

# MOMENT OF TRUTH

PROMISE OR PERIL FOR THE AMAZON

AS PERU CONFRONTS ITS ILLEGAL TIMBER TRADE





# CONTENTS

EXECUTIVE SUMMARY		3	5.c.	Weakening institutions and laws	44
1.	LAWS AND LAUNDERING: WHY DOCUMENTS ARE NOT ENOUGH	8	5.c.i.	Rendering Legislative Decree 1220 toothless	44
1.a.	The legal and institutional framework	8	5.c.ii.	Attempts to weaken Osinfor	44
1.b.	How timber extraction happens on paper	8	5.c.iii.	Re-locating the High Commissioner against Illegal Logging	46
	Box 1: A Guide to GTFs	9	5.c.iv.	Serfor stops collecting point of harvest information	46
1.c.	How timber laundering happens in practice	10	5.c.v.	Serfor modifies GTF formats	46
	Box 2: Overview of Osinfor's mandate and function	11	6.	TRACEABILITY...OR WITHOUT A TRACE?	47
1.d.	The legal context of illegal timber exports	12	6.a.	Laws and markets agree: documented verification of legal origin is necessary	48
1.e.	Social and environmental impacts	12		Box 10: Peru hosts an international seminar on traceability	48
2.	EXPOSING AN OPEN SECRET, 2012: FACTS AND REACTIONS	14	6.b.	Time for a DAM change: The fight over export paperwork	49
2.a.	The Laundering Machine methodology: transparency and its limits	14	6.c.	The new position: "We've never known where our wood comes from"	50
2.b.	Official responses, 2012-14	15		Box 11: Primary and secondary transformation: what's what?	51
2.b.i.	Responses in the United States	15	6.d.	And what about the SNIFFS?	51
2.b.ii.	Responses in Peru	15		Box 12: FSC: No guarantee for legality	52
2.b.iii.	Attempts to assist Peru's industry	16	6.e.	From officially laundered to really clean: it's possible	53
	Box 3: A Death Foretold: The Murder of Edwin Chota and colleagues	17		Box 13: An exporter "comes clean" about its GTFs	53
3.	ENFORCEMENT IS POSSIBLE: OPERATION AMAZONAS 2014	18	7.	ALL PORTS AND ALL DESTINATIONS: CALLAO DATA	54
3.a.	New agencies get involved	18	7.a.	Key findings from Callao 2015 data analysis	55
3.b.	Operation Amazonas 2014	18	7.b.	The (high) risk of not knowing	56
	Box 4: Brief overview of timber export documents	19	7.b.i.	by country of destination	56
4.	THE YACU KALLPA AND OPERATION AMAZONAS 2015	21	7.b.ii.	By exporter	58
4.a.	The Yacu vessels: Selling Peru's forests down the river	21	7.b.iii.	destination: United States	59
4.b.	Shifting sources to avoid scrutiny	23	7.b.iv.	Inversiones La Oroza and other exporters involved in the Yacu Kallpa illegal trade	59
	Box 5: New laundering opportunities: Local forests, plantations, and land-use change	25	7.b.v.	The Peru-Mexico trade	59
4.c.	Key 2015 shipments	24	7.c.	The minimal Callao 2016 data	59
4.c.i.	YK-1, January 2015: a U.S. trade investigation	24	7.d.	What to make of these findings?	63
4.c.ii.	YK-2, March 2015: International headlines over "Peru's Rotten Wood"	26	8	CONCLUSIONS: MOMENT OF TRUTH	65
4.c.iii.	YK-4, August 2015: A seizure in Houston	31	9	RECOMMENDATIONS	67
	Box 6: excerpts from the Global Plywood & Lumber Search Warrant	32		TERMS USED FREQUENTLY IN THIS REPORT	70
	Box 7: New tools: Legislative Decrees 1220 and 1237	33			
4.c.iv.	YK-5, December 2015: Bankruptcy in Tampico	34			
	Box 8: The need for Mexican legislation to prevent illegal timber trade	38			
4.c.v.	Strikes, coffins and Molotovs	39			
4.d.	Meanwhile, from the Pacific port: Popp Forest Products	39			
	Box 9: Using organized crime statutes to fight timber mafias	40			
5.	SHOOTING THE MESSENGER, ACTIVATING THE SPIN CYCLE	41			
5.a.	Firing Osinfor's President, bullying FEMA	41			
5.b.	A "paper based" approach: Peruvian officials defend illegal exports to the U.S.	42			

Please see [www.eia-global.org/momentoftruth](http://www.eia-global.org/momentoftruth) for the digital version of this report, including links to source documents and supplementary resources.

Cover photo:  
Manantay port, Pucallpa, Ucayali region, where logs stream in from across the central Amazon. © EIA

Please see [www.eia-global.org/momentoftruth](http://www.eia-global.org/momentoftruth) for the digital version of this report, including links to source documents and supplementary resources.

Cover photo:  
Manantay port, Pucallpa, Ucayali region, where logs stream in from across the central Amazon. © EIA

# LIST OF TABLES AND FIGURES

Figure 1	OLD AND NEW GTF FORMATS	9
Figure 2	OSINFOR'S LETTER TO ADEX IN 2014	16
Figure 3	INSTITUTIONAL CONFIGURATION FOR OPERATION AMAZONAS 2014 AND 2015	19
Figure 4	WHERE FROM, WHERE TO AND HOW MUCH? ILLEGAL TIMBER IN THREE YACU KALLPA 2015 SHIPMENTS	22
Figure 5	THE SHIFT IN LAUNDERING SOURCES OVER 2015	24
Figure 6	ACTION AND REACTION: A TIMELINE OF EVENTS (2007-2017)	28
Figure 7	THE FINAL VOYAGE OF THE YACU KALLPA	35
Figure 8	A SHIFT IN TARIFF CODE USAGE	50
Figure 9	CALLAO 2015 DATA: SUPERVISION STATUS FOR 347 POINTS OF HARVEST	55
Figure 10	RED AND GREEN LIST TIMBER EXPORTS BY SOURCE TYPE	56
Figure 11	RED AND GREEN LIST TIMBER EXPORTS BY DESTINATION COUNTRY	56
Figure 12	RECENT CHANGES IN ACTAS PORT INSPECTION PAPERWORK	63
Figure 13	VISUAL AIDE FOR UNDERSTANDING LOGGING CONTRACTS AND POAS	70
Table 1	KEY RESULTS FROM OPERATION AMAZONAS 2014	20
Table 2	SUMMARY OF THE YACU KALLPA'S 2015 SHIPMENTS OF ILLEGAL TIMBER	22
Table 3	TIMBER TRADE FROM IQUITOS, PERU TO HOUSTON, U.S.A., 2007-2015	23
Table 4	EXPORTERS AND IMPORTERS OF TIMBER ON YK-4 SHIPMENT ULTIMATELY DETAINED IN HOUSTON, SEPTEMBER 2015	31
Table 5	EXPORTERS OF THE YACU KALLPA'S ILLEGAL TIMBER, 2015	36
Table 6	U.S. IMPORTERS OF THE YACU KALLPA'S ILLEGAL TIMBER, 2015	36
Table 7	MEXICAN IMPORTERS OF THE YACU KALLPA'S ILLEGAL TIMBER, 2015	37
Table 8	CALLAO DATA 2015: EXPORTS FROM SUPERVISED POINTS OF HARVEST ON THE ILLEGAL LOGGING RED-LIST, BY SOURCE TYPE	56
Table 9	RISK CATEGORIES FOR POINT-OF-HARVEST PAPERS IN CALLAO 2015 DATA	57
Table 10	LOW, MID, AND HIGH RISK TIMBER EXPORTS: DESTINATION COUNTRIES	57
Table 11	CHOOSING PAPERS? EXPORTERS AND DESTINATIONS OF ILLEGAL AND HIGH-RISK TIMBER	58
Table 12-A	EXPORTERS OF LOW, MID, AND HIGH-RISK TIMBER TO THE U.S.	60
Table 12-B	IMPORTERS OF LOW, MID AND HIGH-RISK TIMBER TO THE U.S.	60
Table 13	INVERSIONES LA OROZA EXPORTS, CALLAO 2015 DATABASE	61
Table 14	INVERSIONES WCA EXPORTS, CALLAO 2015 DATABASE	61
Table 15	CORPORACIÓN INDUSTRIAL FORESTAL EXPORTS, CALLAO 2015 DATABASE	61
Table 16	EXPORTS TO MEXICO, CALLAO 2015 DATABASE	61
Table 17	IMPORTS TO MEXICO, CALLAO 2015 DATABASE	62
Table 18	SUMMARY OF 2016 ACTA PORT INSPECTION DATA COLLECTED	62

