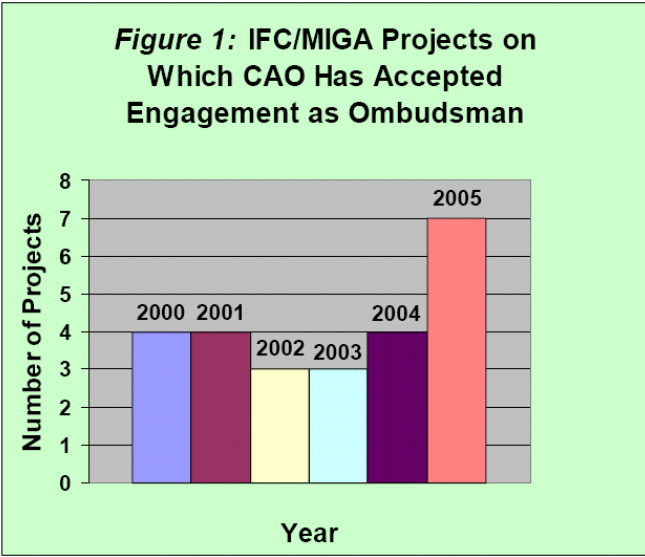
Table 1: Total number of IFC/MIGA projects on which CAO has been involved

	Total projects	2000	2001	2002	2003	2004	2005
Ombudsman ⁵	17	4	4*	3*	3	4*	7*
Compliance ⁶	6	-	1	-	1	1	3

* Including one or more projects about which complaints had been made in previous years.

⁵ Including four projects (COMSUR, Antamina, Orion, CMB) on which CAO also undertook audits

⁶ Including the four projects also covered by Ombudsman work.



2.1.2 Acceptance of Requests

When CAO receives a request for its intervention, it identifies whether to accept or reject the complaint based on its Operational Guidelines, which set out the criteria guiding CAO in making this decision, although CAO has full discretion about what tasks are accepted. In most cases, the decision on whether or not to accept a request does not involve fieldwork, although CAO may choose to undertake a field visit at this stage.

For complaints by project-affected persons, CAO acceptance criteria cover:

- Whether the complainants are or represent people affected or potentially affected by social or environmental impacts of projects in which IFC and/or MIGA are involved
- Whether there are sufficient and specific grounds for the complaint and that the complainant is genuine.

In relation to requests for an audit, the operational guidelines advise that the key criterion guiding CAO in deciding whether to proceed is that compliance audits should only be initiated for those projects with substantial concerns regarding social or environmental outcomes.

Complaints are closed at the discretion of CAO when a satisfactory settlement has been reached, or if the CAO considers that further investigation or problem solving is not likely to be useful. As of end-2005, all complaints have been closed on 58 percent (11 out of 19) of the projects in which CAO has been involved in its Ombudsman role.

The end points of the CAO audit process have been amended since CAO was established. The procedure is now for public disclosure of audit findings alongside the response by IFC or MIGA to the audit findings. CAO monitors and reports annually to the president of the World Bank on implementation of those audit recommendations that have been accepted by the president. Audit reports have been made public on all audits undertaken since this procedure came into force.

Table 2 Status of complaints to the Ombudsman

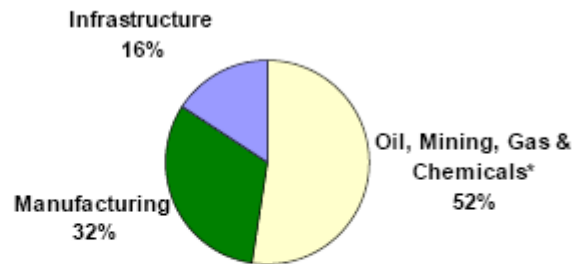
	2000	2001	2002	2003	2004	2005	2006 (April)
Projects with Complaints Received	4	4	3	3	4	8	3
Projects with Complaints Accepted	2	4	3	2	4	5	1
Projects with Complaints Closed	0	0	0	0	0	10	3
Projects with Complaints Rejected	2	0	0	1	0	2 ⁶	3 ⁶
Projects with Complaints still Open	2	6	9	11	15	10	8

2.1.3 Sectors generating complaints/audit requests

Of the nineteen IFC/MIGA projects on which CAO has intervened, almost half are oil, gas, and mining projects (9 out of 19), followed by manufacturing (6) and infrastructure (3). CAO has been involved in one financial intermediary project (which was connected to the oil and gas sector). Oil, gas and mining projects account for 52 percent of CAO's portfolio but only eight percent of IFC's portfolio and seven percent of MIGA's portfolio (by number of projects).

⁶ One complaint received in 2005 was rejected in 2006

Figure 3: IFC/MIGA Projects with CAO Ombudsman Complaints or Requests for Compliance Audits



*Includes one financial intermediary project which was connected to the oil and gas sector

Figure 4: MIGA Total Current Portfolio of Projects

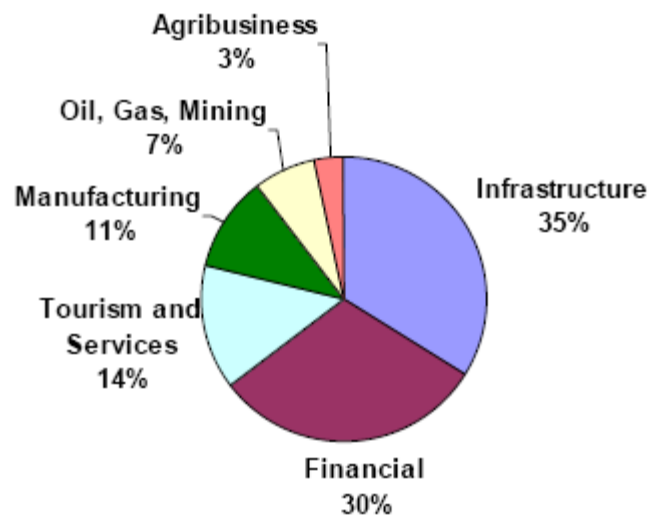
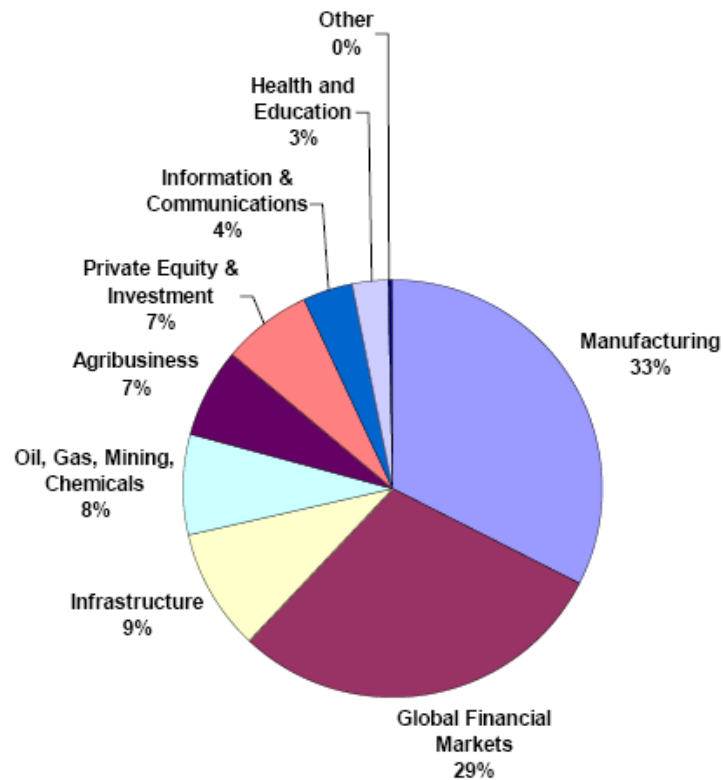


Figure 5: IFC Total Current Portfolio of Projects



2.1.4 Geographic distribution of projects where CAO has been involved

Projects in Latin America (LAC) and Sub-Saharan Africa (SSA) dominate CAO's portfolio. CAO has also been involved in two projects in South Asia (SA), two in Europe and Central Asia (ECA), and one in Middle East/North Africa (MENA) – although one of these, BTC, has generated multiple complaints and therefore been the focus of a large proportion of CAO's effort.

Latin America and sub-Saharan Africa account for 73 percent of CAO's portfolio but only 45 percent of IFC's portfolio and 49 percent of MIGA's portfolio (by number of projects).

