



## **INTERAGENCY COMMITTEE ON TRADE IN TIMBER PRODUCTS FROM PERU**

### **Statement Regarding July 2016 Timber Verification Report from Peru**

August 17, 2016

*Washington, D.C.* - The United States-Peru Trade Promotion Agreement (PTPA) entered into force in 2009 and contains a landmark Environment Chapter and Annex on Forest Sector Governance (Forest Annex). The Forest Annex came into force 18 months later in 2010 and includes concrete steps the Parties will take to strengthen forest sector governance and combat illegal logging and illegal trade in timber and wildlife products. The Forest Annex also includes monitoring tools such as a requirement that Peru conduct audits and verifications of particular producers and exporters upon request from the United States.

The Interagency Committee on Trade in Timber Products from Peru (Timber Committee), which is comprised of senior officials from the Office of the U.S. Trade Representative, and the U.S. Departments of Justice<sup>1</sup>, State, Agriculture, and Interior, was established in 2009 to oversee implementation of the Forest Annex<sup>2</sup>. The Timber Committee has been active in monitoring Peru's progress to strengthen forest sector governance under the Forest Annex and, in recent years, has identified remaining challenges to ensuring timber legality in Peru, while at the same time recognizing and supporting the significant progress that Peru has made towards that goal since entry into force of the Forest Annex.

It is in this context that the Timber Committee requested on February 26, 2016, under Article 7 of the Forest Annex, that Peru verify whether a January 2015 shipment of timber to the U.S. Port of Houston from the company Inversiones La Oroza SRL fulfilled the laws, regulations, and other Peruvian measures governing the harvest and trade in timber products. The Timber Committee made this request based on public reports indicating that Oroza's shipments may contain timber products illegally harvested in Peru (see attached request letter). Verification in this context can serve as a valuable assessment tool to check the robustness of Peru's system and help in our ongoing process of identifying

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<sup>1</sup> The Department of Justice abstained from participation in the committee's decision to request that Peru conduct this verification and in the preparation of this statement.

<sup>2</sup> The United States Agency for International Development and U.S. Customs and Border Protection participate as observers. The list of Timber Committee members can be found at <https://ustr.gov/sites/default/files/Timber-Committee-Members.pdf>.

and addressing challenges to ensuring the legality of Peru's timber exports. The following statement reviews the overall findings contained in Peru's verification report and provides an initial consideration of areas where additional work is needed. The Timber Committee looks forward to United States' engaging closely with Peru's new government on these matters and will reconvene to discuss whether additional actions are appropriate, including actions as provided for in the PTPA Environment Chapter and Forest Annex.

### The Timber Verification Process

In responding to the Timber Committee's request, a number of Peruvian government agencies engaged in the verification process:

- The **National Forestry and Wildlife Service (SERFOR)** is the national technical and regulatory authority that governs national forest and wildlife management. SERFOR, which was launched in 2014, oversees the timber supply chain, including timber transit documents.
- The **Supervisory Agency for Forest and Wildlife Resources (OSINFOR)** was established pursuant to the PTPA as an independent body and is responsible nationally for supervision and oversight of sustainable harvesting and conservation of forest and wildlife resources primarily at the point of harvest.
- The **Customs National Superintendency of Peru (SUNAT)** is Peru's custom's authority and is responsible for the control of exports of forest and wildlife resources at the ports.
- The **Loreto regional government** has jurisdiction over the land titles in this shipment.
- The **Ministry of Foreign Trade and Tourism (MINCETUR)** is the lead agency on the PTPA and coordinated the verification process.

Peru traced the timber from the January 2015 Oroza shipment to 12 forest land title holders in the remote areas of the region of Loreto. In two cases, the titles were subject to two separate annual forest operating plans (meaning that there were 14 operating plans in total relating to the shipment). Forest operating plans identify the annual allowable harvest within a specific title, are approved by the local government, and are utilized by OSINFOR in post-harvest inspections. As in this case, land titles are sometimes subject to more than one operating plan.

OSINFOR conducted robust on-site post-harvest inspections of all 12 land titles implicated in the shipment, nine of which it had inspected prior to the Timber Committee's verification request, between October 2014 and June 2015. Following the verification request, OSINFOR conducted post-harvest inspections of the remaining land titles that had not been previously inspected and OSINFOR, SERFOR, and the Loreto regional government also revisited two title holders that had been subject to previous OSINFOR inspections. In addition to these inspections, Peru conducted a detailed chain of custody review with participation of OSINFOR, SERFOR, the Loreto regional government, and SUNAT, including tracing the transport of the timber through the control posts, sawmills, and the port of export.