## Authors:

Julia Urrunaga

Andrea Johnson

I. Dhayneé Orbegoza Sánchez

## ACKNOWLEDGEMENTS

The document has been produced with the financial assistance of The Norwegian Agency for Development Cooperation, The Tilia Fund, Good Energies Foundation, Climate and Land Use Alliance, and Weeden Foundation. The contents of this publication are the sole responsibility of EIA and do not necessarily reflect the positions or views of the donors listed here.

January 2018. © Environmental Investigation Agency, Inc. 2018. All images © Environmental Investigation Agency, Inc unless otherwise noted. No part of this publication may be reproduced in any form or by any means without permission in writing from EIA.



# EXECUTIVE SUMMARY

For years, it has been widely known that the majority of timber traded inside Peru and exported to the rest of the world is logged illegally, laundered with documents that appear official but contain fraudulent information. Most of the timber industry and government authorities have looked the other way instead of tackling the root problems, with each company claiming that it buys “in good faith,” that its timber is legally compliant, and that it has the papers to prove it. Meanwhile, Peru’s forest and trade authorities have enshrined into law, policy and public statements their commitment to ensuring the legal origin of wood products from their point of harvest to export, while doing little to make such commitments real.

In the last few years, however, a subset of Peruvian governmental authorities has started working together in new ways to crack down on timber laundering. By sharing information and coordinating strategies, entities such as the customs authority (Sunat), the Agency for Supervision of Forest Resources and Wildlife (Osinfor), and the Environmental Prosecutor’s Office (FEMA) have demonstrated that once the political will is clear, illegally harvested timber stolen from the Amazon, camouflaged as legal and exported from Peru to the world, can be identified and stopped.

Actions to combat illegal logging and improve forest governance build upon decades of research, investigations, publications, and open discussions conducted by NGOs, indigenous organizations, academia, and other civil society institutions in and outside of Peru, including EIA’s own 2012 investigative report *The Laundering Machine*. The big game changer in recent years, though, has been this leadership by Sunat, Osinfor, and the Environmental Prosecutor’s Office.

EIA’s new report, *Moment of Truth*, describes important advances since 2012 in Peru’s fight against illegal logging, timber laundering, and its associated international trade – as well as the backlash against these new approaches. At a time when Peru has demonstrated that it has the institutional capacity to identify and take action against the trade of illegally logged timber, and international markets are increasingly demanding legal and traceable products, Peru is at a critical moment.

This report begins with background on Peru’s forest sector, illegal logging methodologies and their impacts (**Chapter 1**), and policy responses to EIA’s 2012 report exposing the problem (**Chapter 2**). The story then focuses on three pieces:

- (i) A multi-year enforcement effort called Operation Amazonas that in 2015 focused on timber exports carried by the shipping vessel Yacu Kallpa, the largest trade stream of timber from the northern Peruvian Amazon to the United States, Mexico and the Dominican Republic. Upon investigation, enforcement agencies discovered that an average of 91.3% – and as much as 96% – of the timber this ship carried was from illegal sources, leading to detentions and seizures in Peru, the Dominican Republic, Mexico, and the U.S.<sup>1</sup> **Chapters 3 and 4.**
- (ii) Protests, backlash and high-level pushback in response to these efforts to enforce the law and introduce greater transparency to the system. The timber industry, its primary regulatory authority (the National Forest and Wildlife Service, Serfor), and other government entities in Peru have denied or minimized the problem and attempted to weaken enforcement institutions. They have also reduced data collection and changed official requirements to make it almost impossible to trace timber and verify legal origin, in contravention of Peru’s own laws and commitments. **Chapters 5 and 6.**
- (iii) A new analysis of hundreds of pages of official documents that reveal systematic exports of illegal and high-risk timber from Peru’s main port of Callao during 2015, by dozens of companies and to 18 countries. It is impossible to replicate this analysis for 2016 or 2017, since the Peruvian forest authority has decided to stop compiling the necessary data. **Chapter 7.**

The evidence of persistent illegal logging, systemic corruption, laundering, and illegal timber in Peru’s exports is overwhelming. Human rights violations, long-term economic impacts, and damage to biodiversity and the global climate are all embedded in the forest sector’s current operating



model. At the same time, Peruvian institutions have shown that they have the tools to conduct effective enforcement and create more transparent procedures and systems with the potential to transform that model.

This is a moment of truth. Can Peru accept the reality revealed by enforcement actions like Operation Amazonas, and shut down the laundering machine that has characterized its sector for so long? Or will this enforcement, itself, turn out to be only a passing moment when the truth is exposed, before the forest sector reverts to its opaque and harmful status quo?

### The Power of Data and Collaboration

As this report describes in **Chapter 3**, the growing success of efforts to crack down on illegal timber trade has occurred mostly under the leadership of Sunat, in coordination with Osinfor and FEMA. During the first stages of *Operation Amazonas*, in 2014-15, Sunat focused on the Amazon River port of Iquitos, the capital of Loreto, a jungle region larger than Germany or Japan. The main shipping company dispatching cargo from Iquitos was the Naviera Yacu Puma, which until late 2015 sent its boat, the Yacu Kallpa, down the Amazon through Brazil, to Atlantic and Caribbean ports, ending in Houston, Texas. Between 2011 and 2015, approximately 25% of Peru's timber exports by volume were from Iquitos.<sup>2</sup>

**Chapter 4** describes in detail how the data analysis and international cooperation efforts of Sunat and the Environmental Prosecutor's office led authorities in Peru, the U.S., Mexico, and the Dominican Republic to detain or seize millions of dollars' worth of Yacu Kallpa timber cargo in 2015-16. Seventy-two shipping containers of wood – enough to fill three football fields<sup>3</sup> – were stopped in Houston in September 2015 and eventually destroyed, with criminal investigations opened against at least one U.S. importer.<sup>4</sup> Even larger amounts of wood sat in the Mexican port of Tampico from February 2016 until late that year when, according to an international journalism investigation, they were released to importers in contravention of formal procedures.<sup>5</sup> The shipping company declared bankruptcy in January 2016,<sup>6</sup> and since that time, no new timber shipments have left from Iquitos to the United States.