Figure 6: IFC/MIGA Projects with CAO Ombudsman Complaints or Requests for Compliance Audits

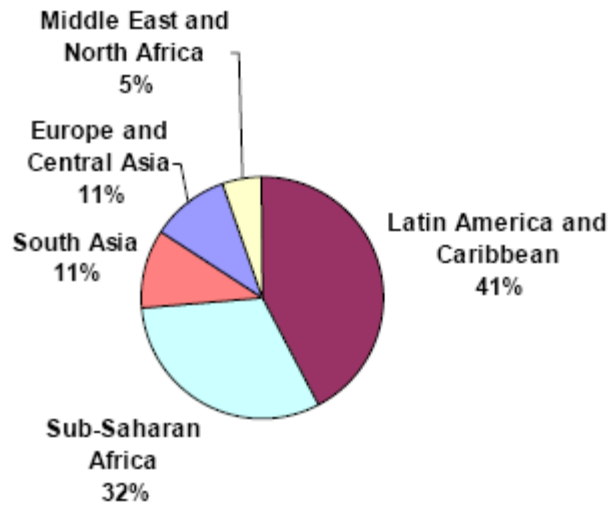


Figure 7: MIGA Total Current Portfolio of Projects

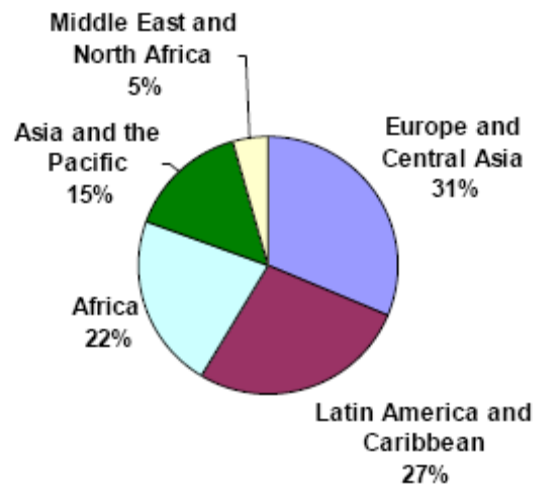
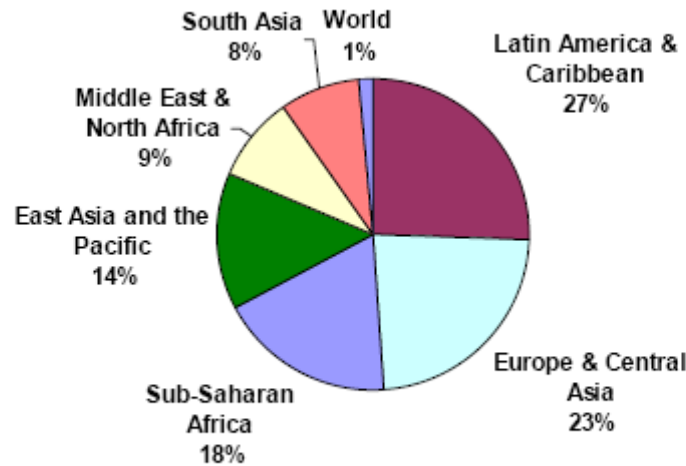


Figure 8: IFC Total Current Portfolio of Projects



2.1.5 Who Initiates CAO engagement?

Most CAO involvement in projects is triggered by complaints made by, or on behalf of, groups of people impacted by projects. In two cases, audits have been triggered by requests from within the World Bank Group (one by IFC senior management, one by the President). In both cases, this followed letters of complaint about the project from NGOs.

In most cases, complainants are supported by one or more host-country NGOs. In one project, the local complainant group is actively supported by a Washington, D.C.-based NGO. In several other cases, there are looser affiliations between in-country NGOs supporting complainants and international NGOs. Several complaints about BTC have been lodged by individuals.

2.1.6 At what stage of IFC/MIGA involvement are complaints received?

Most of the complaints that CAO accepts relate to projects under preparation or implementation in which IFC or MIGA have agreed to be investors or insurers. In five cases, CAO became involved prior to an investment or insurance decision by IFC/MIGA. In two projects, CAO involvement included addressing complaints about implementation of project sponsors' social commitments following IFC withdrawal from projects.

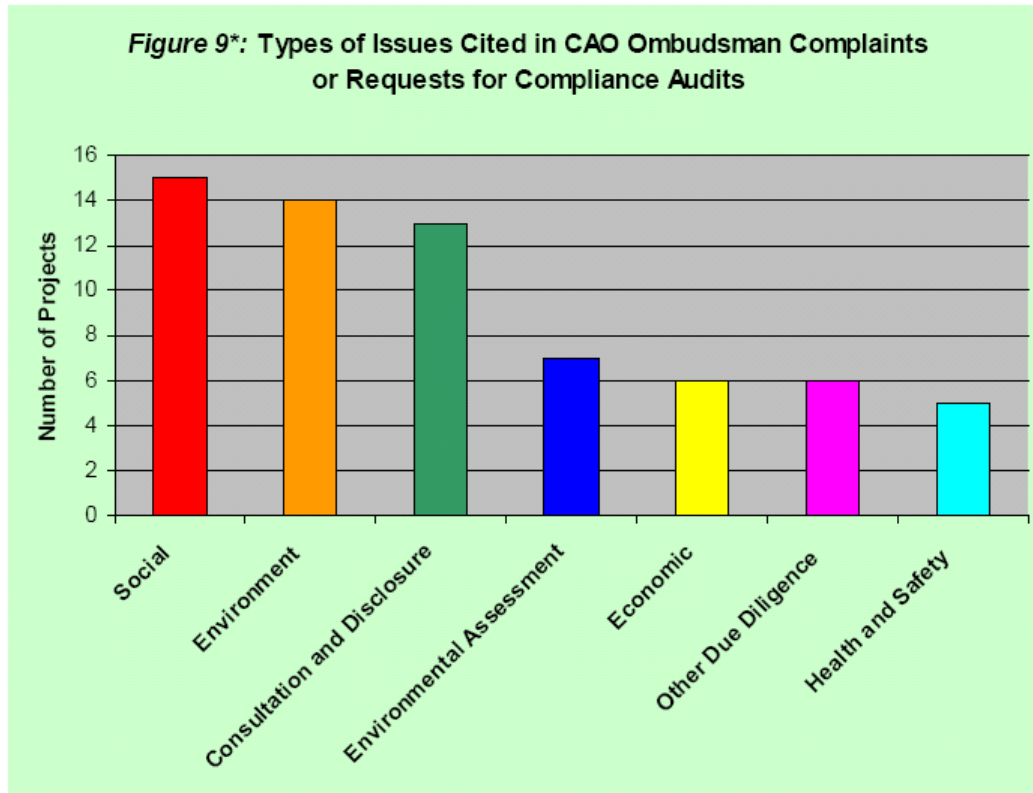
2.1.7 Issues giving rise to CAO interventions

Except for resettlement, there is no strong pattern that links the issues giving rise to CAO interventions with *particular* IFC/MIGA procedures or policies. Many requests for CAO intervention cite several issues and only the more sophisticated complainants make an explicit link with particular IFC/MIGA policies or procedures in framing their complaints.

Social issues, environmental issues and consultation and disclosure practices dominate the complaints or audit requests made to CAO.

- The social issue most often cited is resettlement and compensation. Other issues include indigenous peoples, the quality/quantity of social benefits, human rights, cultural heritage and conflict; and
- The environmental issue most often cited is impacts on water (quality and/or quantity). Other issues include air emissions, noise, conservation, spills, siting and cumulative impacts.

The second category of issues raised with CAO is health and safety issues, economic impacts, the quality of impact assessments and other aspects of IFC/MIGA due diligence or supervision.



* In most projects, more than one issue was cited

In many cases, issues relating to IFC/MIGA or their clients are intertwined with issues relating to the actions of previous operators of facilities, to the actions of government, or both.

In most projects where CAO became involved, there are clearly evident, complex underlying issues concerning some or all of the following:

- The distribution of project benefits, for example, between the project owners and people in the project area
- Government policies, for example, towards artisanal miners, nomadic groups, and others
- Conflicts between alternative development scenarios, for example, tourism versus industry and mining

- Tensions and fears associated with profound social change, for example, the break up of the Soviet Union and its social safeguards system or lack of effective political voice, that is, the complainant has nowhere else to take grievances.

2.1.8 Regions and Sectors: Anticipated CAO Interventions

CAO is likely to continue to handle complaints from a wide range of countries, and on a wide range of issues.

Because of the range of issues they present, it is to be expected that complaints will continue to be dominated by oil, gas and mining (OMG) projects to the extent that IFC and MIGA do new business in this sector. Due to the number of OMG projects CAO has worked on over the last few years, CAO has developed considerable capacity in this sector.

3 CAO's Effectiveness in its Ombudsman and Advisory Interventions

3.1 Assessing effectiveness

3.1.1 Approach

While CAO effectiveness is often thought of in terms of its ability to resolve complaints, its mission is far broader than that. The review team developed indicators of CAO effectiveness based on CAO's stated mission as found in the CAO Operational Guidelines. CAO's stated mission is as follows:

The Office of the Compliance Advisor/Ombudsman is committed to enhancing the development impact and sustainability of International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) projects by responding quickly and effectively to complaints from affected communities and by supporting IFC and MIGA in improving the social and environmental outcomes of their work, thereby fostering a higher level of accountability.

Therefore the review team created indicators corresponding to the multifaceted nature of CAO's mission and objectives. The indicators cover:

- IFC and MIGA client accountability
- Enhancing the development impacts and sustainability of IFC and MIGA, their clients, and project complainants
- CAO impact on the issues giving rise to the complaint
- CAO's process effectiveness (CAO's strategy, professionalism, timeliness, and efficiency)
- The extent to which IFC, MIGA, and its clients accepted and implemented CAO's recommendations.

Team members drafted reports on each project using a common framework and shared reports across the team and with CAO. On the basis of these detailed reports, review team members made qualitative assessments on a set of 13 indicators on the above five topics for each of the 16 projects. Annex 2 provides a description of what each indicator

attempted to measure. Annex 3 shows the results matrix for the 16 projects on which case studies were prepared.

A draft report was prepared on the basis of aggregated analysis from the detailed case studies. The draft was reviewed with CAO. CAO reviewed the framework of analysis and key findings of the draft report with senior managers in IFC and MIGA before finalization.

The review team followed a case study approach focusing on the projects in which CAO has been involved over the past five years.

Basic data was collected for all of the nineteen IFC/MIGA projects with which CAO has been involved (in an Ombudsman, Compliance or dual role) in order to understand the project, the issues giving rise to CAO involvement, CAO's approach and the current status of CAO involvement.

All but three projects were then selected for detailed follow-up through document research and stakeholder interviews. Of the three projects excluded from follow-up, two were at too early a stage for an effectiveness review to be relevant (the Uruguay pulp mill projects); and in the third IFC's involvement came to an end before CAO had become fully engaged.

