March 26, 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), is 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 audits and verifications, as specified, of the producers, exporters, and timber concessions with illegalities identified in the request below.

EIA is a 501(c)(3) organization that uses pioneering investigations to expose environmental crimes, and campaigns for solutions to illegal trade and other threats to our global environment. EIA engages in monitoring the development and implementation of U.S. trade policy, particularly with regard its environmental and social impacts.

I. INTRODUCTION

Pursuant to section IV.C of the Internal Procedures for the Interagency Committee on Trade in Timber Products in Peru, EIA is petitioning the USTR to request, under sections 6 and 7 of the Forestry Annex to the Environment Chapter of the U.S.-Peru TPA, that Peru conduct audits and verifications of the producers, exporters, and timber concessions connected with illegalities identified herein. The objective of the Forestry Annex is to “combat trade associated with illegal logging”. Failure to investigate the producers, exporters, and timber concessions with suspected illegalities undermines the TPA’s objectives as well as the international obligations of the United States and Peru under the Convention on International Trade of Endangered Species (CITES).

EIA asks that USTR request Peru to audit the concessionaires associated with the following 29 concessions: 16-IQU/C-J-207-04; 16-IQU/C-J-194-04; 16-IQU/C-J-044-04; 16-IQU/C-J-047-04; 16-IQU/C-J-022-04; 17-TAH/C-J-038-02; 16-IQU/C-J-090-04; 17-TAM/C-J-022-03; 16-IQU/C-J-098-04; 16-REQ/C-J-021-04; 16-IQU/C-J-050-04; 16-IQU/C-J-072-04; 16-REQ/C-J-019-04; 17-TAM/C-J-002-

1 Interagency Committee on Trade in Timber Products in Peru, Organization, Function, and Internal Procedures, IV.C (Aug. 10, 2011). This Interagency Committee was created pursuant to The US-Peru Trade Promotion Agreement Implementation Act, Public Law No. 110-138, § 501, (Dec. 14, 2007).
3 See generally id.
EIA has analyzed data from relevant Peruvian authorities and found evidence of illegal logging activities involving Bigleaf Mahogany (*Swietenia macrophylla*) and Spanish Cedar (*Cedrela odorata*) in Peru. Data pertaining to mahogany and cedar exports show that timber associated with the aforementioned illegal logging activities may have entered, and may continue to enter, the United States from Peru. These facts point to violations of both the Ley Forestal y de Fauna Silvestre (Peruvian Forestry and Wildlife Law or “Forestry Law”) and Peru’s obligations under CITES, which warrant audit and verification proceedings under the provisions of the Forestry Annex.

This petition is divided into four parts: Part II addresses procedural requirements necessary to initiate audit and verification proceedings; Part III explains applicable law; Part IV describes EIA’s fact-finding process and data analysis; and Part V explains the specific requests for audit and verification. This is followed by a conclusion. The Appendices contain materials collected by EIA to support this request as follows:

- Appendix A: Exemplary list of shipments (CITES permit numbers) suspected of illegalities from 2009-2010
- Appendix B: Master sheet for 43 concessions (combining OSINFOR supervisory report information and CITES information for the list of 43 concessions initially identified for further investigation)
- Appendix C: Summary data for 29 highlighted concessions (summarizing information from Appendix B for those concessions highlighted in this request)
- Appendix D: Full OSINFOR Supervisory Reports for 29 highlighted concessions

II. PROCEDURAL REQUIREMENTS

The Forestry Annex provides audit and verification mechanisms to enforce and deter violations of laws, regulations and other measures in relation to harvest and trade of timber products from Peru. To request these enforcement measures, section 8 of the Annex requires that the United States identify: a) the

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4 Ley No. 27308, *Ley Forestal y de Fauna Silvestre* (July 15, 2000) [hereinafter Peruvian Forestry Law]. Peru has a new forest management law, Ley No. 29763 (July 21, 2011), which is not yet in force. However, with respect to the substantive provisions at issue here, the new law and old law are largely the same.

5 Convention on International Trade in Endangered Species of Wild Fauna and Flora, Mar. 3, 1973, 27 U.S.T. 1087, T.I.A.S. No. 8249, 993 U.N.T.S. 243 [hereinafter CITES]. Peru is obligated to “adopt, maintain, and implement laws, regulations, and all other measures to fulfill its obligations under the multilateral environment agreements listed in Annex 18.2” including CITES. US-Peru TPA, *supra* note 2, art. 18.2; *see also id.* at art. 18.3(1)(a).


7 *Id.* at sec. 5.
relevant producer or exporter b) the laws, regulation and other measures at issue and c) the reason that warrants an audit and/or verification procedures.  

1. Audit

Under the audit proceedings, the United States may request that Peru conduct an audit of a particular producer or exporter. The purpose of the audit is to “evaluat[e] the compliance of that producer or exporter with [ . . . ] laws, regulations, and other measures.” Upon this request, Peru must conduct an audit proceeding to evaluate the exporter’s or producer’s compliance with relevant laws, regulations and measures. After the investigation, Peru is required to provide a written summary of its findings of the requested audit to the United States.

2. Verification

Under the verification proceedings, the United States may request that Peru certify whether “with respect to a particular shipment of timber products from Peru to the United States, the exporter or producer . . . has complied with applicable laws . . .” After receiving the request, Peru must verify whether the exporter or producer has complied with the applicable laws, regulations, and other measures. In conducting a verification, Peru must “obtain and examine copies of documents relating to the enterprise’s compliance with Peru’s laws, regulations, and other measures governing the harvest of, and trade in, timber products including, in the case of shipments of products derived from tree species in a CITES Appendix, relevant chain of custody requirements.” Verification requires that Peru visit the premises of the “exporter or producer, or any other enterprise . . . in the chain of production or transportation for the timber products” unless the Parties otherwise agree. Upon receiving notice of such site visits, the United States may seek to have its officials participate in the visit. Peru must also consider any observations United States representatives provide. Finally, unless otherwise agreed, Peru must provide a written report to the United States on the results of the verification. The United States can either deny entry of shipments subject to verification or, if there is evidence that an enterprise knowingly provided false information, deny entry of all shipments containing CITES-listed timber species from that enterprise.

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8 Id. at sec. 8.
9 Id. at sec. 6.
10 Id. at sec. 6(b).
11 Id.
12 Id.
13 Id. at sec. 7.
14 Id. at sec. 12.
15 Id. at sec. 10(d).
16 Id. at sec. 10.
17 Id.
18 Id.
19 Id. at sec.12 (explaining that the Forestry Annex requires Peru to provide the United States a written report of any verification within 45 days after the request and within 75 days if Peru conducts a verification visit).
20 Id. at sec. 13.
The relevant procedural information is provided in Part V for each individual request for audit or verification; however due to the complexity of applicable law, Part III contains a summary of applicable laws, regulations, and measures relevant to this petition.

III. SUMMARY OF APPLICABLE LAWS

a. US-Peru Trade Promotion Agreement

The US-Peru TPA entered into force on February 1, 2009.\(^{21}\) As explained above, the Forestry Annex allows the United States to request an audit or verification if it suspects that any law, regulation or other measure governing the harvest and trade of timber is violated within Peru. This includes obligations under CITES and relevant national laws, regulations, and other measures.\(^{22}\) The requests made in this petition are largely associated with shipments occurring after the date of entry into force of the TPA. In cases where shipments occurred prior to this date, the data has been included to demonstrate the pattern of activity associated with exporters that have continued to export suspected illegal wood products to the United States after the TPA entered into force.