At the core of these Operations was a methodology based on three simple steps:

*Step 1: Collect the right data at point of export.* Sunat requests that exporters submit documentation indicating the point of harvest for their timber and wood products. The required papers (called GTFs) are necessary for transporting any wood product between harvesting site, sawmills or other processing facilities, and the port.

*Step 2: Cross-check the data with field verifications.* Sunat sends the point of harvest data to Osinfor, the authority in charge of verifying whether legal harvesting took place in authorized forest areas. Osinfor compares the data provided by exporters with its own field verifications.

*Step 3: Communicate with the country of destination.* If the field data from Osinfor indicates that the timber had been laundered through use of falsified logging plans and permits, and has already left the country, Sunat communicates with the customs authority in the destination country, especially if that country has a demand-side law, such as the U.S. Lacey Act, that makes it illegal to import or trade illegally-harvested wood products.



Field inspections done by Osinfor supervisors are crucial to verifying legal timber origin. © EIA

### Illegal timber from all ports, to all destinations

As it turns out, illegal timber was not only leaving Peru via the Yacu Kallpa. In **Chapter 7**, *Moment of Truth* presents analysis of a different dataset of shipments exported between January and December 2015 from Peru's main port, Callao, to countries around the world. This Callao 2015 dataset, which represents around 41% of Peru's wood product exports for the year in question, demonstrates that Peruvian exporters have been consistently selling illegally-sourced timber. This illegal trade is not a practice limited to one tree species, a few "bad apple" exporters or importers, nor specific countries of destination; it continues to be a systemic problem of governance and transparency in Peru's forest sector and timber trade.

The Callao 2015 data reveals that, for the shipments that Serfor selected for inspection in the port, only 16% of the points of harvest declared by exporters are verified legal. At least 17% of the supposed timber harvest sources are verified illegal, and the other 67% remain undefined. Almost 65% of the unverified timber, moreover, is mid- or high-risk by EIA's analysis. This illegal and unverified timber went to 18 countries. There are patterns in the data suggestive of deliberate efforts by exporters to use less transparent timber sources and to selectively seek either "green listed" or untraceable paperwork for importing countries with due diligence requirements.



91.3% of the timber inspected on the Yacu Kallpa in 2015 was found to be illegal. Millions of dollars' worth was seized or detained in four countries. © EIA

Given this complex and risky governance environment, EIA's analysis indicates that currently the only way to have real confidence in the timber coming from Peru is to be able to cross-reference point of harvest origin information with field verifications conducted by an independent entity such as Osinfor.

### New settings for the laundering machine

In April 2012, EIA released the investigative report *The Laundering Machine: How Fraud and Corruption in Peru's Concession System are Destroying the Future of its Forests*, which documented systemic illegal logging and the process by which timber is laundered in order to introduce it onto international markets. As described in **Chapter 2**, EIA's data analysis focused on all exports of two timber species to the U.S. between 2008 and 2010, and documented the illegal origin of at least 37% of those shipments.

*Moment of Truth* shows that little has changed in the illegal timber laundering methodology described back in 2012. The big difference is that for *The Laundering Machine* EIA was only able to access data related to the species listed under the Convention on International Trade in Endangered Species (CITES), Big-leaf mahogany (*Swietenia macrophylla*) and Spanish cedar (*Cedrela odorata*): the two most protected species in Peru, representing less than 1% of total exports at the time by value<sup>7</sup>, and still, illegality was rife. For the current report, however, EIA obtained access to data for all species being exported during 2015 out of Iquitos on the Yacu Kallpa (**Chapter 4**), and out of Callao on several different vessels (**Chapter 7**). While EIA also obtained official data for 2016 Callao exports, changes that the national forest authority has introduced for collection of the data make it impossible to conduct a similar analysis of legal origin of the products and their final destination.

The two 2015 datasets show that the percentages of illegality are far higher for non-CITES species: illegality among inspected timber on the Yacu Kallpa averaged over 91% per shipment and reached a stunning 96% for the vessel's final shipment, while the Callao data reveals that only 16% of the timber has a verified legal origin. Buyers of Peruvian wood should still beware.

Unfortunately, the data also indicates that the industry is adapting its tactics to evade increased transparency and enforcement: developing new settings for the laundering machine, as it were. For example, the volume of timber with papers from "local forests", a type of logging permit that historically had little to no oversight from either Serfor or Osinfor, increased from 25% to 67.5% of the volume on the Yacu Kallpa over the course of 2015 – and over 90% of it was illegal. Tree plantations also appear to be a growing source of papers for laundering. And since Osinfor began to inspect local forests more consistently in late 2015, EIA has been finding increasing evidence of timber being traded with land use change authorization permits, which still lack any meaningful supervision. This continued switching towards less transparent sources would appear to be a deliberate strategy.

### Unrelenting pushback from industry interests

Operation Amazonas 2014 and 2015, as well as the seizures and investigations in the U.S. and Mexico, sent shock waves through Peru's forest sector. These actions, like the destruction

of an unrelated shipment of illegal Peruvian timber that arrived to the U.S. in December 2015, and several major raids on illegal logging organized crime groups in Ucayali, are evidence that Peru has the right institutions with sufficient jurisdiction and just enough resources already in place to start having an impact.

But such progress has not gone unchallenged. This report also tells the story of the multiple ways in which a segment of the Peruvian timber industry, in conjunction with its regulatory authority Serfor, has fought to stop these enforcement actions, weaken enforcement institutions, and reverse regulations that are finally allowing for some success in fighting the illegal timber trade.

The tactics being used range from high-level political pressure to direct threats of violence against individuals. Some of the backlash documented in **Chapter 5**:

- Marches and protests rocked Loreto and Ucayali in late 2015, with loggers burning makeshift coffins draped with the names of enforcement agency leaders, and Molotov cocktails thrown into an Osinfor office;
- The President of Osinfor was arbitrarily fired before his term ended, under pressure from powerful industry and government actors, and fled the country in the face of threats to his life and family;
- The Ministers of Foreign Trade, Agriculture, and Production and the Director of Serfor met with Peru's head Prosecutor to pressure him to step back from the Yacu Kallpa case, arguing that his staff's work was treasonous;
- The Minister of Foreign Trade and the Director of Serfor sent letters to officials in the U.S. and Mexico to stymie investigations, contradicting factual findings by Osinfor, Sunat and FEMA;
- Companies and exporters have filed successful legal claims asking for their seized illegal wood to be returned, arguing they bought it "in good faith" from intermediaries.

