



INTERAGENCY COMMITTEE ON TRADE IN TIMBER PRODUCTS FROM PERU

Statement Regarding Implementation of the PTPA Forest Annex and Peru's July 2018 Verification Report

September 17, 2018

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 unique monitoring tools such as a requirement that Peru conduct audits and verifications of particular timber producers and exporters upon request from the United States.

Monitoring and enforcement of existing U.S. trade agreements is a top priority for the Trump Administration. 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, State, Agriculture, and Interior, was established in 2009 to oversee implementation of the Forest Annex.¹ The Timber Committee has been active in monitoring Peru's progress to strengthen forest sector governance under the Forest Annex. In recent years, it has identified ongoing 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 on February 26, 2018, under paragraph 7 of the Forest Annex, the Timber Committee requested that Peru verify whether three 2017 shipments of timber to the United States, fulfilled the laws, regulations, and other Peruvian measures governing the harvest and trade of timber products. *See USTR Verification Request Letter.*

¹ 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>.

This is the second verification request made by the United States under paragraph 7 of the PTPA Forest Annex. The first request was made in February 2016, when the United States requested that Peru verify the legality of a January 2015 shipment by the Peruvian company Inversiones La Oroza SRL (Oroza). As required under the Forest Annex, the Government of Peru provided the United States with a written report on the results of the verification, which concluded that significant portions of the Oroza shipment were not compliant with Peru's laws, regulations, and other measures on the harvest of and trade in timber products. After reviewing Peru's findings, the Timber Committee released a summary report that recommended actions that Peru should take to strengthen forest sector governance.

In November 2016, the Government of Peru announced a set of unilateral actions to address ongoing challenges including holding all of the relevant actors involved in the Oroza shipment accountable, amending export documentation requirements to improve traceability, enhancing timber inspections, and implementing an electronic timber tracking system in the Amazon corridor. While Peru took some positive steps forward, overall progress on these actions has remained insufficient. In October 2017, the Timber Committee directed U.S. Customs and Border Protection to deny entry to future timber imports from Oroza for a period of three years or until the Timber Committee determines that Oroza has complied with all applicable Peruvian laws, regulations, and other measures governing the harvest of and trade in timber products, whichever is shorter.

Due to the Timber Committee's continued concerns about illegal logging in Peru, it made this second verification request as a test of the integrity of the Peruvian timber supply chain. Continued use of the verification tool has allowed the Timber Committee to monitor Peru's supply chain and the impact of reforms that Peru has undertaken since the last verification request, such as the implementation of regulations for the *Forest and Wildlife Law 29763*. This recent timber verification will also assist the United States and Peru in identifying opportunities for further collaboration to fulfill the objectives of the PTPA Forest Annex.

The following statement summarizes for public information the overall findings contained in Peru's verification report and corresponding documentation. This statement also follows up on previous areas that the Timber Committee has identified where additional work by Peru is needed in order to ensure robust implementation of the Forest Annex and legal supplies of timber from Peru to the United States. The Timber Committee looks forward to engaging closely with Peru's 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.

I. Summary of Peru's July 2018 Timber Verification Report

Peru's Timber Verification Process

In responding to the Timber Committee's request, a number of Peruvian government agencies participated in the verification process to determine the legal origin of the timber contained in the three shipments:

- The **Ministry of Foreign Trade and Tourism** (MINCETUR) is Peru's lead agency for the PTPA and coordinated the verification process.
- The **National Forestry and Wildlife Service** (SERFOR) is the national technical and regulatory authority that governs national forest and wildlife management. Launched in 2014, SERFOR oversees the timber supply chain and is responsible for verifying the legal origin of forest products subject to export, re-export, or import.
- The **Supervisory Agency for Forest and Wildlife Resources** (OSINFOR) was established pursuant to the PTPA as an independent and separate body responsible for the supervision and oversight of forest and wildlife resources primarily at the point of harvest, including the sanctioning of timber concessions and timber permits (forest land titles).
- The **National Superintendency of Customs and Tax Administration** (SUNAT), Peru's customs authority is responsible for the control of exports at the ports, including that of forest and wildlife resources.
- The relevant **regional governments**, grant and supervise forest land titles within the territory of their regions in order to guarantee the sustainable harvesting of natural resources. As part of their functions, they also maintain control over the transport of forest products, including the issuance of Forest Transport Permits (GTFs), and sawmills as provided for in Peruvian Forest legislation. They have jurisdiction over the forest land titles associated with the three shipments.
- The **Ministry of Production** (PRODUCE) registers secondary timber transformation centers and approves the respective procedures and requirements. SERFOR coordinates with PRODUCE on the necessary mechanisms and tools to ensure the legal origin of timber entering the secondary transformation centers.