Under CITES, Peru has obligations that are relevant to timber exports.\(^{23}\) CITES provides conditions for the international trade of specimens of species included in its Appendices.\(^{24}\) The specimens include wild fauna and flora.\(^{25}\) There are three Appendices (I, II and III) with different restrictions on trade for each Appendix.\(^{26}\) Mahogany and cedar, at issue in this petition, are listed in Appendix II and III respectively.

For specimens listed in Appendix II, the exporting State must grant export permits prior to exportation to another country.\(^{27}\) The Management Authority must verify that CITES-listed species were not obtained in violation of laws, regulations, and other measures.\(^{28}\) The Scientific Authority must verify that the export will not be detrimental to the survival of the species.\(^{29}\) Since 2003, mahogany has been listed on Appendix II of CITES.\(^{30}\)

\(^{22}\) US-Peru TPA, supra note 2, at arts. 18.2, 18.3(1)(a), and Forestry Annex secs. 6 & 7.
\(^{23}\) See CITES, supra note x, at art. VIII; see also US-Peru TPA, Environment Chapter, supra note 2, at art. 18.2 (requiring that Peru fulfill its obligations under the multilateral environmental agreements listed in Annex 18.2, which includes CITES).
\(^{24}\) See CITES, supra note 5, at preamble, art. II (4).
\(^{25}\) See id. at preamble.
\(^{26}\) See id. at arts. III - V; See also CITES Website, What is CITES?, http://www.cites.org/eng/disc/what.php (last visited Oct 31, 2011).
\(^{27}\) See CITES, supra note x, at art. IV.
\(^{28}\) Id.
\(^{29}\) Id. at art. IV. Note that these are CITES Appendices, not the Appendices attached to this request.
\(^{30}\) CITES, Decision 12.3 (Nov. 3-15 2002) (explaining that Bigleaf Mahogany was listed in Appendix II after 12 months of the end of the twelfth meeting of the Conference of the Parties, i.e., on 15 November 2003), available at http://www.cites.org/eng/dec/valid13/E12-Dec.pdf.
In contrast, Appendix III species only require export permits for the countries that have specifically listed those species in the Appendix. An export permit can only be granted if the exporting State’s Management Authority determines that the specimens were legally obtained.\(^{31}\) Peru requested the inclusion of Spanish Cedar in Appendix III in 2001, thus Peruvian exports of Spanish Cedar require export permits.\(^{32}\)

CITES also requires importing States to ensure that shipments of CITES-listed species do not enter the country without the proper permits, as specified for the different Appendices.\(^{33}\)

c. **National Law**

Under the Peruvian Wildlife and Forestry Law,\(^{34}\) the power to regulate and promote the sustainable use of forest and wildlife resources resides with the Ministry of Agriculture.\(^{35}\) The Ministry delegates these functions to the General Directorate for Forests and Wildlife (Dirección General Forestal y de Fauna Silvestre – DGFFS).\(^{36}\) DGFFS is responsible for the conservation and sustainable use of Peru’s forest resources including the granting permits for the extraction of timber.\(^{37}\) Additionally, Peruvian Law provides for an independent supervisory body called the Supervisory Body for Forest Resources and Wildlife (OSINFOR) to monitor compliance with laws relating to timber concessions.\(^{38}\)

Generally, DGFFS (through regional offices) is responsible for granting the concession and approving the Forest Management Plans. However, in some regions (such as Loreto and Ucayali) this responsibility has already been delegated to Regional Government authorities.\(^{39}\) For example, in Loreto these functions are handled by the Regional Program for Management of Flora and Fauna Resources (Programa Regional de Manejo de Recursos de Flora y Fauna Silvestre, PRMRFFS).\(^{40}\) The Forest Management Plans include the permissible minimum diameter and volume for harvest by species and type of forest.\(^{41}\) Further, the forest management plan must include an environmental impact assessment.

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\(^{31}\) See CITES, supra note x, at art. V(2).
\(^{33}\) CITES, supra note x, at arts. III, IV, and V.
\(^{34}\) See generally Peruvian Forestry Law, supra note x.
\(^{35}\) Id. at art. 3, sec. 3.3.
\(^{36}\) Id. at art. 3, sec. 3.4. This was first delegated to The National Institute of Natural Resources (INRENA), but in 2009, INRENA was dissolved and its responsibilities were transferred to the DGFFS. Supreme Decree (Decreto Supremo) N° 031-2008-AG.
\(^{37}\) See Peruvian Forestry Law, supra note x, at art. 3.4.
\(^{38}\) Id. at art. 6, sec. a: Decreto Legislativo N° 1085 [Legislative Decree N° 1085] (June 2008). OSINFOR was created in 2000 by Law N° 27308, and became an independent agency under Decreto Legislativo N° 1085. It is attached to the President’s Council of Ministries.
\(^{39}\) See http://dgffs.minag.gob.pe/index.php?option=com_content&view=article&id=60&Itemid=71 (showing in which regions this delegation has occurred).
\(^{40}\) See id.
\(^{41}\) Peruvian Forestry Law, supra note x, at art. 10.
and the GPS location of the trees to be harvested. The intent of the plan is to ensure sustainable management by harvesting the greatest number of species and requiring the full use of the wood.\(^{43}\)

Regulations promulgated in accordance with the Forestry Law divide the Forest Management Plans into two levels. The General Forest Management Plan (PGMF), which provides for the overall planning, framework, strategic, and long-term business projections, is prepared for the duration of the concession but must be revised every 5 years. The Annual Operating Plan (POA) serves as the planning tool for one operating year, describing the activities that will be undertaken in the corresponding Annual Harvesting Parcel or PCA (Parcela de Corte Annual). The POA for each PCA requires *inter alia*: the GPS coordinates of the PCA;\(^ {44}\) maps; markers, delineating areas to be harvested;\(^ {45}\) the census of all trees to be harvested, including GPS coordinates of the trees;\(^ {46}\) and the method of harvesting.\(^ {47}\)

OSINFOR is in charge of periodically supervising the concessionaire’s compliance with the entire Forest Management Plan.\(^ {48}\) Their supervisory reports may lead to the revocation of harvest rights if a concessionaire is in noncompliance with the Forest Management Plan, does not pay for the right to harvest, extracts outside the limits of their concession or commits a crime or misdemeanor involving serious risk or serious damage to the environment and biodiversity.\(^ {49}\) Concessionaires are required to adopt appropriate measures to prevent illegal extraction of natural resources.\(^ {50}\) Violations of the laws governing concessions are subject to civil and criminal proceedings.\(^ {51}\)

### IV. EIA FACT FINDING

OSINFOR officials who conduct supervisory visits to concessions typically visit the parcel subject to a given year’s Annual Operating Plan (POA) which has already, in theory, been logged by the concessionaire after approval by the relevant forest authority (either DGFFS or a regional authority).\(^ {52}\) During the course of site visits, OSINFOR must inspect any extraction-related activities, assess the degree of compliance with regulations and environmental commitments, and verify the existence and measurements of a sample of trees located at the GPS coordinates specified by the concessionaire.

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\(^{42}\) Id. at art. 15.

\(^{43}\) Id. at art. 10.


\(^{45}\) Id. at Annex 02 para. 8.1.

\(^{46}\) Id.

\(^{47}\) Id. at Annex 02 para. 4.