And the government continues to deny the problem. In November 2017, the international non-profit organization Global Witness released a report called "Buyers in Good Faith" that showed undercover footage of representatives of three Peruvian timber exporting companies admitting knowledge about the illegal timber they trade, and blaming it on the corruption of the whole system.<sup>7a</sup> The Peruvian government's response thus far has been to state that Peru now has new legislation and the situation presented in Global Witness' report does not happen anymore.<sup>7b</sup> This response, it bears mentioning, is strikingly similar to the one that followed EIA's *The Laundering Machine* over five years ago. Sadly, the evidence presented in this report proves otherwise.

### Why reduce transparency and traceability now?

Perhaps most troubling of all for the long-term health of Peru's forest sector are attempts to destroy the existing tools for data collection and transparency. For example, as **Chapter 7** explains, during 2016 Serfor dramatically reduced the timber export inspections conducted in Callao port to document and verify points of harvest. It went from generating over 900 *Actas de Inspección* – the official document produced by an inspection – in 2015, to just 23 in 2016, and stopped collecting key pieces





Well-managed sawmill operations, including complete and accurate record-keeping in the official Operations book, are one of the key elements to guaranteeing timber traceability and legal timber origin. © Toby Smith / EIA

of data altogether, making the analyses done by Sunat for Operation Amazonas impossible to replicate. For 2017, EIA was officially informed, no *Actas de Inspección* were produced.

Most recently, in a startling turn-around after years of a nominal commitment to traceability, both the industry and Serfor itself have begun to argue on the record that this simply cannot be done. “It is impossible to conduct traceability from the product to be exported back to the timber contract [origin] or vice versa,” states a letter sent on March 2017 by the Association of Exporters (ADEX) and the National Society of Industries (SNI) to Sunat. **Chapter 6** describes these arguments in more detail.

These claims are inaccurate and worrisome for the future of an industry exporting to markets that nowadays require information on legal origin and chain of custody. They force the question of whether exporters have been reporting fraudulent information all these years to Serfor and Sunat. And they raise serious questions about the heavy investments in traceability programs touted by international donors like USAID and GIZ.

The U.S. government, according to official figures, has invested more than \$90 million dollars “in technical assistance and capacity building to support forest sector reforms and address enforcement challenges, including the development of a state-of-the-art electronic timber tracking system that, once implemented broadly, will help Peru better monitor the movement of logs from stump to ship and detect illegality.”<sup>8</sup> As of the end of 2017, this system is still not yet broadly operational.

The German government has also been supporting “supply chain traceability” and business development for companies including Bozovich Timber Products and Inversiones La Oroza.<sup>9</sup> Yet according to the data presented in **Chapter 7**, in 2015, at least 45% of Bozovich’s inspected timber sources found in SIGO were on Osinfor’s “red list” of high risk for illegal timber. La Oroza meanwhile was the largest exporter of illegal timber on the Yacu Kallpa by value and volume.<sup>10</sup> And these same companies are now arguing that it is technically impossible to trace their wood products back to the forest.

For Peru’s sector to change, real political will and private

sector leadership with a new vision will be needed. The industry needs to welcome transparency, traceability, and law enforcement as tools to build and maintain its credibility and market share, not threats against a comfortable but harmful status quo.

### Illegal logging: a crime beyond Peru’s borders

The countries that purchase Peruvian timber have a responsibility to support the transition to legal, traceable supply chains. Buyers of Peruvian timber should demand the data necessary to assure that their suppliers provide only verified legal wood products – both to avoid committing a crime under their own national laws, and to make sure that they are not accomplices to the human rights violations and corruption linked to illegal trade. American, European, Mexican, Dominican, Chinese and other buyers must stop accepting “good faith buyer” arguments. Countries such as Mexico and China that still do not have legislation to prevent trade in illegally-sourced wood products need to prioritize this reform.

A shocking new analysis found that, between 2003 and 2014, tropical forests turned from net sinks to net sources of carbon emissions – and that almost 70% of that biomass loss globally was not generated by clearcutting for agriculture but rather by forest degradation, one of whose principal causes is selective logging.<sup>11</sup> In a world imminently threatened by global climate change, it is everyone’s responsibility to ensure that trade and consumption are supporting policies that keep forests standing and healthy.

Recently, the U.S. has begun to take serious action to reduce imports of illegal Peruvian timber, including detaining shipments until they can provide sufficient documentation and, most recently, prohibiting for three years any imports from one of Peru’s main exporters of verified illegal timber, Inversiones La Oroza. These measures send a strong and important message. Other consumer countries should follow suit.

While *Moment of Truth* focuses on export trade streams, the domestic market cannot be ignored. However, data to do any analysis on domestic trade is entirely lacking. It is therefore key that the Peruvian domestic market also starts demanding documentation of legal origin, as is actually established by Peruvian law but not being implemented. The Peruvian State itself, one of the most important domestic buyers for construction and infrastructure projects, must not delay implementation of such measures for its own purchases. If the Peruvian government would start demanding only timber with a verified legal origin, this would send a very important message to the illegal timber industry.

The evidence provided in this report makes a compelling case for the necessity of gathering timber traceability data and making it publicly available if Peru wants to demonstrate that it is serious about effective law enforcement to tackle illegal timber trade and associated corruption. In this moment, Peru has an opportunity to build upon the reform and enforcement processes it has begun to create more transparent and functional systems, with long-term benefits for the timber industry, the forests, and the people who depend upon them.





Poor forest governance, corruption, and unethical trade put the world's lungs at risk. © Toby Smith / EIA