For each of the sixteen projects followed up in detail, the team first reviewed CAO files – focusing on understanding the process followed by CAO and the reports and recommendations issued by CAO. This was followed up by in-person or telephone interviews with key stakeholders, defined in most cases as:

- CAO staff or consultants
- The complainant(s)
- IFC/MIGA staff from investment departments and the Environment and Social Development Department
- The client company
- NGOs not directly involved in submitting the complaint.

The interviews aimed to find out stakeholder perceptions of the actions that CAO took, the impacts and outcomes of these actions, the responses to recommendations made by CAO, the strengths and weaknesses of CAO's interventions, what CAO could have done differently, and the lessons to be learned from these CAO interventions.

3.1.2 Methodological issues and challenges

Application of the methodology described above has proved powerful in generating insights into the effectiveness of CAO's involvement in projects and in identifying the scope for improvement in how CAO delivers its mission, showing the potential for stakeholder interviews as a primary tool for impact and effectiveness monitoring at the project and organizational (IFC/MIGA) level. Conducting interviews with a range of stakeholders with widely contrasting perspectives was particularly helpful in triangulating information.

However in conducting this effectiveness review and in considering the use of stakeholder feedback interviews in the future, a number of challenges should be taken into account:

- The extent to which effectiveness can be ascribed to CAO. In most cases CAO involvement is one of a set of activities related to the development, social and environmental performance of IFC /MIGA projects and to the resolution of disputes. This report did not attempt to trace causal pathways from CAO action to change on the indicators in a systematic way.
- CAO does not attempt to achieve impact in the area of every indicator used in this review framework on any given project. For example, compliance audits are not designed to directly resolve disputes or promote joint client-complainant problem solving, although they may lead to those results.
- Difficulties in accessing stakeholders: in any interview-based approach, some informants will be unable or unwilling to participate. In a few cases, the review team was unsuccessful in arranging interviews with key stakeholders.
- ‘Inactive’ projects: in three of the projects for which case studies were prepared, CAO effectiveness was limited because the projects themselves were never fully developed.
- ‘Silent parties’: Persons who actually submit complaints to the CAO often represent issues of broad concern to their communities or other stakeholders (such as local governments). During the complaint process, the CAO often creates channels of communication with these stakeholders, beyond the complainants. In most cases, it was not practical for the review team to communicate directly with these ‘silent parties.’

3.2 *The baseline for measuring effectiveness*

The basis for the evaluation of CAO’s effectiveness is the extent to which CAO has been able to achieve some positive change (dispute resolution, improved accountability, sustainability or development impacts). However, it should be recognized that the majority of CAO interventions come from a difficult and complex starting point characterized by one of more of the following:

- project sponsors or complainants who are not prepared to substantially change their positions – thus limiting the scale of possible positive change. In several cases CAO became involved when positions had hardened, or when a complainant’s goal is principally to get an issue raised rather than to get it resolved.
- Projects where there are important, undeclared underlying issues beyond the stated complaint. For example, an undeclared desire amongst a group of complainants for resettlement presented as concerns relating to project safety. Addressing the stated complaint often cannot resolve these underlying issues.
- Projects where the complainants’ concerns cannot be addressed by IFC/MIGA or the client because they fall outside the scope of the project. In those cases dispute resolution lies elsewhere, sometimes with the project’s host government.

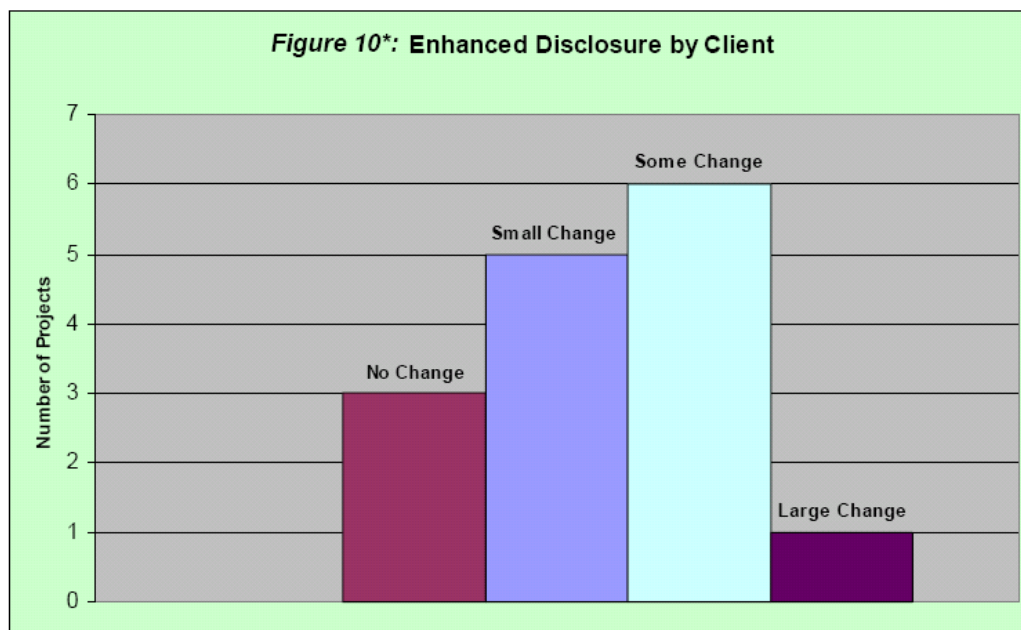
3.2.1 Fostering IFC and MIGA Client Accountability

The review made judgments about enhancing public accountability based on an analysis of five characteristics:

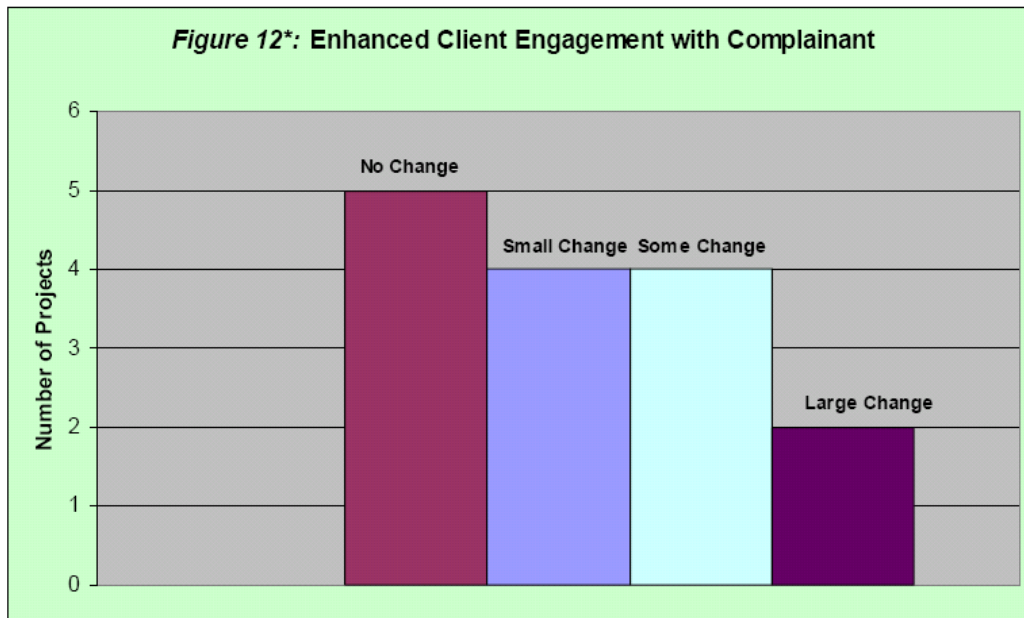
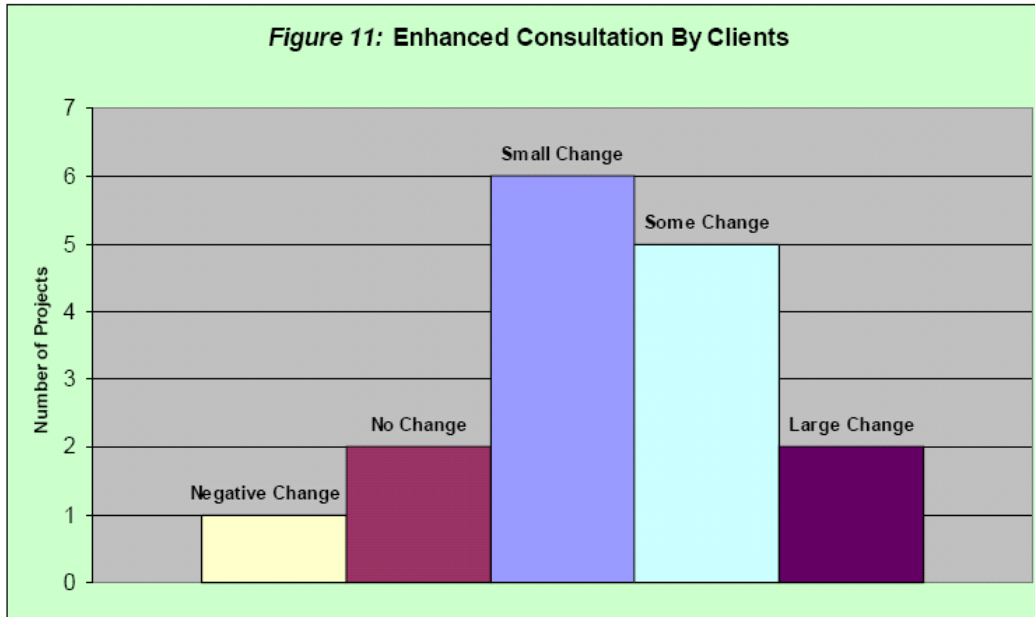
- Enhanced information disclosure by clients
- Enhanced public consultation by clients
- Enhanced client engagement with complainants
- Enhanced documentation of key decisions by IFC/MIGA
- Enhanced IFC/MIGA supervision of their clients

The results of these assessments are presented in Figures 10 to 14. In general, the ratings for these five indicators are consistent with one another. On all five indicators, more than half the projects resulted in increases in accountability. Most of these projects reported small or some changes, but a few projects reported large changes. Most projects (12 out of 16) showed evidence of enhanced disclosure. Almost as many projects reported enhanced consultation (13 out of 16), enhanced client engagement with complainants (10 out of 16) and enhanced IFC/MIGA supervision (10 out of 16) reporting similar figures.