\(^{48}\) Peruvian Forestry Law, *supra* note x, at art. 6; POA Guidelines, *supra* note x.

\(^{49}\) Peruvian Forestry Law, *supra* note x, at art. 18.

\(^{50}\) Id.

\(^{51}\) Id. at art. 38.

\(^{52}\) EIA has been unable to ascertain what methodology OSINFOR uses to choose which concessions it visits. When EIA formally requested this information, OSINFOR provided the following response: “las supervisiones se llevan a cabo por denuncia, por peticion o comunicacion de otros organos o dependencias y de oficio. Ahora bien, en principio, las supervisiones de oficio se programan de manera aleatoria; sin embargo, se tiene en cuenta la informacion preexistente, la misma que podria hacer presumir la comision de infracciones a la Legislacion Forestal y de Fauna Silvestre o la configuracion de causales de caducidad del derecho de aprovechamiento” (on file with EIA).
If a tree has been harvested, evidence such as a stump, should be found; that is, the piece of the trunk and roots which are left once the tree has been felled. Additionally, the supervisor must compare the data collected in the field with what has been registered in the concession’s Balance of Extraction. The latter document contains the volumes of wood approved for extraction and transport, and how much the concessionaire theoretically harvested (i.e. transported to sawmill). Utilizing all of this information, the OSINFOR supervisor prepares a supervisory report for each concession visited.

EIA submitted a request in accordance with Peru’s Transparency Law for the following documents:

(a) the documentation associated with all CITES export permits issued in Peru in 2008, 2009 and the first half of 2010 for bigleaf mahogany (Swietenia macrophylla, Appendix II) and Spanish cedar (Cedrela odorata, Appendix III). This documentation, processed by the CITES Management Authority office within DGFFS, is required to include permits that indicate the concessions where the wood originated and the time period in which it was harvested.

(b) Information on OSINFOR supervisions for all concessions supervised during the same years.

Based on review of the summary data provided by OSINFOR, EIA identified a list of nearly 200 concessions with different degrees of infractions. This list was cross-referenced with the CITES export permits. This analysis resulted in the identification of over 100 shipments of CITES-listed timber species exported to the United States since 2008 that potentially originated in concessions where OSINFOR has identified significant illegal activity. There were 43 different concessions that corresponded with these shipments. EIA subsequently conducted another request under the Transparency Law to obtain the full Supervisory Reports from OSINFOR (as opposed to summaries) for these concessions. Additional research showed that in some cases, these concessions were now suspended by OSINFOR pending further investigation into logging activities. Combined OSINFOR and CITES data on these 43 concessions is found in Appendix B. Based on this data, EIA divided the 43 concessions into the following two categories:

i) **Category 1: Identified illegal activity matches concession, parcel and harvest year linked to export shipments:**

These are concessions where the harvest year for timber exports to the United States (as contained in CITES documentation) matches the POA year for which OSINFOR has issued supervisory reports identifying significant infractions. This means that in all likelihood those exports entering the United States contained illegally-sourced timber.

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54 *Id.* at Annex 01, 1.
55 *Id.*
56 Transparency Law, No. 27806.
57 EIA requested this information in August 2010, but only received information for January through June, 2010.
58 It is possible that additional concessions with suspected illegalities, as identified by OSINFOR, did not make it onto this list due to information gaps. *See infra* Conclusion.
59 “Harvest year” is equivalent to the term *zafra* in Peruvian forestry parlance. Generally, a region’s POA numbers correspond to the *zafra* of the same year (the POA for 2007 should match the 2007 harvest year). However, the starting month of the *zafra* and POA in a given year may not always correspond. Thus, because the 12 month period may not completely overlap in some instances, there is a small margin of uncertainty in the conclusions drawn from the data. The concessions in Category 1 are those where EIA has been able to confirm that the *zafra* year listed in the CITES documentation matches the POA year that was subject to OSINFOR’s supervision visit.
Timber from these concessions may still be entering the United States, thereby necessitating audits of the relevant producers.

ii) **Category 2: Identified illegal activity matches concession linked to export shipments:**

These are concessions that have yielded timber exports to the United States and where OSINFOR has identified significant illegalities with a recent POA. Due to limitations in the data available, EIA cannot ascertain whether timber with documents from this POA has entered the United States (as opposed to an adjacent one), but there is reason to suspect that the same pattern of activity is likely to exist in all POAs within the concession. Thus the U.S. should request an audit of the relevant producers in order to ensure that 1) timber laundered with documents from the POA where illegalities were already found is not entering the United States; and/or 2) to understand whether previous and subsequent timber shipments from the same concession were harvested legally or not.

*Temporarily Suspended concessions* – A number of concessions within both categories have been temporarily suspended by OSINFOR as a precautionary measure, pending further investigation of the significant illegalities identified during supervision. (In both Appendices, concessions with temporary suspensions are identified in light red highlight.) Although this represents some administrative action taken to address illegalities, the procedure is in flux and is insufficient to constitute a thorough audit of the producers for a number of reasons. Thus, it is still necessary to conduct audits of the producers.

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60 Cases where infractions in one POA are indicative of illegalities in the whole concession are not unusual. For example, in the past, OSINFOR has suspended a whole concession because the infractions in one POA were so serious that it cast doubt on the rest of the concession, including all of the approved POAs. See e.g. OSINFOR Supervisory Report for Concession 17-TAM/C-J-022-03 (Maderera Kalinowski), 131-2010-OSINFOR-DSCFFS, 0067 – 0069 [hereinafter OSINFOR Report for Kalinowski]; OSINFOR Suspension Report for Concession 16-IQU/C-J-228-04 (Oroza Wood SAC), 149-2011-OSINFOR-DSCFFS, 0005 [hereinafter OSINFOR Suspension Report for Oroza Wood].

61 Information pertaining to which concessions are suspended was gathered from the OSINFOR website, http://www.osinfor.gob.pe/portal/recursos.htm?id=18 (last visited February 8, 2012).

62 An OSINFOR supervision is only the first step in a process that currently takes over a year, on average, to arrive at the legal conclusion regarding whether a concession should be annulled (caducada). After a supervision visit is conducted and the field team’s Supervisory Report is drafted, the report is sent to the Legal Affairs Office (Oficina de Asesoría Jurídica, OAJ) to be evaluated. Both the Supervisory Report and the OAJ report are then sent to the director of the appropriate office within OSINFOR (in this case, the Concessions Supervision office, Dirección de Supervisión de Concesiones). The Director’s office ultimately issues a Directorial Resolution (Resolución Directorial) to initiate an Administrative Process (Procedimiento Administrativo Único, PAU). The PAU begins an investigative process to determine whether the concession should be annulled and/or fines or other sanctions imposed. In the meantime, the Directorial Resolution may also – depending on the seriousness of the infractions described by the OSINFOR field team – place a temporary suspension on either the POA in question and its corresponding GTFs, or the entire concession’s General Forest Management Plan and corresponding GTFs.

Once the Directorial Resolution is issued, the concessionaire must be notified within 5 days and given a time period to respond to the issues identified. (All of OSINFOR’s findings and Resolutions are also supposed to be sent to the DGFFS and in many cases to the Prosecutor’s office as well.) In addition, there are various points at which the concessionaire may appeal the findings and determinations of the authorities. In the meantime, however, a concession can continue to operate “legally” and issue GTFs or sell wood.