## ENDNOTES EXECUTIVE SUMMARY

- 1 The database used in EIA's analysis was built from Osinfor's results from Operation Amazonas 2015, Sunat export data, public statements, and confidential sources with access to official documents in Peru and the U.S. (hereinafter, "Yacu Kallpa 2015 database").
- 2 Sunat data as of August 2017.
- 3 Olsen, L. (2015, 6 December). US Customs in Houston Blocks Import of Amazon Rainforest Timber. Houston Chronicle. <http://www.houstonchronicle.com/news/houston-texas/houston/article/U-S-Customs-in-Houston-blocks-import-of-Amazon-6680252.php>
- 4 Bajak, F. (18 April 2017). AP Investigation shows Peru backsliding on illegal logging. Associated Press. <https://www.apnews.com/8f4d73bdc605446c9c64bc2aedd7aa31>
- 5 Hernandez, Priscila; Luna, Nelly. Ojo Público – Connectas – W Radio. From South to North: the Amazon timber trafficking trail. October 30, 2017. <https://ojo-publico.com/especiales/madera-ilegal/from-south-to-north-the-amazon-timber-trafficking-trail/> ; Transnational lobbies and weak regulations. October 30, 2017. <https://ojo-publico.com/especiales/madera-ilegal/transnational-lobbies-and-weak-regulations/> ; The Odyssey of the Yacu Kallpa. October 30, 2017. <https://ojo-publico.com/especiales/madera-ilegal/the-odyssey-of-the-yacu-kallpa/> ; Fiscalía Ambiental: "Vamos a denunciar a todos los que resulten responsables por devolver la madera". <https://ojo-publico.com/525/mexico-no-tenia-derecho-entregar-esa-madera-ilegal>
- 6 Empresa niega que tripulación peruana esté abandonada en México. (2016, 26 February). El Comercio. <http://elcomercio.pe/mundo/actualidad/empresa-niega-tripulacion-peruana-abandonada-mexico-211718>
- 7 Calculation done by EIA based on Sunat data, see Section 2.a.
- 7.a Global Witness (9 November 2017). Buyers in Good Faith. <https://www.globalwitness.org/en/campaigns/forests/buyers-good-faith/>
- 7.b Ministry of Agriculture and Irrigation (12 November 2017). Public Statement "MINAGRI comprometido con la defensa de nuestros recursos forestales y fomento de la legalidad."
- 8 U.S. Trade Representative Michael Froman. 2016. "Combating Illegal Timber Trade in Peru: Views from Ucayali." Tradewinds: the official blog of the USTR. <https://ustr.gov/about-us/policy-offices/press-office/blog/2016/may/combating-illegal-timber-trade-views-from-ucayali-peru> ; A FOIA was submitted in 2016 requesting details of the US\$90 million total, but no comprehensive response has been received to date.
- 9 Through the ProAmbiente program. See e.g. "Commercial Timber Suppliers from Peru", [https://www.lateinamerikaverrein.de/fileadmin/\\_migrated/news/Timber\\_Suppliers\\_from\\_Peru.pdf](https://www.lateinamerikaverrein.de/fileadmin/_migrated/news/Timber_Suppliers_from_Peru.pdf); and "La Trazabilidad en el Manejo Sostenible del Bosque", <http://www.proambiente.org.pe/umwelt/recursos/publicaciones/HISTORIAS-trazabilidad-v3.pdf>
- 10 Yacu Kallpa 2015 database.
- 11 Baccini, A. et al. Tropical forests are a net carbon source based on aboveground measurements of gain and loss. Science, 28 September 2017. DOI: 10.1126/science.aam5962; Pearson, T.R.H. et. (2017). Greenhouse gas emissions from tropical forest degradation: an underestimated source. Carbon Balance Management 12:3. DOI 10.1186/s13021-017-0072-2





# 1. LAWS AND LAUNDERING: WHY DOCUMENTS ARE NOT ENOUGH

© EIA

The combination of forest sector legal reform since 2008 with a broader process of political decentralization in Peru since 2002 has created a web of institutional actors charged with implementing forest-related laws, regulations, and decrees. However, the basic definitions and mechanisms of illegal logging, timber laundering, and associated trade have remained consistent over this period. They have been described and documented repeatedly by journalists, NGOs, and even official government reports.<sup>12</sup>

## 1.a. The legal and institutional framework

The National Forest and Wildlife Service (*Servicio Nacional Forestal y de Fauna Silvestre, Serfor*), within the Ministry of Agriculture and Irrigation, is responsible for ensuring the appropriate use, management and protection of forest sector resources in accordance with Forest and Wildlife Law 29763 and its Regulations, and in coordination with regional authorities in Peru's 24 regions.<sup>13</sup> These latter regional offices are nowadays responsible for the day-to-day work of authorizing and overseeing the logging, transport, and processing that takes place within their borders, as well as other aspects of sectoral planning and development.

Although Peru passed Law 29763 in 2011, it did not enter into force until 1 October 2015 when its implementing regulations were finally adopted. Prior to that time, the sector was regulated by Forest and Wildlife Law 27308, passed in 2000, and its implementing regulations passed in 2001.<sup>14</sup> A replacement Legislative Decree (DL 1090) was briefly put in place in 2008 but revoked in June 2009 after indigenous peoples' protests regarding the process by which these decrees were passed,<sup>15</sup> reverting the sector back to Law 27308.

Also in 2008, Peru passed a separate Legislative Decree (DL 1085) establishing the institutional independence of the oversight body Osinfor (Agency for Supervision of Forest Resources and Wildlife, *Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre*, see Box 2). This decree remains in place today.

Law 29763 created Serfor as the new forest authority, and a special ministerial rule was passed to allow its establishment

and function during the period between passage of the new Forest Law and its entry into force.<sup>16</sup> Serfor replaced the General Directorate of Forests and Wildlife (*Dirección General Forestal y de Fauna Silvestre, DGFFS*, 2008-2014), which had come into being after DL1090 dissolved its institutional predecessor, the National Institute of Natural Resources (*Instituto Nacional de Recursos Naturales, INRENA*, 2000-2008).

## 1.b. How timber extraction happens on paper

Timber in Peru can be extracted legally from several different types of natural forest sources. Historically predominant among these are *Permanent Production Forests* – land in the public domain that has been granted by the Ministry of Agriculture in the form of concessions – and *indigenous community forests*. But logging may also be authorized on *private properties* and increasingly in *local forests*, areas granted by the regional governments to organized community groups officially recognized by their municipalities. Under Peruvian law, all of these legal arrangements for timber harvest rights are called “*titulos habilitantes*”; in this report, the term “logging contracts” is used for ease of understanding. (Other sources subject to different permitting processes include land authorized to be deforested for infrastructure, roads, mines, etc. and planted trees on private properties, either in plantations or agroforestry systems such as wind barriers.)

Concessionaires, communities, local forest managers, or private property owners must submit an Annual Operating Plan (POA for its Spanish acronym)<sup>17</sup> or similar forest inventory information to their corresponding regional authority in order to solicit approval of the volume and species to be harvested. These POAs/inventories include georeferenced maps and lists of each tree slated for cutting or for protection. They must be signed off on by a private forestry consultant who has been registered with the national professional association (*Colegio Forestal*) and pre-approved by Serfor; this consultant, in theory, has been part of the forest inventory process and POA preparation. (Under the new Forest Law since October 2015, forestry consultants must be trained, approved, and registered as a “regent,” a category that has similar but stronger legal obligations.)



When any of the few tree species protected by the Convention on International Trade in Endangered Species (CITES) are part of a logging plan, the Law (Art. 46) obliges authorities to conduct a prior site visit to verify that the POAs are in order. For the vast majority of permits, however, authorities rely on the sign-off of the forestry consultants (now regents).

On the basis of an approved POA, multiple transport permits

or *Guías de Transporte Forestal (GTF)* can be issued for timber adding up to the total volume approved for a given point of harvest. A unique GTF must accompany each batch of timber moved throughout the country, whether from source to sawmill, or from sawmill to point of sale or export. The GTF provides information about point of harvest origin, species, and volume (see Box 1).

### Box 1. A Guide to GTFs

From point of harvest to sawmill to warehouse to port, all transport must be accompanied by a series of GTFs (*Guía de Transporte Forestal*, Timber Transport Permit). These papers are supposed to include correct information corresponding to the timber's original source.

The first *Guía* is issued at the point of harvest and accompanies wood from forest to sawmill. Under the previous Forest Law 27308, this *Guía* was called an Origin Transport Permit (GTO); under Law 29763 it is called a GTF. This permit is issued by the logging title-holder, local

government representative (for local forests), or regent.

