17 April 2012

The Honorable Ron Kirk
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Request for Audit and Verification under the Forestry Annex of Chapter 18 of the U.S.-Peru Trade Promotion Agreement

Dear Ambassador Kirk,

The Environmental Investigation Agency (EIA) (hereinafter referred to as “the Petitioners”), are petitioning the United States Trade Representative (USTR) to request, pursuant to sections 6 and 7 of the Annex on Forest Sector Governance (Forestry Annex) to the Environment Chapter of the U.S.-Peru Trade Promotion Agreement (TPA), that Peru conduct (a) verifications of particular shipments to the US by two timber exporters, Maderera Bozovich SAC and Maderera Vulcano SAC, (b) verifications of shipments associated with timber concessions temporarily suspended under Peruvian regulations and administrative processes, and (c) audits of a number of producers whose concessions have been the source of this and other timber that the Petitioners believe to have been harvested and traded in contravention of Peruvian law, the Convention on International Trade in Endangered Species (CITES), and the US-Peru TPA.

We ask USTR to request, under section 7 of the Forestry Annex, that Peru verify all new export shipments from Maderera Bozovich SAC and Maderera Vulcano SAC because, according to the information compiled by our research, they have a history of exporting the most significant volumes of timber to the United States using documents from concessions with illegal activity. We also ask USTR to request that Peru verify all timber exports linked to documents from 19 concessions identified by EIA that have been temporarily suspended while the government investigates their infractions and determines whether they will be permanently annulled, fined or otherwise sanctioned.

In the attached petition, your office will find a detailed description of the evidence of these illegalities during the period 2008-2010, based on a thorough analysis of official reports by Peru’s Supervisory Body for Forest Resources and Wildlife (OSINFOR) obtained through laws governing public access to information in Peru. Full copies of the relevant OSINFOR reports are also included.

In particular, the Petitioners have identified at least 77 shipments arriving to the US between January 2009 and June 2010 that (a) contained timber of either Spanish cedar (*Cedrela odorata*) or Big-leaf Mahogany (*Swietenia macrophylla*) – both CITES-listed species in Peru – directly linked to documents containing fabricated information in concession annual operating plans (POAs), and (b) was exported by Maderera Bozovich SAC or Maderera Vulcano SAC and/or originated in a concession now under temporary suspension. The nature of the violations identified, explained in greater detail in the attached petition, indicates that the actual timber was cut illegally somewhere other than the concession declared by the producers and exporters, and subsequently laundered into the supply chain.

The Petitioners wish to stress that these shipments are only a subset of the much larger number of shipments containing illegal timber, and that the systematic nature of these exporters’ actions constitutes a troubling pattern that we believe to demonstrate knowing, repeated violation of the law. Moreover, our analysis is focused on data between 2008 and 2010, and was not able to include OSINFOR reports or export permits from 2011, which we believe are likely to show a similar pattern. Finally, our analysis was only able to identify irregularities associated with CITES-listed species due to the greater documentation
requirements; it is therefore almost certainly the case that illegal timber of other species has also entered the US during this same period.

USTR should request Peru to verify that all shipments of timber from Maderera Bozovich SAC and Maderera Vulcano SAC are in compliance with relevant laws and regulations. Additionally, Peru should verify that any shipments coming from temporarily suspended concessions are in compliance with relevant laws. Relevant laws include Forestry and Wildlife Law No. 27308 and its regulations contained in Resolution Jefatural Nº 109-2003; CITES, Article V; and Forestry and Wildlife Law No. 29763 (Articles 44-46). The US should request to have officials participate in these verifications as per Paragraph 10 of the Annex on Forest Sector Governance. If the verifications demonstrate that a producer or exporter intentionally made false statements, the US should deny the entrance of imports from that producer/exporter until and unless Peru produces an audit indicating that the entity in question is now in compliance with all laws and regulations.

While we have identified what appear to be the two biggest exporters, it would be a mistake to believe that this is anything less than a systemic problem that continues to affect many if not the majority of shipments of timber, both CITES-listed and not, from Peru – from all exporters. We have identified 29 concessions where OSINFOR found evidence of serious illegal activity and that are connected to one or more shipments of cedar or mahogany timber entering the US since 2008. (Included in this list are the concessions whose documents were the basis for the Maderera Bozovich and Maderera Vulcano shipments mentioned above.) The Petitioners asks USTR to request that Peru to conduct audits of these 29 concessions as well.

Finally, we recommend that the US request Peru to put in place measures to ensure that OSINFOR’s findings are used within export authorization procedures, in order to prevent further illegal timber from leaving Peru.

We wish to emphasize that this request is based on information produced by OSINFOR, a body whose institutional independence and strengthening over recent years were enabled by the provisions within the US-Peru TPA. By establishing tools for additional legality, transparency and accountability, the TPA is beginning to achieve its intended impact. However, it is also clear that serious work remains to be done to improve the situation in the forests, sawmills and forest authority offices throughout the country in order to transform a sector in which illegal harvest, falsification, laundering, and corruption continue to be all-too-common characteristics.

We thank you for your prompt attention to our petition, and request a response from your office regarding the measures the US government plans to take in order address the requests we have made.

Respectfully,

Andrea Johnson         Julia Urrunaga
Director of Forest Campaigns, EIA    Director, Peru Programs, EIA

Annexes:
1) Full petition text
2) APPENDIX A - CITES Permit Numbers for Potentially Illegal Past Shipments (January 2009 – May 2010)
3) APPENDIX B – List of 43 concessions with legal infractions linked to export shipments (January 2008 – May 2010)
4) APPENDIX C – Summary data for 29 concessions used as basis for analysis in EIA petition
5) Full OSINFOR Supervisory Reports for 29 concessions (in Spanish)