In part because OSINFOR still lacks a Tribunal to adjudicate these appeals, the process of finalizing results from its Supervisions is currently hugely delayed for hundreds of concessions. In Loreto, for example, the delay in
associated with concessions that OSINFOR has temporarily suspended. Furthermore, export information shows that timber from these concessions was exported to the United States in the past, indicating a likelihood that exports may still be coming in. Given that the observed infractions were significant enough to warrant a temporary suspension of the concession, in addition to an audit, verification of shipments from such concessions is required to ensure that illegally-sourced timber does not enter the United States.

Using the two categories, EIA further narrowed down the concessions (from 43 to 29) based on a number of different factors, including: the extent and severity of the illegalities identified by OSINFOR; volume of exports; number of shipments; and the species.Summary information for these 29 concessions is found in Appendix C.

Common patterns of illegal activity associated with shipments

The OSINFOR supervisory reports identify a number of illegalities in connection with these concessions. The most common illegality revealed by the reports is that the volume of timber documented as harvested for a given POA was significantly greater than the timber actually harvested in the corresponding PCA, meaning that the difference was illegally sourced. There are several indicators for this infraction.

Assuming that the inventory for the POA is correct, i.e. that all harvested trees in the PCA are accurately identified, OSINFOR may find that the trees documented as being removed are still standing (not stumps, as expected). This means that a given tree documented as being harvested according to a POA from a particular concession is in fact from elsewhere, in other words illegally sourced. Normally, the DGFFS approves removing x number of trees calculated by the concessionaire to yield y volume of a given species. The Balance of Extraction contains a side-by-side comparison of the volume of a given species authorized by DGFFS and the volume of species transported and sold by the concessionaire. If there is a significant discrepancy between the volume of timber that the Balance of Extraction states has been removed and the trees that are actually harvested upon inspection, it is in indication of illegal logging.

Another type of illegality is where the inventory for the POA is inaccurate. Not only does this mean that (a) the producer provided false information in the POA regarding the forest census, but (b) that the DGFFS verification was at a minimum insufficient and most likely false. In this situation, OSINFOR will find that the trees listed in the POA do not correspond to the trees found in the field in location, size, and/or species. For example, in the case of concession 16-IQU/C-J-022-04, OSINFOR identified/selected 85 cedar trees listed in the POA to sample, but when OSINFOR attempted to verify the trees in the field, they found that none of the trees existed. This type of situation allows for a producer to “remove” more timber than is in actually in the concession, i.e. from outside the concession, another indication of illegal logging.

finishing these processes has engendered proposals for a large scale “amnesty” of concessions operating under PAUs – despite government reports documenting often serious infractions. Given these legal and political uncertainties regarding these processes, EIA does not believe that a temporary suspension under a Directorial Resolution is an adequate signal that the Peruvian authorities have already taken action to ensure that no further illegal wood is laundered and exported with documents from these concessions.

Methodology for this selection process available upon request.
logging. Additionally, when dealing with regulated species, producers might intentionally omit those species from the POA to avoid meeting any relevant legal requirements.

Each concession listed in this petition exemplifies a combination of these scenarios. A second layer is that falsifying POAs and receiving (false) permits allows concessionaires to sell those permits to others who are logging wood illegally, resulting in timber laundering. One strong indicator that laundering has occurred is a simple examination of the Balance of Extraction, which compares the approved volume and the volume that was removed and transported to sawmills. Volumes are estimated in the field by forest engineers doing a rapid field census in difficult conditions; expert foresters will testify that it is extremely difficult to estimate the precise volume of sawn timber that can be obtained from a log, let alone a standing tree that may have holes or other imperfections. In problem concessions, however, the Balance of Extraction documents typically show a correspondence with precision to the hundredth of a cubic meter between estimated volume authorized and final volume sold. This suggests that the permits for the total volume have been sold to one or more traders for use in laundering timber.

It is also worth noting the extraordinary lengths to which concessionaires sometimes go to avoid detection of illegal activity. For example, OSINFOR supervisors found in one of the POAs included in the list of “suspended concessions” that the concessionaire had planted pieces of logs to look like stumps at the approximate locations where the GPS coordinates indicated that cedar trees should have been cut.64

Review of the OSINFOR supervisory reports, as well as anecdotal evidence, also suggests that a number of the concessions have not paid their derechos (right-to-harvest fees). Because the reports are not systematic in mentioning this particular infraction, EIA excluded it from the current analysis. However, payment of appropriate fees should be included as part of the standard review of legality conducted under any audit or verification initiated.

In most cases identified in this request, a combination of illegalities has taken place. These illegalities are serious problems in their own right, but the combination highlights significant systemic problems in Peru’s forest management system.

EIA asks that USTR request audits of all 29 concessions contained in Appendix C to ensure compliance with relevant laws. In addition, shipments from temporarily suspended concessions require verification to ensure that illegally-sourced timber is no longer entering the United States. Furthermore, based on the frequency of their exports, EIA identified Maderera Bozovich SAC and Maderera Vulcano SAC as two exporters whose timber shipments should be verified to ensure compliance with relevant laws.

V. SPECIFIC REQUESTS FOR AUDIT AND VERIFICATION

Section 8 of the Forestry Annex requires that requests for audit or verification identify: (a) a particular exporter or producer, (b) the law at issue and (c) reason why audit and verification proceedings are required. EIA asks USTR to request that Peru conduct the audit and verification proceedings

64 OSINFOR Suspension Report for Oroza Wood, supra note 60.
identified below. It is important to note that EIA could only obtain export information relating to cedar and mahogany, therefore, the information below focuses on those two species. However, it is likely that there have been exports of other species that were illegally harvested, as identified in the supervisory reports, entering the United States. Peru’s audit and verification proceedings should therefore not be limited to investigations of mahogany and/or cedar.

I. Request for Audit

EIA asks USTR to request, under section 6(b) of the Forestry Annex, that Peru audit the producers connected to concessions that have been the source of exports to the United States as described in the methodology above (Categories 1 and 2) and elaborated below. As noted above, although temporary suspensions are in place for some concessions, these are constantly in flux, it is not clear what further investigations may take place, and the suspension could be lifted arbitrarily. Therefore, such concessions should not be excluded from the request for audits. Additionally, for the reasons explained above, audit proceedings should not be limited to mahogany and cedar. Complied data pertaining to these concessions is found in Appendix B, and summary information is contained in Appendix C. Should audits find evidence of illegal logging, the US and Peru should verify that shipments from those concessions are not entering the United States, and further, undertake an investigation to determine if violations of the ESA and Lacey Act have occurred.

A. Category 1: Identified Illegal Activity Matches Concession, Parcel and Harvest Year Linked to Export Shipments:

EIA asks USTR to request that Peru audit the producers associated with the following 9 concessions because there is evidence that cedar or mahogany shipments entering the United States from these concessions were illegally sourced: 16-IQU/C-J-207-04*; 16-IQU/C-J-194-04*; 16-IQU/C-J-044-04*; 16-IQU/C-J-047-04*; 16-IQU/C-J-022-04*; 17-TAH/C-J-038-02; 16-IQU/C-J-090-04*; 17-TAM/C-J-022-03*; 16-IQU/C-J-098-04*. As described above, the concessions in this category are those where timber entering the United States was harvested from a POA where OSINFOR supervisory reports indicate illegalities took place. Although OSINFOR has not examined every POA for each concession, in most cases the relevant OSINFOR report(s) points to significant systemic problems. It is likely, therefore, that the illegalities found in one year extend to other harvest years in the concession. Thus, Peru should audit the producers to determine whether they are in compliance with relevant laws. Summaries of the illegalities identified in the OSINFOR supervisory reports are included below.