New GTFs are issued to accompany wood products from that first sawmill onwards. Under Law 27308, the government forest authority issued these GTFs; under Law 29763 the title-holder of the processing facility itself issues them, using a basic format defined by the government. (And if products undergo further transformation before sale or export, they might be accompanied instead by a Remission Permit issued by a subsequent transformation facility.) These GTFs are considered a sworn declaration with legal force.<sup>18</sup>

Figure 1: Old and new GTF formats

Examples of old GTF format (pre-October 2015)

Examples of new GTF format (post October 2015)

Origin source contact number

Name of contract title holder

RUC (tax ID) of contract title holder

Owner of the Wood product

Consignee of the Wood product

Export route (river, land)

Description of the product



## Responsibility for legal origin

All wood exported from Peru passes through a sawmill first, since as per Law 29763 export of logs is prohibited except for plantation timber (Art. 122). The mills are “obligated to verify the legal origin of the products they transform” (Art. 121), although how they should do this is not laid out by law.

But sawmills are not the only ones charged with ensuring legal trade. According to the Peruvian legislation (Art. 126),

*“all persons are obligated, under the requirement of the forest authority, to prove the legal origin of any forest and wildlife product or species. Any person who holds, transports and trades a forest or wildlife product or species whose legal origin cannot be proved when the authority so requires it, is subject to the seizure of the product, as well as the application of the sanctions defined by this law and its regulations, independent of the knowledge or not of the illegal origin of the products”.*

As this passage makes clear, lack of explicit knowledge does not absolve any actor in the supply chain from responsibility. “Legal origin” itself is the key concept, not the accompanying papers which may or may not be legitimate.

### 1.c. How timber extraction happens in practice

As just described, the GTF is the piece of paper that must accompany timber whenever it’s on the move. An official GTF should only be issued for timber coming from a site that has been formally authorized for logging. How, then, does a trader get his or her hands on a GTF to move trees illegally cut from a national park, state forest or indigenous reserve where there’s no possible authorization to harvest?

The first step is when logging operators create false or misleading timber inventories as part of their Annual Operating Plans (POAs). In many cases, trees that were included on the maps and accompanying lists do not exist in the forest, but are simply invented. In other cases, the trees do exist, but are in concessions or communities too remote to be profitably logged in practice – real trees, but no intention of cutting them. All of these POAs, real or fake, must be signed off on by a professional forester as described earlier.<sup>19</sup> A 2015 CIFOR study calculated the cost of creating a fake POA at US\$0.70/m<sup>3</sup>, fetching up to US\$13/m<sup>3</sup> in the black market.<sup>20</sup>

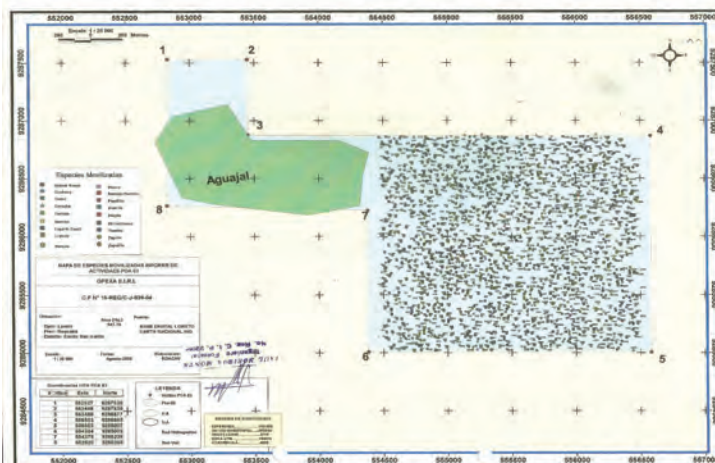
The POAs are submitted for approval to regional forest authority offices that typically do not have the resources or political will to conduct the field verifications that would detect irregularities. Once officials approve the POA, these trees now exist on paper, and “legitimate” GTFs – based on false information – can be issued corresponding to the volumes authorized. According to information gathered by EIA in the field, local officials are often fully aware and complicit in this process. In a journalistic piece released in October 2014 by CCTV America, for example, various Peruvian officials, concessionaires, and timber traders interviewed all agree that illegal logging is widespread, that timber laundering is common and facilitated by cheap bribes, and that it has always been this way.<sup>21</sup>

These GTFs now enter the black market that thrives in every Amazonian timber town, making it easy to find the papers to transport and sell whatever timber an operator has cut. Undercover work by Al Jazeera in 2015 showed a “volume vendor,” as these illegal traders are commonly called, buying

GTFs for over 10,000 board feet of wood (23.5 m<sup>3</sup>, worth some \$5500), with a quick phone call and US\$170.<sup>22</sup> CIFOR found the average cost to be about US \$9-10 per m<sup>3</sup>.<sup>23</sup>

The actual trees, meanwhile, come from anywhere else but an authorized area. CIFOR found that 62% of timber production in Peru is done by small extractors that operate completely informally, without respect for any technical guidelines; this timber all enters the trade stream, passing through checkpoints where bribes are ubiquitous.<sup>24</sup> Processing and exporting companies simply claim that they purchased “in good faith” from a trader who had what appeared to be legitimate documents, despite knowing full well the reality of their industry.

This currently ubiquitous illicit trade in GTFs makes the paper trail from sawmill back to actual geographic origin highly unreliable for any concerned buyer. The only way to be fully confident of its veracity would be to go back to the point of harvest origin where the official paperwork claims it came from – that is, the POA area in a concession, community, or local forest named on the GTF that accompanied those logs – and check for stumps corresponding to the authorized volumes and species.



Example of a fabricated timber inventory. An EIA field investigation of this annual harvest parcel, in a concession in southern Loreto, could not find any of the georeferenced trees identified on this POA map.

Luckily, Peru has a government agency that does exactly this and has, in fact, been offering since 2014 to do it upon exporters’ requests.<sup>25</sup> (See a sample of Osinfor’s letters to exporters in Figure 2, p.16.) Osinfor is responsible for conducting post-harvest “supervisions” (inspections) in many types of forest management units all over the country (see Box 2). What the agency has found in doing these inspections helps to shine a light on the breadth of illegal harvest as well as the variety of schemes employed to hide this forest theft.

According to Osinfor’s online database, SIGO, between January 2009 and December 2016 the institution conducted 4393 supervision visits to inspect points of harvest where logging activity supposedly occurred, verifying the presence or absence of 472,173 trees. 26% of those trees simply did not exist.<sup>26</sup> According to Osinfor’s database SIGO, during this same time period their supervisions identified 2.1 million m<sup>3</sup> or 463 million board feet of illegal timber, worth some US\$254.8 million<sup>27</sup> – and only a fraction of what’s happening across the whole Peruvian Amazon.



Invented trees were only part of the problem. Osinfor commonly documents other types of fraud, such as GTFs tracing back to a remote, hard-to-access POA where none of the trees were actually cut down but the GTFs derived

from these actual trees' volume were used to launder trees cut elsewhere. Between 2009 and 2016, almost 80% of its inspections revealed irregularities sufficient to initiate legal proceedings against the logging contract holders.<sup>28</sup>

### **Box 2: Overview of Osinfor's mandate and function**

The Agency for Supervision of Forest Resources and Wildlife (*Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre*), as defined by Supreme Decree 1085, is "the entity, at the national level, charged with supervision and audit of the harvest and conservation of forest and wildlife resources, as well as the environmental services derived from the forest, for their sustainability". Osinfor's core function is to audit compliance with the law and respective management plans by those who have received "enabling titles" (*titulos habilitantes*).