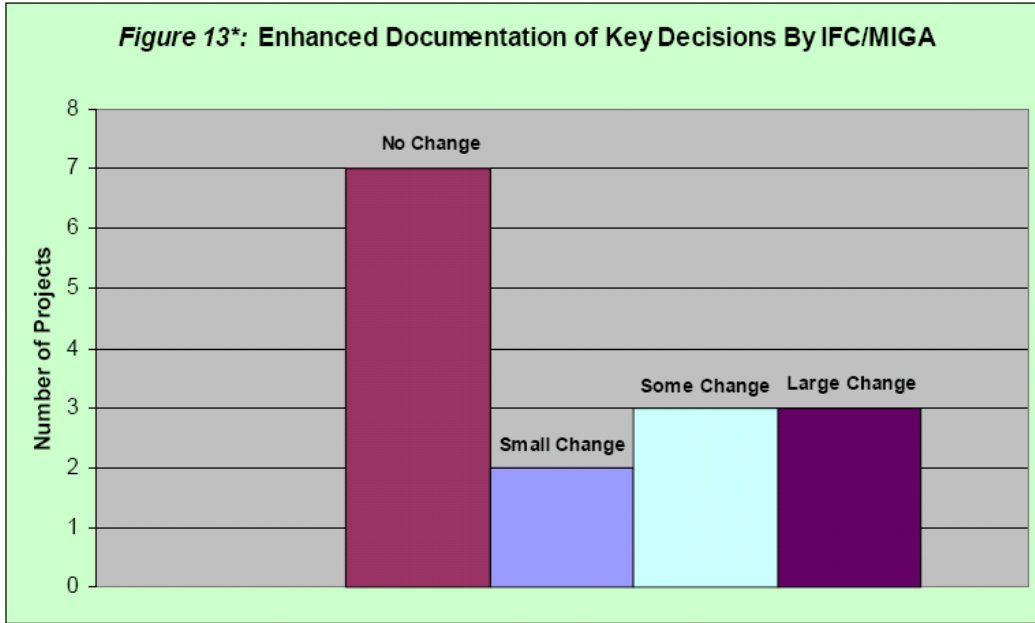
Documentation of key decisions by IFC and MIGA was enhanced slightly less often than the other indicators of accountability. Fewer CAO recommendations are addressed to this form of accountability. Even on this indicator, half of the projects (eight out of 16) showed evidence of positive change.



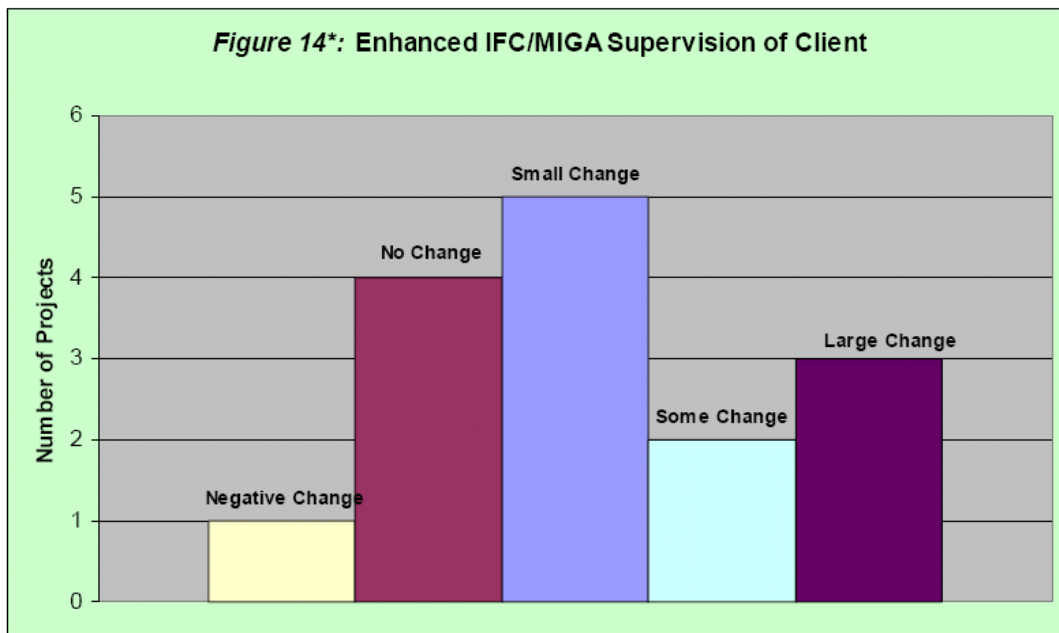
* There was one project for which this indicator was not applicable



* There was one project for which this indicator was not applicable



* There was one project for which this indicator was not applicable



* There was one project for which this indicator was not applicable

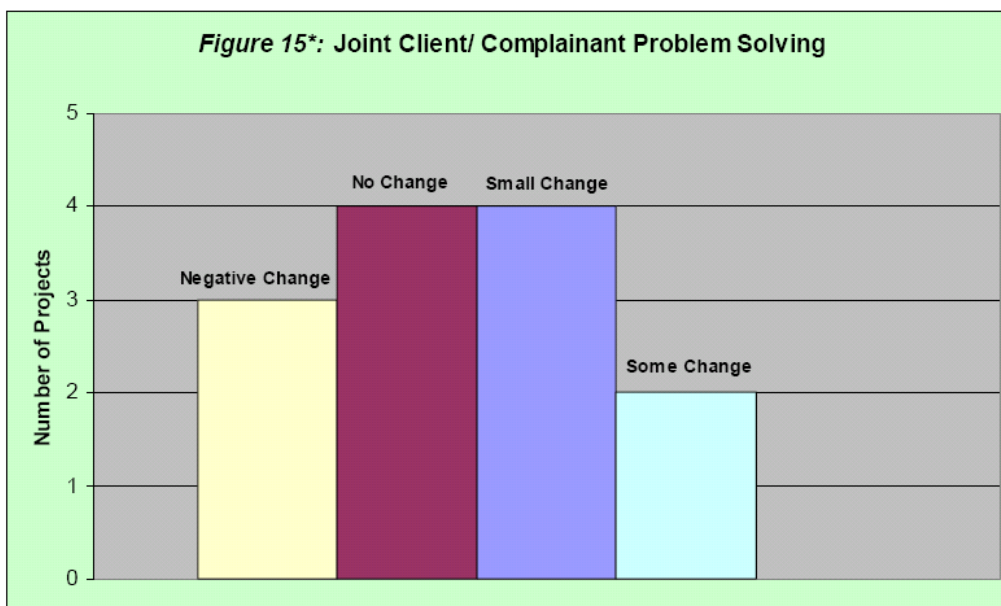
3.2.2 Enhancing the Development Impact and Sustainability of IFC and MIGA Projects

The review made judgments about enhancing development impact and sustainability based on an analysis of five characteristics:

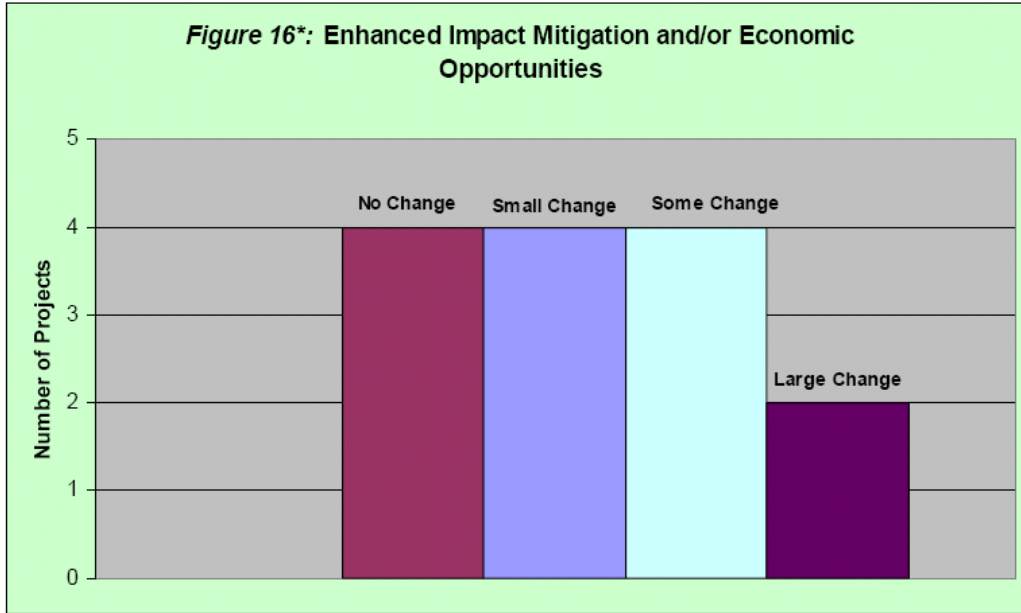
- Joint client/complainant problem solving
- Enhanced impact mitigation, social and/or economic opportunities
- Enhanced client capacity to manage social/environmental issues
- Enhanced IFC/MIGA capacity to manage social/environmental issues
- Enhanced complainant capacity to represent their interests

The results of this assessment are presented in Figure 15 to Figure 19. In general, the ratings for these five indicators are consistent with one another. More than half of the projects resulted in some or large enhancements in IFC /MIGA environmental capacity (nine out of 16). Similarly, in more than half of the projects (10 out of 16), there was evidence of at least small changes to client activities or enhancements in client capacity. Complainants reported enhancements to their capacity in a similar proportion of the projects (11 out of 16).