1. 16-IQU/C-J-207-04

   a) Producer: Productores Forestales Atacuari SAC
   b) Exporter: Maderera Bozovich SAC
   c) Location: Loreto

65 The * indicates a temporarily suspended concession.
d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural N° 109-2003; CITES Article V.
e) Reason for Audit:

OSINFOR’s supervisory report for this concession demonstrates that the inventory for the POA is inaccurate, and that trees Productores Forestales Atacuari SAC documented as being transported from the area were sourced from outside the PCA, in other words illegally sourced. OSINFOR attempted to verify a sampling of 44 cedar trees listed in the POA. OSINFOR found that only one of the trees included in the POA had been harvested, another had been felled but not removed, 11 trees were found still standing, and the remaining 31 were not found at all. According to the supervisory report, the concessionaire (Productores Forestales Atacuari SAC) claimed that they removed 310m$^3$ of cedar from the plot, however, OSINFOR only found evidence of stumps amounting to 12.53m$^3$. Thus, OSINFOR concluded that the “difference between the transported amount [of cedar] and the amount harvested in the field is 298.736 m$^3$, which demonstrates that no relationship exists between the amount extracted from the concession and the amount transported.” As a result, export permits exceeding 12.53m$^3$ (in total) for cedar extracted from this POA are invalid. Exports of cedar harvested in the 2008-2009 harvest year, the subject of the OSINFOR report, amount to approximately 223m$^3$. Of this, Maderera Bozovich SAC exported one shipment (GTF 266954), containing 30.663m$^3$ of cedar, to the United States in 2010. At least part of this shipment is likely to be illegally-sourced wood. These discrepancies amount to violations of both national laws and regulations relating to POAs, as well as CITES requirements for Peru to have valid export permits for Appendix III listed species. Therefore, the United States should ask that Peru audit Productores Forestales Atacuari SAC to ensure that they have complied with relevant laws.

2. 16-IQU/C-J-194-04

a) Producer: Forestal Mana SAC
b) Exporter: Ramiro Edwin Barrios Galvan
c) Location: Loreto
d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural N° 109-2003; CITES, Article V
e) Reason for Audit:

The supervisory report for this concession indicates that the inventories for multiple POAs are inaccurate, and that trees Forestal Mana SAC documented as being transported from the area were in fact sourced from outside the PCA. According to the report, OSINFOR could not find any of the cedar listed in POA 2 – they did not exist in the field, either as stumps or as standing trees – showing that the

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66 See OSINFOR Supervisory Report for Concession 16-IQU/C-J-207-04 (Forestales Atacuari), 195-2010-OSINFOR-DSCFFS.
67 Id. at 0012-0013.
68 Id.
69 Id.
70 Id.
71 See Appendices B and C.
72 Id.
inventory information provided for POA 2 was false. Nevertheless, records show that Forestal Mana SAC transported and sold cedar from POA 2, of which 40.65m$^3$ was exported to the United States. It is clear that this cedar was not from PCA 2, in other words it was illegally sourced. Forestal Mana SAC explained this by acknowledging that they mistakenly worked on POA 4 instead of POA 2, and provided OSINFOR with an alternate list of trees to verify for POA 4. However, of 18 cedar trees listed in POA 4, only 3 were found in PCA 4, 10 were found in areas belonging to POAs 10-15, and 5 did not exist. This demonstrates that the inventory for POA 4 (and potentially others) is also inaccurate, and that the cedar being exported is most likely illegally sourced, which violates both national laws and regulations relating to POAs, as well as CITES requirements for Peru to have valid export permits for Appendix III listed species. The United States should request that Peru audit Forestal Mana SAC to ensure their compliance with relevant laws.

3. 16-IQU/C-J-044-04

- a) Producer: Hugo Sanchez Zegarra
- b) Exporter: Inversiones WCA E.I.R.L.
- c) Location: Loreto
- d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural Nº 109-2003; CITES, Article V
- e) Reason for Audit:

OSINFOR’s supervisory report for this concession (008-2010-OSINFOR-DSCFFS) demonstrates that the cedar Hugo Sanchez Zegarra reported as being extracted from the area was in fact extracted outside the PCA, making it illegally-sourced cedar. According to the report, Hugo Sanchez Zegarra documents removing 423.894m$^3$ of cedar from PCA 3 (99% of the approved amount in POA 3). However, when OSINFOR attempted to verify a sampling supposed to contain 29 cedar trees in POA 3 (2007-2008), they found that none of the trees exist in the field. This means that, at the very least, a volume equivalent to 29 cedar trees was illegally sourced. Export information shows that two shipments totaling 203m$^3$ of cedar entered the United States from this POA. Based on the supervisory report, this is most likely illegally sourced.

More generally, OSINFOR found very little evidence of forest extraction activities corresponding to POA 3, even though large quantities of cedar, cumala, and lupuna were documented as extracted from that POA. In fact, the concessionaire's representative for this concession, José Alberto Bellodas

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74 See Appendices B and C.
75 OSINFOR Report for Forestal Mana, supra note 72, at 00457-00461.
76 Id.
77 OSINFOR Supervisory Report for Concession 16-IQU/C-J-044-04 (Hugo Sanchez Zegarra), 008-2010-OSINFOR-DSCFFS, 07-011 [hereinafter OSINFOR Report for Hugo Sanchez].
78 Id.
79 See Appendices B and C.
80 OSINFOR Report for Hugo Sanchez, supra note 76, at 07-011.
Irrasábal, supra note 81, had confessed in relation to two other concessions which he represented (see below) that all the POAs were false and that no legal harvests occurred in any concessions before POA 4. He also noted that “this is standard in Loreto[,]” and that the “the entity [Forest Authority] charged with approving POAs is aware of this[,]” which highlights the severity of the systemic problems in Peru. These practices violate laws pertaining to forest concessions and cedar exports. Thus, the United States should request that Peru audit Hugo Sanchez Zegarra to ensure their compliance with relevant laws.

4. 16-IQU/C-J-047-04

a) Producer: Jaime Perez Garcia
b) Exporter: Transforestal CCC SAC
c) Location: Loreto
d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural Nº 109-2003; CITES, Article V
e) Reason for Audit:

The facts in this case are very similar to concession 16-IQU/C-J-044-04. OSINFOR’s supervisory report indicates that POA 3 is inaccurate, that no cedar exists in the field, and that Jaime Perez Garcia cannot demonstrate that the $303m^3$ of cedar removed from POA 3 (as is documented) is legal. Furthermore, José Alberto Bellodas Irrasábal, who also represents Hugo Sanchez Zegarra, confessed that the POA 3 of Garcia’s concession is false. According to export information, 11 shipments totaling $194m^3$ of cedar entered the United States from this POA. As before, this is more than likely illegally-sourced cedar.

Bellodas also stated that no concessionaire in Loreto worked on POAs 1, 2, or 3, that they simply started working on POA 4. However, at least with regard to this concession, the Balance of Extraction shows that Garcia has been moving hundreds of cubic meters of cedar, which is far more than is allowed in POA 3. These are significant systemic problems, and the United States should request that Peru audit Jaime Perez Garcia to examine their compliance with relevant laws.