The technical category "enabling title" encompasses different types of logging contracts: concessions for timber, non-timber forest products (NTFP), wildlife extraction, conservation or ecotourism; permits for timber extraction from native and peasant communities or private properties; and authorizations for timber harvest in dry forests, NTFP extraction or wildlife management *ex situ*.<sup>29</sup> While in theory local forests are also "enabling titles", Osinfor did not in practice have authority to supervise them due to administrative irregularities in the way they were managed under the previous Law 27308 (see details in Box 5). Additional kinds of authorizations and "administrative acts", such as for plantations or agroforestry trees on any private property or land use change for agriculture, remain excluded from this category under the Forest Law 29763.

Osinfor's budget as defined by law comes from the following sources: the annual national budget; donations from national, foreign, and international institutions; 25% of all logging stumpage fees; 100% of income from any fines or penalties imposed; other as legally allowed.<sup>30</sup>

Some 28 field personnel are spread among seven decentralized offices.<sup>31</sup> These "supervisors" visit logging sites with the annual operating plan (POA) in one hand and a GPS unit in the other, to see whether activities have been conducted legally. Visits are carried out in coordination with the local forestry office, concession owners and/or communities, who are notified in advance.

Osinfor lawyers back in Lima review the resulting Supervision Reports to determine what, if any, penalties to assign. If the results of the supervision are ok, that is the end of the process. If the results show problems, Osinfor lawyers' options are to (a) cancel the concession, permit, or authorization altogether (*caducidad*), or (b) assess a sanction, monetary or otherwise, in accordance with damages. The resulting Directorial Resolution (RD) details the infractions, assigns the penalty, and initiates an Administrative Procedure (PAU) during which the local forest

authority and/or contract holder are given opportunity to respond. Ultimately, a second Resolution is issued to finalize the PAU.

These Final Resolutions may be, and typically are, appealed to a secondary body called the Forestry Tribunal, which became operational only in 2016. Whether or not logging should be allowed to continue during the appeals process is unclear and controversial.

Osinfor has two public online databases to share information about the legal situation of the titles they oversee:

- Sisfor is an online interactive visual map tool for exploring the legal status and available information about all types of logging contracts across Peru. <http://sisfor.osinfor.gob.pe/visor/>
- SIGO is a database containing the status and underlying facts of thousands of legal processes (PAUs) initiated as a result of Osinfor supervisions. It is searchable by name or contract number, and has "red" and "green" lists that allow prospective buyers to check whether the timber they plan to purchase might come from points of harvest with existing legal problems or with precedents of illegalities. <http://www.osinfor.gob.pe/sigo/>

Formal memoranda with indigenous federations are another element of Osinfor's strategy. For example, the agency has trained at least two thousand people from native communities in topics like accurate timber measurement so that they are paid adequately for their forest resources and not left with legal problems or fraudulent documents.<sup>32</sup> A program also exists to forgive logging fines in exchange for forest conservation agreements.<sup>33</sup>

In 2016 two independent Peruvian research institutions released a statistical analysis of Osinfor's supervision results 2009-2014. Among other conclusions, the analysis showed clearly that logging of mahogany and cedar, the two species with 100% prior supervision, showed much higher rates of legal compliance.<sup>34</sup>

An independent and solvent Osinfor is a valuable model for other countries and a vital resource for Peruvian forest governance. That said, the full independence of a government-sponsored oversight body will always be at some risk, since in the view of some public and private actors making this information public only damages the sector's image. This, ultimately, is why the transparency and information access measures Osinfor has insisted upon, such as SIGO, are so important.

### 1.d. The legal context of illegal timber exports

Beyond being a social, environmental, and economic problem, illegal logging and associated timber exports have potentially serious consequences for individual companies and for the image of the Peruvian forestry sector. Several of Peru's principal trading partners have laws making it a legal offense to import or trade wood products harvested in violation of the laws in the country of origin: the U.S. Lacey Act Amendments (2008), the European Union Timber Regulation (2010), the Australian Illegal Logging Prohibition Act (2012) and the Japanese Act on Promotion of Use and Distribution of Legally Harvested Wood and Wood Products (2016). At least two U.S. importers of Peruvian timber have already been subject to seizures and fines under the Lacey Act<sup>35</sup> and others are under investigation.<sup>36</sup> Importers of CITES-listed species like mahogany or cedar are also subject to provisions of the U.S. Endangered Species Act.

The Trans-Pacific Partnership Agreement (TPP), a trade agreement negotiated between Peru, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Singapore, Vietnam, and the United States (until it withdrew in January 2017) includes a clause requiring parties to take measures to combat and prevent trade in illegally sourced flora and fauna.<sup>37</sup>

The United States and Peru have a unique bilateral framework for ensuring legal timber trade through the Annex on Forest Sector Governance of the U.S.-Peru Trade Promotion Agreement (TPA), signed in 2007. Both parties "commit to combat trade associated with illegal logging and illegal trade in wildlife" and to take action "to enhance forest sector governance and promote legal trade".<sup>38</sup> This Forest Annex contains a series of binding obligations related to management and trade of CITES species as well as to a variety of forest governance and enforcement measures.

Under the Forest Annex, the U.S. government can request that the Peruvian government conduct (i) audits of specific Peruvian producers or exporters, or (ii) verification of specific shipments, to evaluate their legal compliance. The U.S. has discretion regarding the types of sanctions that it can levy, including denying entry to a given shipment or even denying entry to all shipments from a given enterprise if it has been trading in illegally-harvested species listed on CITES.<sup>39</sup>

### 1.e. Social and environmental impacts

The bribery, fraud, and black markets that are part of Peru's timber trade contribute to a culture of institutionalized corruption and impunity that undermines the rule of law.<sup>40</sup> Human rights violations and serious impacts on forest ecosystems are the consequences across the Amazon.

#### Indigenous communities

Illegal loggers repeatedly come into violent conflict with indigenous communities. Probably the most known case is the assassination of Ashéninka leader Edwin Chota and three of his colleagues from the indigenous community of Saweto in September 2014 (see Box 3). But, sadly, there are many more cases.

On 24 January 2017, for example, 60 armed men entered and expelled 25 families from an Ashaninka community in Satipo, Junín, making false claims over the territory. A subsequent

enforcement operation seized four thousand board feet of *tornillo* timber.<sup>41</sup> Illegal logging operations continue to penetrate the territories of Peru's estimated 15 voluntarily isolated indigenous tribes, where even one contact has the potential to introduce disease that could wipe out the entire population. (50% of the Murunahua group is estimated to have perished in the 1990s after contact with illegal mahogany loggers.) Survival International has documented uncontacted peoples fleeing from their territories across the Brazilian border to avoid loggers.<sup>42</sup>

In parts of the Amazon, the timber trade is an important source of native community income. However, communities are rarely informed about their legal obligations and possible sanctions, nor compensated appropriately. Negotiations with loggers are conducted with highly unequal information about laws, markets, or technical aspects. Moreover, GTFs from native communities are frequently used to launder timber, but soon the loggers abandon the area and the community is left alone to face the legal consequences for falsifications and/or harvest infractions committed by the loggers. The resulting fines become financial burdens that make it impossible for communities to get out of the cycle of illegality and poverty.