## Timber Verification Findings

OSINFOR detected that significant portions of the Oroza shipment were not compliant with Peru’s law, regulations, and other measures on harvest and trade of timber products. Through its on-site inspections, OSINFOR found that, in some cases, trees were harvested without authorization. In other instances, OSINFOR was not able to locate the trees listed in the annual forest management plan at the harvest site, which indicates that the plan developed by the forest engineers was inaccurate. The verification process also highlighted significant delays by the Loreto regional government in providing OSINFOR with the management plans; thus, delaying OSINFOR’s ability to carry out its inspections. OSINFOR did not detect these irregularities until after the timber shipment had been exported to the United States, in part due to the timing of its post-harvest inspections and delayed information from the regional government authority.

### **Status of Titles implicated in Oroza shipment**

<b>Title #</b>	<b>Type of Forestry Use</b>	<b>Status of Titles</b>
<b>1</b>	Timber Forest Concession	<ul style="list-style-type: none"> <li>• Ongoing administrative proceedings; injunction in place to prevent further transit of timber</li> </ul>
<b>2</b>	Timber Forest Concession	<ul style="list-style-type: none"> <li>• Ongoing administrative proceedings</li> <li>• Title holder already sanctioned and title cancelled for infractions of another operating plan applicable to the same land title</li> </ul>
<b>3</b>	Timber Forest Concession (operating plan 1)	<ul style="list-style-type: none"> <li>• Ongoing administrative proceedings; injunction in place to prevent further transit of timber</li> </ul>
	Timber Forest Concession (operating plan 2)	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>4</b>	Timber Forest Concession	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>5</b>	Timber Forest Concession	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>6</b>	Timber Forest Concession	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>7</b>	Timber Forest Concession (operating plan 1)	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled (under appeal)</li> </ul>
	Timber Forest Concession (operating plan 2 )	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled (under appeal)</li> </ul>

<b>8</b>	Timber Forest Concession	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>9</b>	Native Community Forest Permit	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>10</b>	Native Community Forest Permit	<ul style="list-style-type: none"> <li>• Sanctioned and title cancelled</li> </ul>
<b>11</b>	Local Forest	<ul style="list-style-type: none"> <li>• OSINFOR forwarded violations to Regional Forest Authority</li> </ul>
<b>12</b>	Local Forest	<ul style="list-style-type: none"> <li>• OSINFOR forwarded violations to Regional Forest Authority</li> </ul>

In all of the cases, OSINFOR informed the competent authorities, including the Loreto regional government, SERFOR, and the Peruvian Prosecutor for Specialized Environmental Affairs (FEMA), of the irregularities they found. These actions, most of which occurred prior to the Timber Committee’s verification request, resulted in the final cancellation of eight land titles as well as the imposition of fines for not complying with the forest law.

For the remaining land titles, administrative proceedings are underway. For three of the land titles implicated in the shipment, administrative proceedings are underway before OSINFOR. For one land title, the title holder has appealed the sanction and title cancellation to the OSINFOR Forest and Wildlife Tribunal, an administrative tribunal that was established to hear title holders’ appeals. For the two land titles that involved local forests, OSINFOR informed the non-compliance to the Loreto regional government, which has jurisdiction over local forests.

Where OSINFOR found possible infractions, evidence was shared with the appropriate administrative and criminal authorities, SERFOR, the regional government, and FEMA.

Current Status and Next Steps

In recent years, Peru implemented important reforms to strengthen forest sector governance and combat illegal logging, including: (1) passage of the Forest and Wildlife regulations which entered into force in 2015; (2) enforcement actions, led by the Peruvian Customs authority and with the cooperation of Interpol and the World Customs authority, through Operation Amazonas in 2014 and 2015; (3) passage of decrees in 2015 that increase penalties for forest crimes and empower the Government of Peru to seize illegal timber; (4) strengthening of multi-institutional efforts linking organized crime and illegal logging, culminating in the high-profile arrest in 2016 of 19 individuals; and (5) the OSINFOR Tribunal becoming fully operational as of January 2016 which has helped to reduce the back-log of administrative cases. Further, in late 2014, Peru launched the National Pact for Legal Wood, a joint initiative among public entities, private sector, and civil society organizations.