Peruvian authorities, led by SERFOR, in coordination with MINCETUR, conducted a detailed review of the entire supply chain for the three shipments subject to the verification request with the participation of OSINFOR, two regional governments with forest products involved in the verification process, and SUNAT. SERFOR traced the timber from the shipments to seven forest land title holders in two regions. As part of the process, OSINFOR conducted robust on-site post-harvest inspections between July 2016 and June 2018 of all seven forest land title holders implicated in the shipments, three of which it had inspected prior to the Timber Committee's verification request. Timber Committee staff participated in a site visit in May 2018, which included meetings with national authorities in Lima, and visits to one of the forest land titles, the sawmills involved in processing the timber, two regional government offices, timber control posts, and the Port of Callao.

Peru's Timber Verification Findings

- Peruvian authorities, based on the procedures followed and information obtained, established that two of the shipments which were associated with six forest land titles, were compliant with its laws, regulations, and other measures on the harvest and trade of timber products.
- For the remaining shipment, based on the procedures followed and information obtained, Peru could not establish that it was compliant with Peru's laws, regulations, and other measures on the harvest and trade of timber products. Specifically, OSINFOR found through its post-harvest inspection of the one land title associated with the shipment that the trees were not harvested from the authorized site and that there were inaccuracies in the forest land title holder's management plan.
 - Status: OSINFOR has initiated an administrative process with regards to this land title and has informed the competent authorities, including the relevant regional government, of these irregularities and the proceedings are pending.

Implementation of Peru's Reforms to Strengthen Forest Sector Governance

In recent years, Peru has implemented important reforms to strengthen forest sector governance and combat illegal logging, including: (1) the passage of the Forest and Wildlife regulations which entered into force in 2015; (2) the passage of decrees in 2015 that increase penalties for forest crimes and empower the Government of Peru to seize illegal timber; (3) the passage of decree 1319 in 2017 which provides SERFOR with greater authority to take administrative action against forest Regents for falsifying annual harvest plans; and (4) the establishment of SERFOR offices in Madre de Dios, Ucayali, and Loreto to support the regional governments in strengthening forest sector oversight and forest sector governance; 5) implementation of operations log books at primary transformation centers; 6) advancements in implementing the MC-SNIFFS electronic timber tracking system; and 7) the implementation of a voluntary mechanism for title holders to request that OSINFOR conduct inspections of forest land titles.

II. The Interagency Timber Committee's Assessment of Peru's Forest Sector Governance

The Timber Committee acknowledges the progress that Peru has achieved since 2016, but also confirms that challenges remain to ensure that all timber exported from Peru to the United States is legally harvested. In particular, the Timber Committee notes that additional progress is needed to ensure swift enforcement actions against those violating Peru's forestry laws. In addition, the Timber Committee has questions with respect to how the practices that Peru has employed allow it to confirm full timber traceability and timber legality at each stage of the production process, including from export back to the harvest site, in accordance with its laws and regulations. The Timber Committee is committed to on-going engagement with Peru to seek a better understanding of its methodology for tracing timber throughout the supply chain.

Based on the Committee's ongoing monitoring efforts, it has identified a number of areas for further work, including those previously identified in November 2016 that continue to be relevant and necessary in order to ensure that all timber exports from Peru are legally harvested, including:

- Strengthening of Peru's traceability system, such as by enhancing export document requirements, to help ensure legal origin of the timber from point of harvest to export;
- Enhancing and implementing procedures for SERFOR to verify the legal origin of timber exports;
- Establishing and implementing log books for secondary transformation centers and continuing to improve the implementation of log books for primary transformation centers;
- Taking swift action in response to the irregularities identified as a result of both the 2016 and 2018 verification requests in order to ensure that responsible parties are held accountable;
- Improving the timing of post-harvest inspections, so that illegally harvested timber can be detected prior to export;
- Promptly implementing throughout Peru the electronic timber tracking system that USAID has supported as a key component of U.S.-Peru environmental cooperation;
- Strengthening the capacity 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, enhanced oversight and enforcement at transformation centers, including full implementation of log books; and timely submission of approved management plans to OSINFOR;
- Enhancing transparency in the enforcement of Peru's forestry laws including through posting online of the public forest operating plans, inspection reports, and sanctioning resolutions; and
- Improving timeliness, application and publication of effective sanctions and other deterrents for all actors involved in illegal logging and associated trade, as highlighted in the 2013 Bilateral Action Plan, including steps to ensure timely action against forest title holders and forest engineers and Regents.

The United States Government intends to continue to engage with Peru to urge, monitor, and assess progress across these areas over the next several months, including through an upcoming meeting of the Free Trade Commission in Lima. The Timber Committee will also seek a meeting of the senior-level PTPA Environmental Affairs Council and Sub-Committee on Forest Sector Governance to follow-up on Peru's progress in addressing these important areas, and to review any additional information and documentation provided by Peru with respect to the shipments and exporters that were the subject of the two recent timber verifications. Following these bilateral meetings, the Timber Committee will reconvene to discuss whether additional actions are appropriate, including actions as provided for in the PTPA Environment Chapter and Forest Annex. The Timber Committee looks forward to continuing to work closely with the Vizcarra government to ensure necessary and meaningful progress in implementing Peru's obligations under the Forest Annex and to strengthen confidence in Peru's system so that U.S. and Peruvian timber buyers are confident that the timber that they purchase is of legal origin.