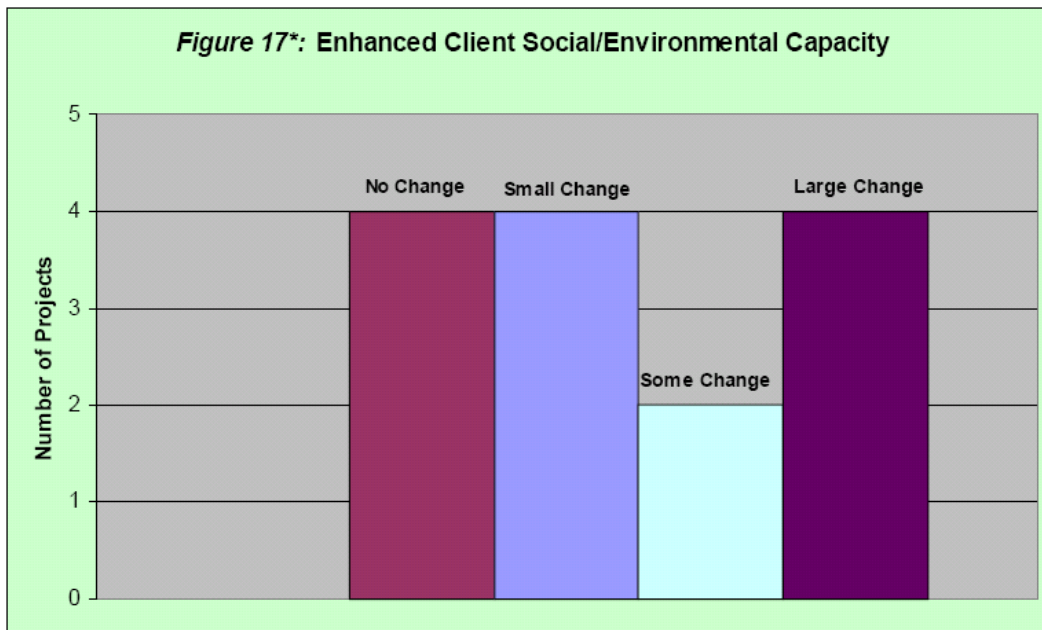
Incidences of “joint client/complainant problem solving” were less frequent and reported in just over one third of the cases (six out of 16). In 3 of the 16 cases a negative change was reported – i.e. the situation deteriorated after CAO involvement. These cases were particularly difficult ones in which either the client or the complainant (or both parties) rejected the intervention of the CAO. This suggests that sometimes CAO intervention is associated with increased polarization and tension between the client and complainant, although whether that is due to the CAO is not clear.



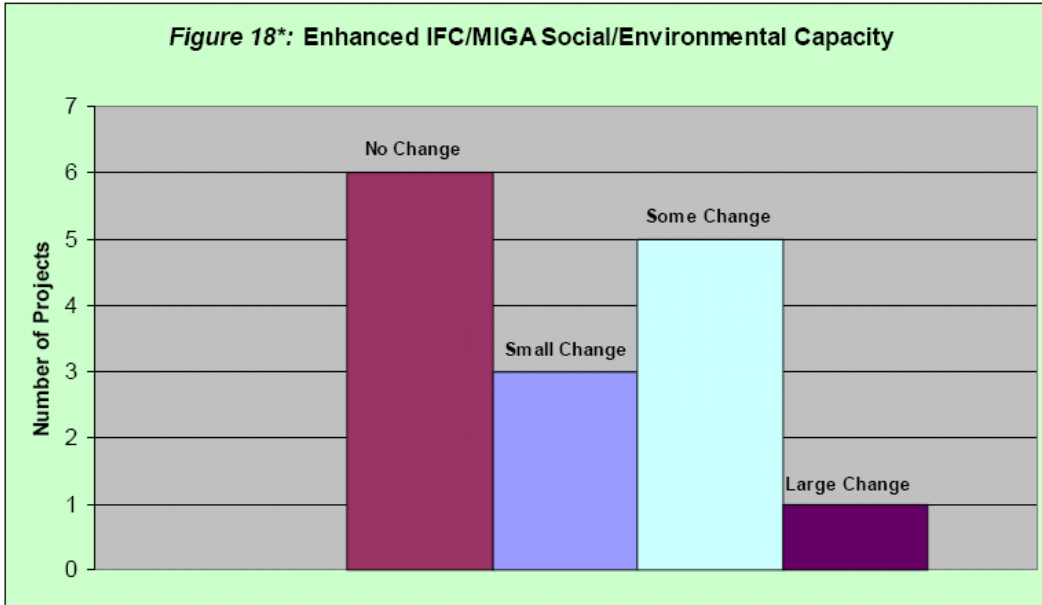
*There were two projects for which this indicator was not applicable and one project for which there was insufficient information to rate the project on this indicator



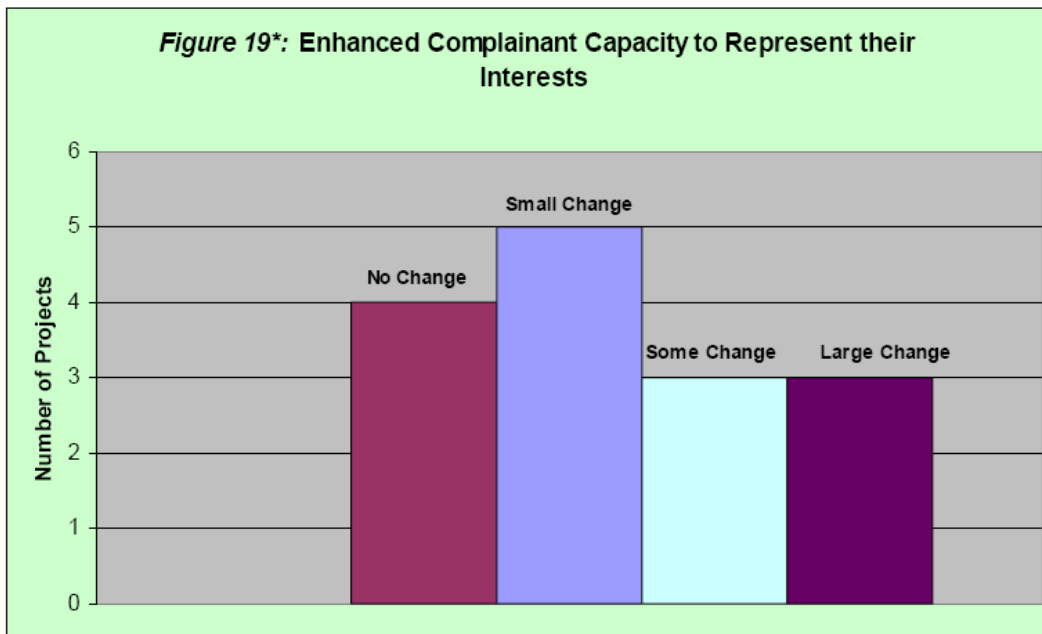
* There were two projects for which this indicator was not applicable



* There were two projects for which this indicator was not applicable



* There was one project for which this indicator was not applicable



* There was one project for which this indicator was not applicable

3.2.3 CAO Impact on the Underlying Issues Giving Rise to Complaints and Audits

The review made judgments about CAO's impact on the underlying issues giving rise to the complaint principally based on:

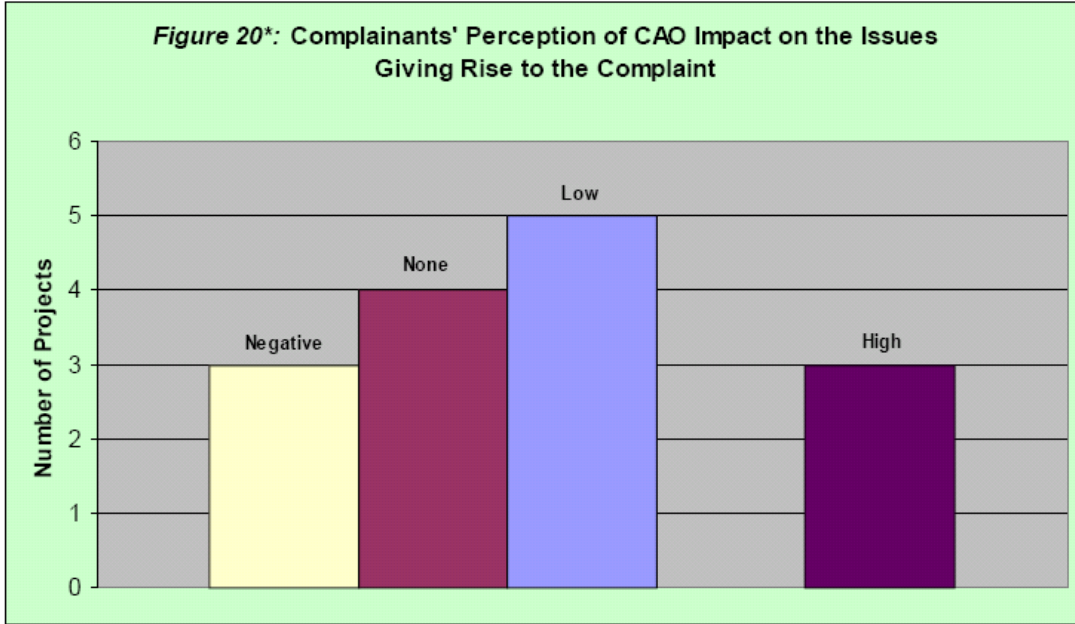
- Complainants' perceptions; and
- Review team assessment based on interviews with the full range of stakeholders that examined whether or not they believed that underlying issues raised by the complaint had been adequately resolved.