5. 16-IQU/C-J-022-04

a) Producer: Hector Murayari Macaya
b) Exporter: Comercial Jr Molina SAC
c) Location: Loreto

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81 Bellodas also represents Jaime Perez Garcia, who owns concession 16-IQU/C-J-047-04, and confessed the same of that concession. Id.; see also OSINFOR Supervisory Report for 16-IQU/C-J-047-04 (Jaime Perez Garcia), 314-2010-OSINFOR-DSCFFS, 0024 [hereinafter OSINFOR Report for Jaime Garcia].
82 OSINFOR Report for Hugo Sanchez, supra note 76, at 07-011.
83 Id.; OSINFOR Report for Jaime Garcia, supra note 80, at 0024.
84 OSINFOR Report for Jaime Garcia, supra note 80, at 0024-0039.
85 Id.
86 See Appendices B and C.
87 OSINFOR Report for Jaime Garcia, supra note 80, at 0024-0039.
88 Id.
d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural Nº 109-2003; CITES, Article V

e) Reason for Audit:

The supervisory report for this concession contains evidence that the information contained in POA 3 (2007) does not correspond to what was found in the field. OSINFOR attempted to verify a sampling of 85 cedar trees and found none in the relevant area; there were no stumps, no harvestable trees, no seed trees, and no signs of harvest activities of any kind in the area. This means that the inventory provided is inaccurate. And, despite this significant discrepancy, records show that Hector Murayari Macaya transported nearly 200m\(^3\) of the 220 m\(^3\) of cedar approved for this POA. Thus, any shipments of cedar from this POA are almost certainly illegally sourced. Export information shows that at least two shipments totaling 18m\(^3\) of cedar from this POA entered the United States. Due to the illegalities in this case, the United States should request that Peru audit Hector Murayari Macaya to ensure they are in compliance with relevant national and international laws.

6. 17-TAH/C-J-038-02

a) Producer: Agro Industrial Victoria SAC
b) Exporter: Maderera Bozovich SAC
c) Location: Madre de Dios
d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural Nº 109-2003; CITES, Article IV
e) Reason for Audit:

OSINFOR’s supervisory report for this concession indicates that the producer, Agro Industrial Victoria SAC is removing species other than those listed in the POA. Additionally, OSINFOR’s treatment of mahogany in the 2007-2008 POA raised questions. According to OSINFOR practices, a valuable species such as mahogany required to be included in the sampling for OSINFOR to supervise. But despite the harvest balance for mahogany showing that 99% of the mahogany, 21 trees, was harvested, OSINFOR did not include any harvestable mahogany trees in the sampling list for its supervision. It is unclear why this occurred. Export information shows that at least four shipments of mahogany harvested in the same year as the 2007-2008 POA entered the United States, amounting to 62m\(^3\). Total shipments of mahogany from that POA, including to the United States, amounted to

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90 This should have been discovered during the approval process for the POA, but it was not,
92 See Appendices B and C.
94 OSINFOR’s Manual for the Supervision of Forest Concessions apparently establishes that, if there are any CITES species trees, a special sample of at least five trees of these species should be created for the supervision.
95 OSINFOR Report for Agro Industrial Victoria, supra note 95, at 0014.
96 See Appendices B and C.
approximately 92m$^3$. The United States should request that Peru audit Agro Industrial Victoria SAC to ensure their compliance with relevant laws.

7. **16-IQU/C-J-090-04**

   a) Producer: Forestal Valera SAC  
   b) Exporter: Maderera Bozovich SAC, Maderera Vulcano SAC  
   c) Location: Loreto  
   d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural Nº 109-2003; CITES, Article V  
   e) Reason for Audit:

   OSINFOR’s supervisory report found that the information in POA 4 (2008-2009) was false and that the cedar documented as being removed from the PCA did not exist in the field, thus illegally sourced. Although the Balance of Extraction showed that 99% of the 831m$^3$ of cedar was extracted, OSINFOR found no evidence of harvesting in the relevant PCA. And during the inspection, the producer’s representative confessed that the POA was falsified, that it was “made up at an office without any prior fieldwork,” and that “when they went into the field later, they only found one cedar tree.” Therefore, any cedar exported from POA 4 is illegally sourced. Export information shows that nearly 161m$^3$ of cedar was exported to the United States from the matching harvest year (2008-2009). Thus, the United States should request that Peru audit Forestal Valera SAC to ensure their compliance with relevant laws.

8. **17-TAM/C-J-022-03**

   a) Producer: Maderera Kalinowski  
   b) Exporter:  
   c) Location: Madre Dios  
   d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural Nº 109-2003; CITES, Article V  
   e) Reason for Audit

   OSINFOR’s supervisory report for this concession indicates that more cedar was reported to be extracted and transported from the concession than actually harvested in the field, thus partly illegally sourced. The supervisory report implicated a number of POAs, from 2005-2009. With respect to POA 3 (2005-2009), the report states that the concessionaire, Maderera Kalinowski, could not have removed 115m$^3$ of cedar from the concession. OSINFOR only found evidence of tree stumps representing 59% of the trees that were listed for removal, an amount that could not have resulted in 115m$^3$ of cedar. To

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$^97$ Id.  
$^98$ OSINFOR Supervisory Report for Concession 16-IQU/C-J-090-04 (Forestal Valera SAC), 225-2010-OSINFOR-DSCFFS, 0001 – 0061.  
$^99$ Id.  
$^{100}$ Id. at 012, 030.  
$^{101}$ See Appendices B and C.  
$^{102}$ OSINFOR Report for Kalinowski, supra note 60, at 006-0069.  
$^{103}$ Id.  
$^{104}$ Id.
account for this gap, Kalinowski provided OSINFOR with a list of 27 cedar trees missing from the former list.\textsuperscript{105} However, when OSINFOR attempted to verify that Kalinowski had harvested these trees, they only found 11 tree stumps, which still did not add up to the volume of cedar reportedly moved.\textsuperscript{106} Furthermore, five trees were still standing, one fell naturally, and 10 did not exist.\textsuperscript{107} This demonstrates not only that some of the cedar was illegally sourced, but that Kalinowski provided false information to OSINFOR regarding cedar in that POA. The supervisory report also indicates problems in other POAs. Export information shows that at least one shipment of cedar from the 2006 POA entered the United States from this concession.\textsuperscript{108} However, there are a number of exports where POA or harvest year information is not available, so there could be more shipments from these POA years than EIA is able to ascertain. Peru should audit Maderera Kalinowski to ensure that their compliance with relevant laws.

9. 16-IQU/C-J-098-04

a) Producer: Forestal San Juan Bosco
b) Exporter: Maderera Bozovich SAC
c) Location: Loreto
d) Relevant law at issue: Law No. 27308, Forestry Law; Resolution Jefatural N° 109-2003; CITES, Article V
e) Reason for Audit

OSINFOR’s supervisory report found discrepancies in the volume of cedar in the field and the volume of cedar transported from the 2008 POA, indicating that some of the cedar was illegally sourced.\textsuperscript{109} In this case, OSINFOR conducted an inspection at the request of the producer, Forestal San Juan Bosco SAC.\textsuperscript{110} When OSINFOR investigated POA 4 of the concession, it found that 82 cedar trees georeferenced in POA 4 did not exist.\textsuperscript{111} Additionally, although a volume equivalent to 190 cedar trees was documented as harvested, OSINFOR only found 11 cedar stumps in the PCA.\textsuperscript{112} Nevertheless, export information shows that significant quantities of cedar from this POA (as documented) have been exported; a total of 290m$^3$, of which 155m$^3$ entered the United States.\textsuperscript{113} Peru should audit Forestal San Juan Bosco SAC (Producer) and Maderera Bozovich SAC (Exporter) to ensure their compliance with relevant laws.