The United States and Peru have also worked together to strengthen forest sector governance, including through forest-related environmental cooperation and capacity building initiatives and engagement in the Environmental Affairs Council, Environmental Cooperation Commission and Sub-Committee on Forest Sector Governance. In addition, in 2013, pursuant to the filing of a petition relating to forest sector governance, the United States and Peru developed a bilateral action plan which identifies a targeted set of actions for Peru to undertake to address challenges in its forestry sector, including

improving systems to track and verify the chain of custody of timber exports and ensuring timely criminal and administrative proceedings for forestry-related crimes and infractions. The bilateral action plan and other recent efforts spurred additional progress in Peru's governance of its forestry sector, including implementation of the OSINFOR Tribunal to expedite administrative proceedings and trainings for prosecutors, judges, and other law enforcement personnel on investigation and prosecution of forestry crimes. However, complex challenges remain that will require continued, vigilant engagement, attention, and collaboration. This verification process highlighted, in particular, ongoing challenges to ensuring timely enforcement of Peruvian forestry laws throughout the timber supply chain.

The Timber Committee looks forward to working closely with the Kuczynski Administration – Peru's new government – to ensure Peru's continued progress in implementing its obligations in the Forest Annex and to strengthen confidence in Peru's system so that U.S. and domestic timber buyers are assured that the timber that they purchase is legally harvested.

Based on the Timber Committee's consideration of the timber verification findings, and recent engagement with Peru on these issues under the Forest Annex, the Committee has identified a number of areas for additional work by Peru, including:

- Follow-up actions related to the irregularities identified with the shipment subject to this verification request to ensure that responsible parties are held accountable;
- Timing of post-harvest inspections, so that illegally harvested timber can be detected prior to export, including through enhanced use of new technologies to complement physical inspections;
- Prompt, full implementation of the new electronic timber tracking system that USAID has supported as a key component of U.S.-Peru environmental cooperation. Once fully implemented, this system will enhance detection and enforcement of timber legality throughout the supply chain including by making operating plans and other relevant documentation immediately available to all relevant Peruvian authorities;
- Greater transparency in the enforcement of Peru's forestry laws including through posting online for the public forest operating plans, inspection reports, and sanctioning resolutions;
- The provision of additional export documentation to the customs authority SUNAT, such as transport guides, to assist with the traceability of timber and to help ensure legality;
- Institutional strengthening of Peruvian regional governments so that they can better detect discrepancies and potential fraud in the system, including through increasing their own inspections prior to approval of forest management plans, and subsequent timely submission of approved management plans to OSINFOR;
- Timely application and publication of effective sanctions and other deterrents for all actors involved in illegal logging and associated trade, as highlighted in the bilateral action plan;
- Development of guidance for relevant authorities to implement the provisions of Peru's Forestry and Wildlife Law and Regulations regarding determinations of legal origin;

- Continued progress by the OSINFOR Tribunal to address the backlog of cases, as called for in the 2013 Bilateral Action Plan;
- The promotion of timber legality, including enhancing efforts such as the National Pact for Legal Wood, or other similar public-private partnerships and initiatives;
- Continued enforcement actions, such as Operation Amazonas, and expanded utilization of diagnostic tools; and
- Continued implementation and enforcement of Peru's new Forestry and Wildlife Law and Regulation, including development of norms and guidelines relevant to addressing these and other issues.

In order to begin prompt engagement on these issues, the Timber Committee will seek a meeting of the senior-level PTPA Environmental Affairs Council and Sub-Committee on Forest Sector Governance as soon as possible. At that meeting, the United States and Peru should discuss and agree on a set of concrete actions to be taken to address the on-going challenges to forest sector management to ensure timber legality.

The United States Government is also exploring ways to further support Peru in its efforts to strengthen forest sector governance. In particular, the Timber Committee recognizes the critical role that technology can play in strengthening detection and enforcement of timber legality in the supply chain and is partnering with stakeholders and other U.S. government entities to explore the use of new technologies, such as satellites and drones, as well as innovative traceability technologies. Through public-private partnerships, the United States is also working with U.S. timber importers on ways to increase transparency and strengthen due diligence in Peru's timber supply chain so that they can be fully confident that the timber they are buying from Peru is of legal and sustainable origin. The Timber Committee supports these activities, and will consider other appropriate activities and actions on an ongoing basis.

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