Underlying issues are characterized as the structural or systemic conditions which have contributed to the creation of the complaint or audit request. An example is the rapid deforestation of a sensitive ecological environment which gave rise to a request for an audit of on IFC's environmental categorization of a project. Sometimes complaints reflect fundamental concerns about industry standards or practices.

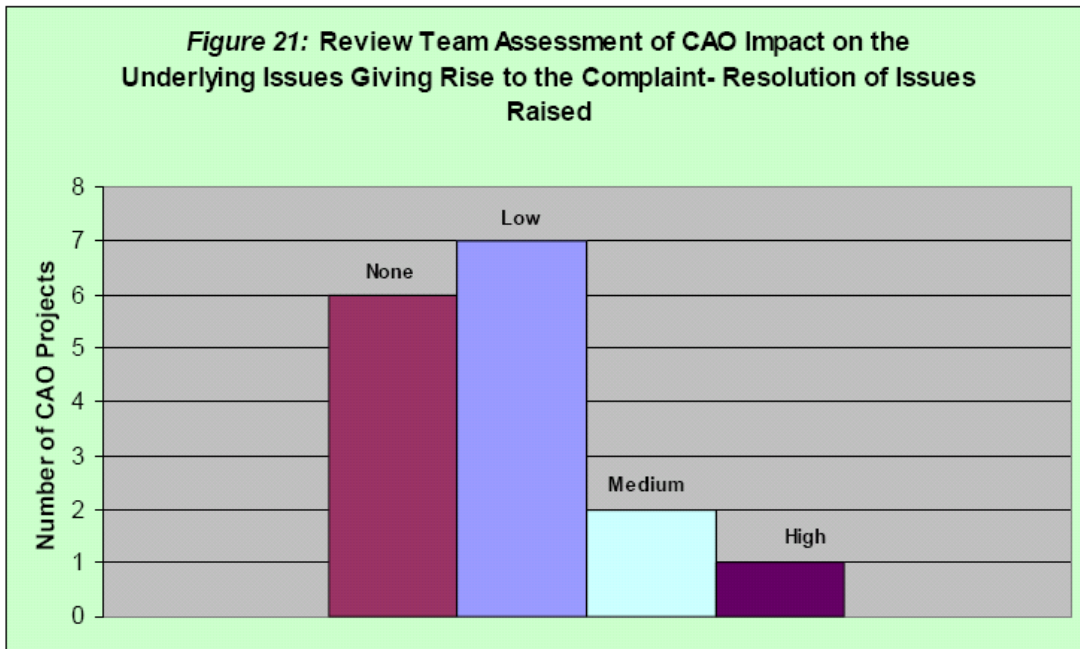
The findings are presented in Figures 20 and 21. Complainants' perceptions varied. In three of the 16 cases, the CAO was judged to have been very positive in addressing underlying issues. In the same number of cases, from the perspective of the complainants the was rated negatively. This rating indicates that sometimes the CAO intervention was perceived by the complainant as having had worse than no impact and that filing the complaint was not worth their time and effort. This rating is sometimes the case when complainants have as a central objective the prevention of project development and are thus dissatisfied when CAO tries to resolve the dispute in a way that would allow the project to proceed.

In the opinion of the review team, there was at least some progress towards resolution of the underlying issues through the CAO process in over half of the cases (10 out of 16), but the impact of the CAO was relatively low.

In one case, it was not possible to reconcile the diametrically different perspectives presented by the parties interviewed.



* There was one project for which there was insufficient information to rate the project on this indicator



3.2.4 The Effectiveness of CAO Processes

The review team made an overall assessment of the effectiveness of CAO's processes by considering stakeholder feedback on CAO's approach, professionalism and the time elapsed between CAO acceptance and closure of a complaint.

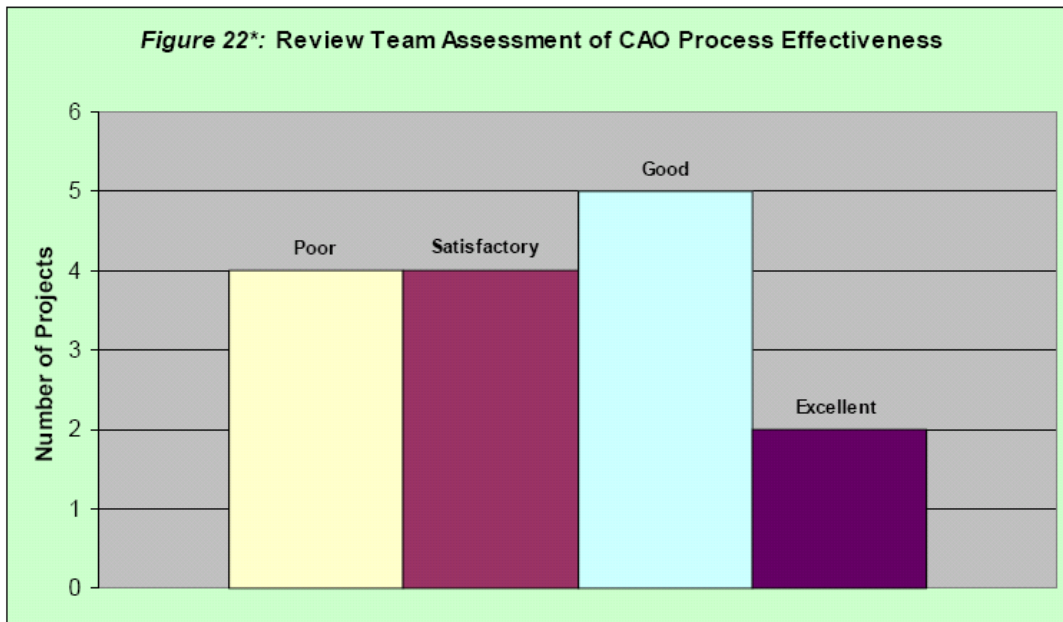
The findings are presented in Figure 22. In summary, the review concluded that:

- In two projects, CAO's process was rated as excellent;

- In nine projects, it was judged as good or satisfactory;
- In four projects, it was assessed as poor; and
- In one project, stakeholder perceptions diverged, and no rating was made.

In the two cases judged as reflecting ‘excellent’ process, the key attributes of CAO’s work were that it was promptly completed, even-handed, and focused on achievable objectives. Projects where CAO process effectiveness was assessed as ‘poor’ were interventions described as slow, unfocused and hampered by CAO failure to overcome IFC/MIGA or client resistance to CAO engagement in the project.

In a few cases, the review generated comments about the cost effectiveness of CAO interventions – for IFC/MIGA, project sponsors or CAO. There were insufficient comments from which to draw conclusions, but this is an aspect of process effectiveness that merits follow-up in future reviews.



* There was one project for which there was insufficient information to rate the project on this indicator

3.2.5 Impacts of Recommendations made by the CAO

On all but one of the projects that CAO has been involved in, the outcomes included recommendations to IFC/MIGA and/or to the project sponsor.

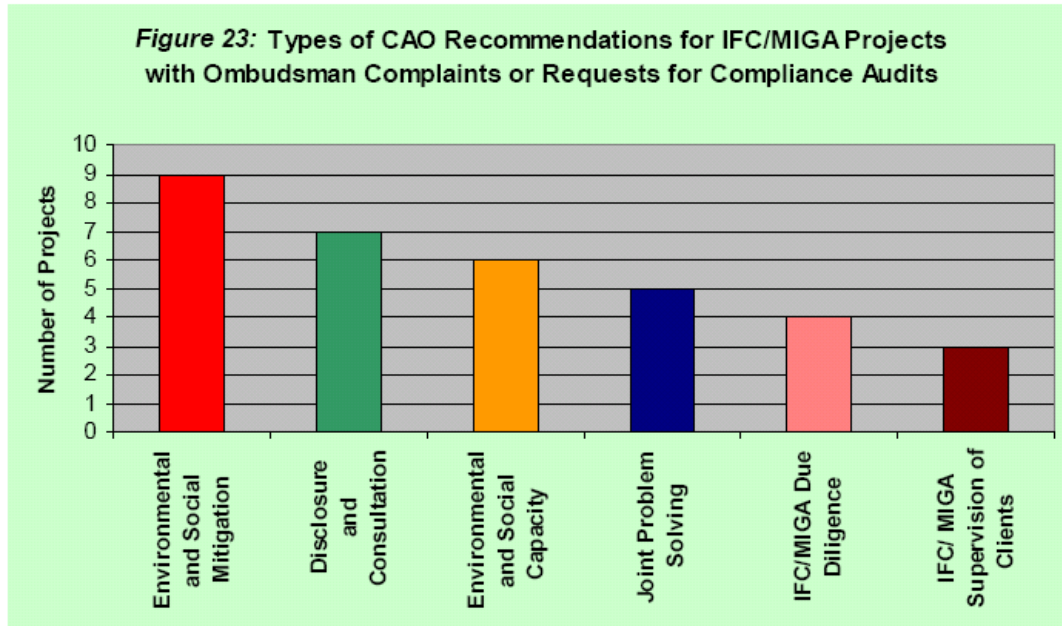
The results of this analysis are presented in Figure 23. Most frequently, CAO recommendations to IFC/MIGA and their clients have been about improvements to environmental or social mitigation, disclosure and consultation, or about increasing the environmental or social capacity of the project sponsor. CAO has less often made recommendations about joint problem solving initiatives, about changes to IFC/MIGA due diligence, or about the institutions’ supervision of clients.