For the reasons explained above, USTR should request that Peru audit the producers associated with these concessions to ensure that they complied with relevant laws.

B. Category 2: Identified Illegal Activity Matches Concession Linked to Export Shipments

EIA asks USTR to request that Peru audit the producers of the 20 concessions with recent illegal activity, due to the egregious and systemic illegalities identified in the respective OSINFOR supervisory

\textsuperscript{105} Id.
\textsuperscript{106} Id.
\textsuperscript{107} Id.
\textsuperscript{108} See Appendices B and C.
\textsuperscript{109} OSINFOR Supervisory Report for Concession 16-IQU/C-J-098-04 (Forestal San Juan Bosco), 087-2010-OSINFOR-DSCFFS, 008-071.
\textsuperscript{110} Id.
\textsuperscript{111} Id.
\textsuperscript{112} Id.
\textsuperscript{113} See Appendices B and C.
reports. The severe and systemic nature of the infractions identified in the supervisory reports point to a high likelihood of potential illegalities in previous POA years, for which there are no supervisory reports, and EIA is concerned that similar infractions may have occurred in previous and subsequent years. Export data available to EIA shows that for all these concessions there were exports of cedar and mahogany to the United States from previous harvest years. As explained above, it is possible that some of those shipments contained illegally-sourced timber. Furthermore, because available export data for 2010, 2011, and 2012 is incomplete, more information is needed to determine whether cedar or mahogany from the POAs subject to supervision has entered the United States. For these reasons, Peru should audit the producers of the concessions identified below.


In order to demonstrate that an audit is warranted, EIA includes one example of problem concessions in this category. Generally, the illegalities are similar to those described above, though the specific illegalities vary from concession to concession.

The OSINFOR supervisory report for concession 16-IQU/C-J-072-04 demonstrates that the inventory for the 2009-2010 POA contained inaccuracies and that the cedar Jose Zumaeta Ramirez reported as removed did not all come from the corresponding PCA. In attempting to verify a sampling of 52 trees, OSINFOR found that 39 trees were still standing and 13 did not exist. 15 of the 39 standing trees and 10 of the 13 trees not found on site were cedar. The harvest balance for 2009-2010 shows that all cedar approved for removal in the 2009-2010 POA, amounting to 163m$^3$, was harvested. However, if 15 cedar trees are still standing and 10 of the “approved” trees were not found in the field, it is unclear how the total amount in the POA could be harvested. These facts point to the conclusion that at least some of the cedar transported under this POA was illegally sourced. According to export information, Maderera Bozovich SAC exported 19 shipments totaling 153m$^3$ of cedar from the three preceding POAs (prior to 2009-2010). Available export data for 2010 and 2011 is not complete, thus EIA cannot ascertain whether there are recent shipments from this concession, specifically from the 2009-2010 harvest. Given the identified illegalities and the pattern of frequent exports to the United States, USTR should request that Peru audit Jose Zumaeta Ramirez to ensure they comply with relevant laws.

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114 The * indicates a temporarily suspended concession.
115 OSINFOR Supervisory report for Concession 16-IQU/C-J-072-04 (Jose Zumaeta Ramirez) 286-2010-OSINFOR-DSCFFS, 0004-0017.
116 Id.
117 Id.
118 See Appendices B and C.
The illegalities in these examples and the remaining concessions identified above are serious and systemic. Due to these systemic illegalities, there is reason to believe that export shipments from these concessions, even those prior to the supervised POA, may contain illegally-sourced timber. Further investigation is needed to ascertain whether shipments from the recent POA under supervision have entered the United States, but it cannot be ruled out at this stage. For these reasons, and because there is a strong export history in most cases, USTR should request that Peru audit the producers to ensure that they comply with relevant laws.

II. Requests for Verification

EIA asks USTR to request, under section 7 of the Forestry Annex, that Peru verify all timber exports from Maderera Bozovich SAC (Bozovich) and Maderera Vulcano SAC (Vulcano) because they have a history of exporting timber to the United States from concessions with illegal activity, including ones that were recently temporarily suspended. While the 29 concessions identified in this request represent known sources of illegally sourced timber, EIA's analysis was necessarily limited to the information provided by Peruvian authorities, which did not include all concessions or any data from 2011. Within the limited data set analyzed by EIA, 46% of Bozovich’s shipments and 31% of Vulcano’s shipments contained wood associated with problem concessions. Given the preponderance of evidence pointing to regular and ongoing exports of laundered wood, verification of future shipments from Bozovich and Vulcano is necessary.

Peru should verify that these exporters are in compliance with relevant laws to ensure that shipments with illegally-sourced timber do not enter the United States. Additionally, of the 29 concessions highlighted in this request, EIA asks USTR to request that Peru verify any shipments coming from temporarily suspended concessions, including from other exporters as identified below. In doing so, for the reasons explained above, verification proceedings should not be limited to mahogany or cedar. If verification shows that there is illegally-sourced timber in a shipment, EIA requests that, pursuant to section 13(a)(i) of the Forestry Annex, the United States deny entry of that shipment. If there is evidence that Bozovich, Vulcano or another relevant exporter knowingly provided false information on any shipment, EIA requests that, under section 13(a)(ii) of the Forestry Annex, the United States deny entry of all shipments of CITES-listed species. As a precautionary measure, the United States should hold all shipments from Bozovich and Vulcano, as well as shipments from temporarily suspended concessions (including from other exporters), until verifications are complete.

Procedural Requirements: Verify exports from Maderera Bozovich SAC and Maderera Vulcano SAC. For verification of suspended concessions, the relevant exporters are identified below. Relevant laws include: Law No. 27308, Forestry Law; Resolution Jefatural N° 109-2003; and CITES, Article V.

Bozovich is the biggest wood products company in Peru. According to its webpage, Bozovich has “its own companies located in Peru, Mexico, the US, and Bolivia; and branch offices for buying and selling products in China and Taiwan and for distribution in Puerto Rico and the Dominican Republic.” Vulcano is Peru’s second biggest exporter. As evidenced by the information in Appendix B, both

119 Note that suspension information is relevant as of February 8, 2012.
120 This includes verifying shipments from temporarily suspended concessions as identified in this section.
121 http://www.bozovich.com/quienes-somos.php
Bozovich and Vulcano have exported large volumes of cedar and mahogany to the United States from concessions with illegal activity. (They also export large volumes of non-CITES species about which no concession origin information is available.) The nature of these illegalities is generally described above; specific information is found in Appendix B and relevant OSINFOR supervisory reports. It is also clear that of the implicated exporters, they are associated with the highest number of concessions with documented illegalities; combined, Bozovich and Vulcano are associated with 25 the 29 concessions highlighted in this request.  

_Maderera Bozovich SAC_

USTR should request that Peru verify all timber exports from Bozovich. Bozovich exported timber to the United States from 20 of the 29 concessions highlighted in this complaint, including five Category 1 concessions and 15 Category 2 concessions. Based on export information relating to those Category 1 concessions, Bozovich in all likelihood has already exported illegally-sourced timber to the United States. The remaining 15 concessions are those from Category 2 (identified illegal activity in a recent POA), which means that recent exports could contain timber from those concessions. Indeed, more information on 2010, 2011, and 2012 exports is needed to ascertain whether Bozovich exported shipments from the same POAs that were subject to OSINFOR supervision.