In two thirds of the projects for which CAO has made recommendations, stakeholders report that they have been fully or mostly implemented. The exceptions can be

generally explained by timing (too soon for recommendations to have been implemented) or changes in the project design not related to CAO interventions.

The review found that:

- CAO does not have a system for tracking implementation of its recommendations;
- IFC operates a database for tracking its response to CAO recommendations, but this is not coordinated with CAO; and
- MIGA is potentially interested in a process of regular follow-up meetings on projects where CAO has been involved.



4 Impact and Effectiveness of CAO Advisory Work

CAO has undertaken three major and two minor advisory assignments. The largest piece of advisory work was CAO's Review of IFC's Safeguard Policies. This review resulted in fundamental revisions to IFC's policy approach which was approved by the Board in 2006. The extent to which IFC addressed its recommendations was analyzed in a 2005 CAO review.⁷ The two following major advisory assignments have been considered in the effectiveness review:

- *"Insuring responsible investment: A review of the application of MIGA's Environmental and Social Review Procedure,"* published by the CAO in 2002, and

⁷ CAO, *Safeguard Policy Review Revisited: Has IFC addressed the recommendations of the CAO Safeguard Policy Review?*, 2005, on the CAO website at: http://www.cao-ombudsman.org/html-english/advisor-safeguard_091905.htm

- “*Extracting Sustainable Advantage: a review of how sustainability aspects are addressed in recent IFC/MIGA extractive industry projects*” published by the CAO in 2003.

Both reviews were carried out in collaboration with IFC and/or MIGA, and resulted in systemic conclusions about their policies and procedures.

In terms of effectiveness, interviews with IFC and MIGA, and developments within those institutions indicate that:

- The CAO work on MIGA Environmental and Social Review Procedure (ESRP), and findings from other CAO involvement in MIGA projects, contributed to decisions to enhance the institution’s capacity in relation to social aspects of sustainability and to strengthen ESRP implementation;
- The work on extractive industries fed into the much larger Extractive Industries Review (EIR) process. No outcomes have been identified that are clearly attributable to the CAO. The World Bank Group incorporated in its Management Response the actions to be taken as a result of the work of the EIR, and the parallel CAO, OED, OEG, and OEU reviews.

5 Analysis of Findings

The review did not seek to trace in a systematic way the causal connections between specific CAO interventions and specific outcomes.

The review team has nevertheless used its professional judgment in looking across the cases and has developed several preliminary hypotheses about the conditions in which CAO is likely to be effective in its Ombudsman role, while maintaining its contribution to accountability and development impact. Those conditions include:

- Senior management of IFC/MIGA is supportive of CAO’s involvement and recognizes the value of a mechanism to address the concerns of communities and to contribute to the institutions’ improved performance;
- The project sponsor is made aware of the CAO and is encouraged by IFC/MIGA senior management to also recognize the value of an alternative approach to dispute resolution;
- CAO is diligent in engaging with IFC/MIGA and the project sponsor about how a complaint or audit is being addressed and the emerging findings and recommendations;
- The complainants are willing to consider and explore a range of options for resolving questions about the potential or actual impacts of the project, and to participate in good faith dialogue and negotiation with the project sponsor and IFC/MIGA;

- The goals of CAO's intervention are clearly defined, understood and supported in principle by the key stakeholders; and
- CAO plays a neutral and balanced role with regard to the issues and the stakeholders. Rather than conducting fact-finding or recommending a specific course of action independent of the stakeholders, CAO encourages, facilitates and mediates joint fact-finding and dialogue among the stakeholders to resolve the issues.

These hypotheses are preliminary and are not based on a systematic review of case evidence. Further review of cases by IFC, in collaboration with outside reviewers and stakeholders, could be useful in exploring these hypotheses and clarifying the conditions under which CAO's Ombudsman function is more likely to be effective. It would also be useful to explore whether and how different external factors and CAO intervention strategies contribute to the achievement of specific objectives (e.g. accountability, development impact, or improved project sponsor or complainant capacity) in particular cases.

The review team found CAO effectiveness to be limited where any one of the parties is not prepared to countenance an outcome that differs from their initial position – for example, a complainant's objective is solely that IFC or MIGA cease to be involved in a project, or a project sponsor's refusal to acknowledge the legitimacy of a process to address a complaint.

The financial or economic costs and benefits associated with CAO interventions was raised as an issue of significant interest. None of the cases were amenable to this type of analysis because of an absence of data and the current lack of tangibility in ascribing benefits or costs. Whereas in certain cases it was possible to attribute costs (to the CAO or to the project sponsor) it is difficult to quantify the financial benefit of, for example, preventing forced temporary closure of a project. This is an area that would benefit from a more detailed investigation in the future.

6 New Developments Affecting CAO's Work

6.1 *Implications for CAO of IFC and MIGA's new policies and standards*

IFC has recently agreed to new environmental and social performance standards and procedures to be applied to new, non-financial intermediary projects. MIGA is currently reviewing its policies and procedures and has committed to make recommendations for change to its board in 2007.

The review team expects that during the first few years of application of the new standards, there is potential for an increase in the numbers of complaints concerning IFC/MIGA due diligence, focusing on the implementation of the new, and the controversial, elements in the standards. Key issues generating complaints could include how IFC has determined 'broad community support'; the quality of impact assessments and the estimation of development benefits. Other issues that were controversial during the policy review – including resettlement, the treatment of indigenous peoples and environmental and social impacts of financial intermediary projects – could also generate complaints. As the institutions apply the new approaches, NGOs are likely to seek opportunities to influence policy interpretation,

creating the potential for an increase in the number of complaints. As practice becomes established, the number of complaints may then decrease.

It is likely that the CAO need to work more closely with IFC clients. This is because, IFC's new performance standards shift the responsibility for implementation more toward the client.

7 Conclusions

The main conclusions that can be drawn from the mapping of CAO's work, stakeholder based evaluation of CAO effectiveness, and review of how CAO follows up on projects in which it has been involved, include:

- In almost all cases the involvement of CAO has clearly contributed to the office's mission of improving social and environmental outcomes and accountability. While there are some inherent tensions among the roles of the CAO, CAO's involvement has typically lead to some or all of the following outcomes:
 - improved environmental and/or social capacity or performance of project sponsors;
 - improved capacity on the part of complainant organizations;
 - and/or increased attention to social and environmental issues within the World Bank group (or occasionally within host country governments).

In the case of IFC/MIGA, the positive impact of CAO's work on social and environmental performance has been incremental and cumulative.

- IFC/MIGA as well as Sponsor commitment to alternative dispute resolution is critical to supporting enhanced outcomes for the CAO particularly with respect to ensuring full resolution of the issues giving rise to complaints.

In addition, the following points are notable:

- A very small proportion of IFC/MIGA projects (one percent) result in complaints to CAO. Where complaints are made, these almost always reflect complex situations (projects with multiple and diffuse impacts, a long history to the project or operation, a particularly challenging political environment) and a prior record of unsuccessful problem solving between the complainant and the project sponsor, with attendant lack of mutual trust or respect. In these circumstances, CAO's role will necessarily be difficult, and time is needed to understand the project, its context and the interests of the parties in order to be able to develop robust and credible proposals about whether and how CAO could contribute to resolution. This means that:
 - Effective resolution of the complaint is very time-consuming and there is no guarantee of a successful outcome.
 - Although CAO can be required to respond quickly, it is likely that its engagements are likely to be protracted.
 - The presence of multiple issues makes it possible that following assessment the focus of CAO's engagement will be shift to some extent from the original issues raised in a complaint.

- There is no systematic process within CAO for following up on, or reporting the long term outcomes of CAO involvement. The process of feedback through key stakeholder interviews is an effective method for determining the effectiveness of CAO involvement in individual projects and for identifying opportunities for improving CAO processes and performance.
- The review has developed and tested a set of qualitative indicators that allow CAO effectiveness to be rated in terms of accountability, development impacts and sustainability, impact on underlying issues and process efficiency. For the future, some enhancements are needed to better incorporate analysis of costs and benefits.

8 Recommendations to CAO

Based on these findings, the review team recommends that CAO should:

- Continue to strengthen capacity in dispute resolution and compliance auditing on social, economic/development, health and consultation issues as well as having the capacity to work on disputes that have a technical environmental component;
- Continue to strengthen capacity to work in a range of languages and cultures. Given CAO's inherently reactive role, this is likely to mean developing an expanding pool of consultants;
- Establish processes to consult regularly with IFC and MIGA on upcoming and current projects that could raise issues for CAO, as well as regular networking with NGOs. To the extent that CAO has early warning, it is better positioned to mobilize teams to respond effectively and quickly to complaints and audit requests;
- Refine its approach in order to provide greater clarity, project by project, on what course of action the CAO proposes – particularly with respect to its roles as Ombudsman or Compliance, and why;
- Systematically enhance communication with key stakeholders, particularly in the planning, execution, and reporting stages of its engagement in projects;
- Include proposals for follow-up in the reports that CAO issues;
- Monitor implementation of its recommendations;
- Further assess the links between specific CAO strategies and procedures and CAO effectiveness; and
- Refine the stakeholder feedback process and effectiveness indicators developed in this review, and periodically use the methodology, as refined, to track and report on CAO's effectiveness.