EIA has done its own verification of one of the concessions from which Bozovich exported timber. According to CITES export data, Bozovich exported 53 m$^3$ from POA 3 of concession 16-REQ/C-J-039-04, OPEXA E.I.R.L., and another 27 m$^3$ from POA4 of the same concession. OSINFOR conducted a supervision of OPEXA’s POA5 in 2010, and found significant irregularities. From a sample of 76 trees, OSINFOR was only able to locate 41 of them: 46.05% of the sample simply did not exist, including 67% of the cedar trees. The concessionaire, Francesco Mantuano, authorized EIA to conduct a first-hand inspection of POA3 and POA4, the supposed source of the majority of U.S.-bound shipments, to determine how systemic this fraud was. Using the original POA data provided by the willing concessionaire, EIA’s field investigation found no evidence of any logging in either POA, nor of the existence of any cedar trees in the sample chosen within POA 3, despite the fact that 322.030 m$^3$ of cedar were supposedly logged and transported from this POA. These facts point to the conclusion that the cedar transported under this POA was illegally sourced. In this unique case, the concessionaire himself (a foreign national) terminated all commercial activity associated with the concession in 2010 upon learning about the laundering system his business partners were operating.

Additionally, of the 20 concessions in this request that Bozovich exports from, 12 are under temporary suspensions as indicated in Appendix B. They are: 16-IQU/C-J-047-04; 16-IQU/C-J-207-04; 16-IQU/C-J-090-04; 16-IQU/C-J-098-04; 17-TAM/C-J-022-03; 16-IQU/C-J-192-04; 25-ATA/C-J-046-03; 16-IQU/C-J-225-04; 16-IQU/C-J-226-04; 16-IQU/C-J-046-04; 16-IQU/C-J-228-04; and 16-IQU/C-J-

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122 See Appendix B. This includes exports to other countries as well.
123 Note that in Appendix C Bozovich is not listed for concession 16-IQU/C-J-047-04 because there were no shipments with matching harvest years, but overall Bozovich has exported timber from this concession.
124 See Appendix B.
125 OSINFOR Supervisory Report for Concession 16-REQ/C-J-039-04 (Opexa EIRL), 089-2010-OSINFOR-DSCFFS.
126 Id.
OSINFOR suspended these concessions as part of its enforcement mechanism because there was evidence of illegal activity. Generally, the supervisory reports revealed that the volume of timber documented as harvested for a given POA was greater than the timber actually harvested in the corresponding PCA, meaning that the difference was illegally sourced. There were also illegalities relating to inaccurate inventories. Indeed, in one case described above, OSINFOR found pieces of logs planted to look like stumps. As a result of such illegalities, OSINFOR took precautionary measures to suspend the concessions. However, due to the uncertain nature of the suspensions, EIA is concerned that shipments from these concessions may still be entering the United States.

Given the systemic nature of the illegalities and the fact that Bozovich exports to the United States from so many highlighted concessions, USTR should request that Peru verify all shipments from Bozovich.

Maderera Vulcano SAC

USTR should request that Peru verify all timber exports from Vulcano. Vulcano exported timber from six of the concessions highlighted in this request; one from Category 1 and six from Category 2. As discussed above, the severity and systemic nature of the illegalities in these concessions could mean that Vulcano’s exports from previous years were illegally sourced. Similar to Bozovich, more information is needed to ascertain if Vulcano more recently exported shipments from the same POAs subject to OSINFOR supervision. Furthermore, with respect to the temporarily suspended concessions, Vulcano is associated with 16-IQU/C-J-044-04, 16-IQU/C-J-098-04, 16-IQU/C-J-090-04, 16-IQU/C-J-228-04, 17-TAM/C-J-024-03, and 25-PUC/C-J-004-03. For the similar reasons as those described above regarding Bozovich, USTR should request that Peru verify all shipments from Vulcano.

Other Exporters Associated with Suspended Concessions

Peru should also verify any shipments from temporarily suspended concessions (of the 29 highlighted in this request) involving other exporters. Of the 29 highlighted concessions, 19 have temporary suspensions. They are: 16-IQU/C-J-207-04; 16-IQU/C-J-194-04; 16-IQU/C-J-044-04; 16-IQU/C-J-047-04; 16-IQU/C-J-022-04; 16-IQU/C-J-090-04; 17-TAM/C-J-022-03; 16-IQU/C-J-098-04; 16-REQ/C-J-021-04; 16-IQU/C-J-192-04; 25-PUC/C-J-030-03; 25-PUC/C-J-004-03; 25-ATA/C-J-046-03; 17-TAM/C-J-024-03; 16-IQU/C-J-225-04; 16-IQU/C-J-226-04; 16-IQU/C-J-046-04; 16-IQU/C-J-228-04; and 16-IQU/C-J-007-04. The table below shows other exporters who export from these concessions and have exported timber to the United States. Because there is an export history for the associated exporters, EIA is concerned that shipments from these concessions may still be entering the United States. However, due to data constraints, these are the only “other” exporters EIA was able to identify, and there may be more exporters associated with these concessions that have an export history in connection with the United States. Thus Peru should verify all exports from these concessions, and, as requested above, the United States should hold the shipments until verification is complete.

Other Exporters Associated with Temporarily Suspended Concessions

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127 See supra section IV and Appendix B.
128 This table is derived from Appendix B.
The infractions discovered by OSINFOR, pertaining to all concessions referred to in this request, violate both national laws and regulations relating to forest management, as well as relevant requirements for CITES-listed species. Although EIA only has export information for cedar and mahogany exports, it is likely that Bozovich and Vulcano export other species to the United States as well. Verification would prevent Bozovich and Vulcano from exporting or continuing to export illegally-sourced timber. Thus, as described above, to ensure current compliance with laws, regulations, and other measures, USTR should request verification of all shipments of timber exported by Bozovich and Vulcano. Additionally USTR should request verification of all shipments from temporarily suspended concessions identified in this request.

VI. Conclusion

The information that forms the basis of this petition is official Peruvian government data, much of which has been generated by OSINFOR in the wake of this agency’s reorganization and strengthening due to provisions within the US-Peru TPA Annex on Forest Governance. It is important that OSINFOR’s information be made available to the public and to potential buyers in order to promote legal trade in the future.

EIA is necessarily limited by the information available, which in this case includes the following:

- Incomplete summary information from OSINFOR may have led to exclusion of additional concessions with serious illegal activity
- Not all concessions receive supervisory visits from OSINFOR, so there are likely to be other concessions whose documents are used to export to the US, with equally serious illegal activity that has not been documented
• Only CITES species require documentation that enables tracing of shipments from supposed source concession to final destination, thus illegality associated with non-CITES species cannot be detected by document analysis

• The data here has excluded permits linked to private property owners or indigenous communities due to the lack of available information or resources

Within these limitations, EIA believes that the information presented here demonstrate the still-widespread nature of illegal activity in Peru’s forest sector. While the US-Peru TPA provides the tools to make this request possible, much more work is needed to improve the situation on the ground. It is our hope that the verification and audit actions requested here will contribute to the ongoing reform efforts currently being undertaken by Peru.