Annex 1 (CAO Retrospective Analysis)

Projects in which CAO has been involved and the type of issues raised in complaints or audits

Project Name	Region	Sector	No. of complaints*	Environment	Health & Safety	Social	Economic	Consultation	Environmental Assessment	Other Due Diligence Supervision	Case study
Ombudsman											
Allain Duhangan	SA	Infra.	1	X				X	X	X	X
BTC	ECA	OMG	20	X	X	X	X	X			X
Bujagali	SSA	Infra.	3	X		X		X			X
Bulyanhulu	SSA	OMG	1			X		X	X	X	X
Chemplast	SA	Manuf.	1	X	X			X			
Jordan Gateway	ME	Con.	1	X							X
Kalahari	SSA	OMG	1			X		X	X		X
KCM	SSA	OMG	1			X					X
Lukoil-KPO	ECA	OMG	1	X	X	X	X				X
Marlin	LAC	OMG	1	X		X		X			X
Niger Delta	SSA	SME/ OMG	1	X		X				X	X
Pangue	LAC	Infra.	1	X	X	X	X			X	X
Yanacochoa	LAC	OMG	2	X	X	X		X			X
Compliance Audit											
Amaggi	LAC	Manuf	1							X	X
Dikulushi	SSA	OMG	1			X		X		X	X
Ombudsman + Compliance Audit											
Antamina	LAC	OMG	1	X		X	X	X	X		X
CMB	LAC	Manuf.	1	X		X	X	X	X		
COMSUR	LAC	Manuf.		X		X		X	X		?
Orion	LAC	Manuf.	1	X		X	X	X	X		

*Accepted complaints

Annex 2 (CAO Retrospective Analysis)

Description of the Indicators

As Chapter 3 of the report explained, while CAO effectiveness is often thought of in terms of its ability to resolve complaints, its mission is far broader than that. The review team developed indicators of CAO effectiveness based on CAO's stated mission as found in the CAO Operational Guidelines. CAO's stated mission is as follows:

The Office of the Compliance Advisor/Ombudsman is committed to enhancing the development impact and sustainability of International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) projects by responding quickly and effectively to complaints from affected communities and by supporting IFC and MIGA in improving the social and environmental outcomes of the work, thereby fostering a higher level of accountability.

Therefore the review team created indicators corresponding to the multifaceted nature of CAO's mission and objectives. The indicators cover:

- IFC and MIGA client accountability
- Enhancing the development impacts and sustainability of IFC and MIGA, their clients, and project complainants
- CAO impact on the issues giving rise to the complaint
- CAO's process effectiveness (CAO's strategy, professionalism, timeliness, and efficiency)
- The extent to which IFC, MIGA, and its clients accepted and implemented CAO's recommendations.

This annex describes these indicators in more detail. All indicators are review team assessments based on reading CAO project files and interviews with stakeholders in projects with Ombudsman complaints to CAO and/or CAO compliance audits. All the indicators, except the final one on CAO processes, compare the pre-CAO status with the post-CAO or latest status. For the first ten indicators, this does not imply that the reason for the change is attributable to CAO although in many situations it is reasonable to conclude that CAO played a significant role in the changes. The two indicators on CAO impact do attempt to attribute causality to CAO.

Indicators of Accountability

Enhanced disclosure by client. Improved information sharing by the client by making public previously confidential documents and other information, posting information on publicly accessible websites, or otherwise taking steps to make information more readily accessible to the public, especially to people directly affected by, or in close proximity to, the project. Examples include clients making public impact assessments, technical analyses, social and environmental management plans, and other documents related to the management of social and environmental issues.

Enhanced consultation by client. Improved client consultation of the public, especially of people directly affected or in close proximity to the project. This indicator includes improved quality of consultation, using culturally appropriate languages, communication in a format that is understandable to the target audience, consultation that is sensitive to vulnerable groups (women, ethnic minorities, etc.), genuine two-way communication, and consultation that is effective in being seriously considered by the client.

Enhanced client engagement with complainant. Similar to enhanced consultation of the public, but limited to the complainant. This includes all forms of interaction such as information sharing, consultation, and collaboration. Both quality and effectiveness of engagement are included in this indicator. An example is regular, systematic, and non-antagonistic communication with the complainant. Several clients mentioned during their interviews with the review team that they were in regular contact with complainants and helped the review team make contact with the complainant.

Enhanced documentation of key decisions by IFC/MIGA. One means by which IFC and MIGA improve their accountability is by being more explicit about how key decisions are made. This indicator captures the degree to which documentation of key decisions regarding social and environmental issues improved, either for the project in question, or more systemically within IFC or MIGA. One example is that IFC's Environmental and Social Review Procedure (ERSP) now is more explicit about how key decisions are made.

Enhanced IFC/MIGA supervision of client. Another method by which IFC and MIGA improve the social and environmental outcomes of their work is by improving their supervision of the environmental and social dimensions of their clients' work. This includes being more explicit about the importance of these issues in communication with clients, improved field supervision of projects, greater willingness to use IFC leverage in the pursuit of better social and environmental outcomes, and related measures. An example was IFC's continued supervision of the resettlement plan of a project at the same level of intensity even after IFC exited the project financially.

Indicators of Development Impact and Sustainability

Joint client/complainant problem solving. This does not necessarily imply resolving the dispute, but means that the client and complainant worked together to achieve at least some sort of mutually agreed action. Many examples include the first three accountability indicators (client disclosure, consultation, and engagement), but achieved through joint client/complainant processes rather than unilaterally. The focus is more on the capacity for joint problem solving that has been developed rather than on a single action.

Enhanced impact mitigation, social and/or economic opportunities. Impact mitigation refers to the social and environmental impacts of projects: were these impacts more effectively mitigated? Often improved social and environmental outcomes are greater benefits, rather than the mitigation of negative impacts. Therefore the second part of this indicator covers social and/or economic benefits. Examples include the client providing jobs, community services or infrastructure, or purchasing goods and services to or from people directly affected by, or in close proximity to, the project.

Enhanced client capacity to manage social and environmental issues. This includes increased client staff, improved staff skills, improved procedures and systems, improved access to external expertise, and other methods to improve the client's ability to handle the social and environmental dimensions of their projects. An example is improving a client's capacity to manage social issues to the same level as environmental issues by devoting the necessary resources to achieve that level of capacity.

Enhanced IFC/MIGA capacity to manage social and environmental issues. Similar to the previous indicator on client capacity, but applied to IFC or MIGA. An example is extending IFC/MIGA capacity to social and environmental issues that were not covered by the safeguard policy system prior to adoption of the new performance standards.

Enhanced complainant capacity to protect their interests. This includes "giving voice" to the complainant by providing a forum for their concerns to be heard, and strengthening the capacity of the complainant to articulate and defend their interests. An example would be the complainant is able to seek redress of their complaint through channels other than CAO.

Indicators of CAO Impact on the underlying issues giving rise to the complaint

Complainants' perception of CAO impact on underlying issues. This is the review team's assessment of the complainant's perception based on direct questioning by the review team of the complainant. Underlying issues means the issues giving rise to the complaint. Sometimes the stated issues in the complaint are not the same as the underlying issues. For example, the complaint may be motivated by complainant opposition to the project going forward because of concerns that social and environmental impacts cannot be adequately mitigated or that project costs outweigh project benefits from the perspective of the complainant, but the complaint is worded in terms of shortcomings in the environmental assessment and consultation processes.

CAO impact on resolution of issues raised in the complaint. This is the review team's assessment independent of the perspective of any particular stakeholder even if the review team's assessment may coincide with the perspective of one or more stakeholders. This is not an indicator of dispute resolution, although that may also occur. It is a measure of whether CAO was able to make any progress in resolving the issues identified in the complaint.

Indicators of CAO performance

CAO process effectiveness (approach, professionalism, timeliness). This is a process indicator, not an outcome indicator. This rates the quality and effectiveness of CAO processes including its appraisal and assessment of the complaint; CAO's ability to accurately diagnose the issues and conflict; CAO's findings, conclusions, and recommendations; CAO's strategy for resolving the complaint; CAO's fairness, evenhandedness, and integrity in that project; and the timeliness, efficiency, and sustainability of CAO's intervention. In sum, did CAO do its part to resolve the complaint? Outcomes and impacts of CAO processes are dependent on a wide range of factors outside CAO control; this indicator assesses CAO performance on those factors under its control.

Annex 3 (CAO Retrospective Analysis)

Summary Table of Indicators on 16 IFC/MIGA Projects with CAO Ombudsman Complaints or Requests for Audits

	Large change	Some change	Small change	No change	Negative change	Don't Know	Not Applicable
Accountability							
▪ <i>Enhanced disclosure by client</i>	1	6	5	3			1
▪ <i>Enhanced consultation by client</i>	2	5	6	2	1		
▪ <i>Enhanced client engagement with complainant</i>	2	4	4	5			1
• <i>Enhanced documentation of key decisions by IFC/MIGA</i>	3	3	2	7			1
• <i>Enhanced IFC/MIGA supervision of client</i>	3	2	5	4	1		1
Development impacts and sustainability							
▪ <i>Joint client/complainant problem solving</i>		2	4	4	3	1	2
▪ <i>Enhanced impact mitigation, social and/or economic opportunities</i>	2	4	4	4			2
▪ <i>Enhanced capacity of clients to manage social and environmental issues</i>	4	2	4	4			2
▪ <i>Enhanced capacity of IFC/MIGA to manage social and environmental issues</i>	1	5	3	6			1
▪ <i>Enhanced complainant capacity to protect their interests</i>	3	3	5	4			1
	High	Medium	Low	None	Negative		
CAO Impact on the underlying issues giving rise to the complaint							
▪ <i>Complainants' perception of CAO impact on underlying issue</i>	3		5	4	3	1	
▪ <i>CAO impact on resolution of issues raised in the complaint</i>	1	2	7	6			
	Excellent	Good	Satisfactory	Poor		Don't Know	
CAO process effectiveness (approach, professionalism, timeliness)	2	5	4	4		1	