**María, interviewed in 2011, escaped from an isolated logging camp where she had been the cook and only woman for six months, working under forced labor conditions. © EIA**

#### Labor conditions

The illegal logging business model is a system of debt peonage, in which wealthy traders finance intermediary *patrones* who in turn provide logging crews with overpriced supplies and cash advances at exorbitant interest rates.<sup>43</sup> EIA investigators, journalists and academics have documented the generally awful conditions in which such loggers work for low wages without enforceable labor contracts for weeks or months in remote camps, lacking safety equipment, first aid supplies or the means to evacuate someone to a hospital in the event of a serious accident.<sup>44</sup> An ILO study from 2005, at the height of the illegal mahogany boom, estimated that some 33,000 people worked under what they identified as forced labor conditions in logging camps.<sup>45</sup> No new systematic research has been done to update this figure, but conditions have certainly not improved for those who remain part of the system.<sup>46</sup>



## Environmental impact

In a 2015 Al Jazeera interview, Erik Fischer, a director for Maderera Bozovich and the head of the wood products committee of Peru's chamber of commerce, ADEX, dismisses illegal logging's impacts by saying "you might see tons, rivers of timber circulating in Peru...but if we measure it in relation to the resource we have, it's very little."<sup>47</sup> Yet the combined activity of thousands of commercial logging operations is degrading even the seemingly inexhaustible vast Amazon more rapidly than anyone would like to believe.

Populations of two formerly well-distributed species, mahogany and cedar, have already declined drastically, and the government is now seriously considering inclusion of *shihuahuaco* (three species in the genus *Dipteryx*) on its national list of endangered species. A Serfor-commissioned review by 99 experts found this listing necessary due to unsustainable extraction levels that rose astronomically between 2000 and 2015.<sup>48</sup> The experts note that the slow-growing, massive *shihuahuaco* (sold commercially as cumaru) can represent up to one-third of the entire carbon sequestered in a hectare of primary rainforest, and is a vital tree for harpy eagles (*Harpia harpyja*), macaws (*Ara sp.*), and other cavity-nesting birds.

Most logging in Peru is selective rather than large clear cuts, but illegal loggers are only the vanguard: where logging roads

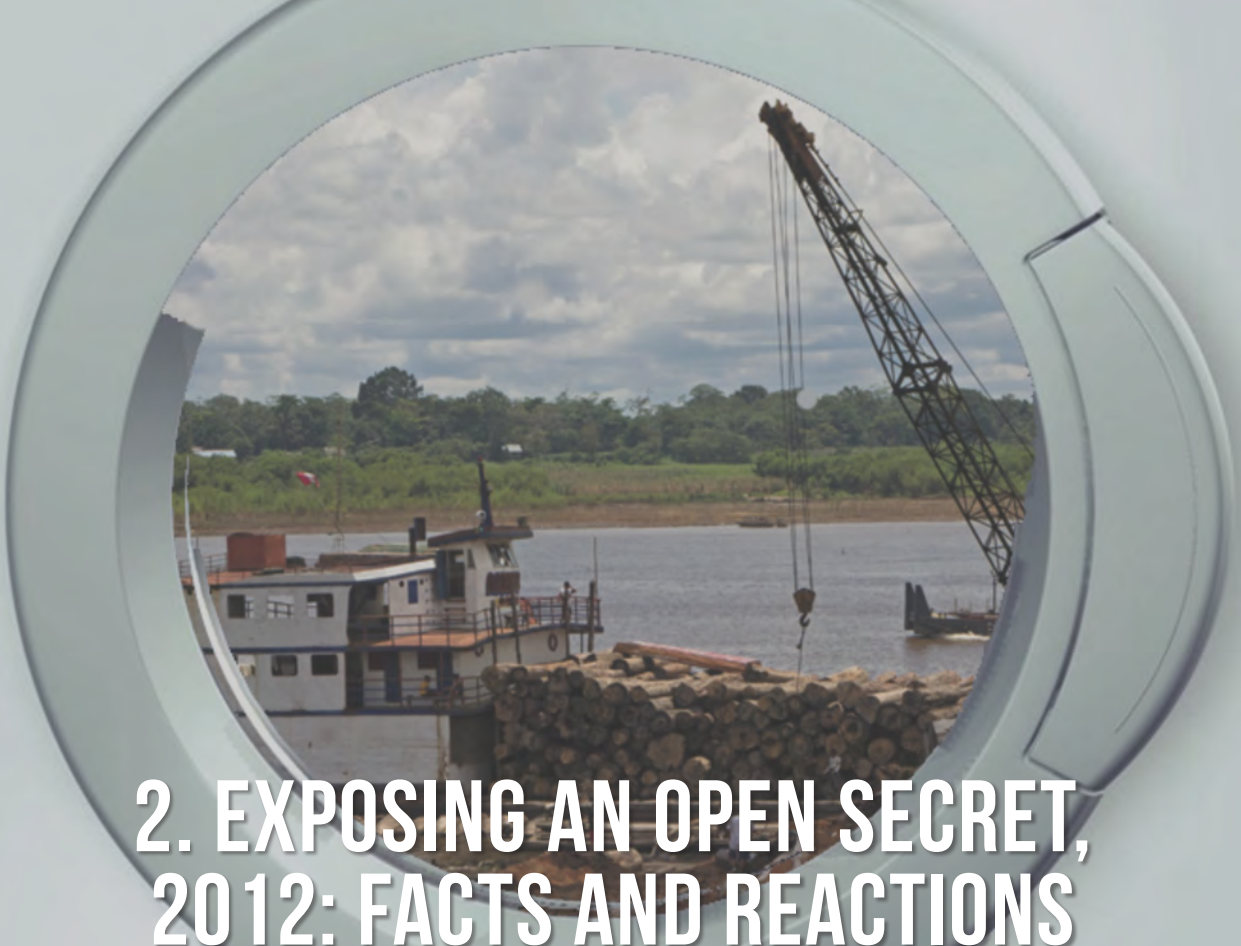
go, deforestation follows. Nearly 95% of all deforestation in the Amazon occurs within 5.5 km of a road.<sup>49</sup> Overflights conducted by government officials in 2015 detected entire illegal highways on the Loreto/Ucayali border, with dozens of trucks carting timber – industrial-sized operations, and not a single authorized concession or community timber permit in the area.<sup>50</sup> These roads create an opening for colonization and industrial agriculture. Between 2000 and 2013, Peru lost an average of 113,056 hectares of forest yearly, the equivalent of 17 soccer fields an hour.<sup>51</sup>

Illegal and unsustainable logging has been a critical factor in turning tropical forests from net sinks to net sources of carbon emissions in the period 2003-2014. A shocking new analysis of satellite images and laser measurements published in Science found that almost 70% of the losses of above-ground forest carbon globally were the result of forest degradation, caused principally by selective logging and other disturbances of standing forest, not clear-cutting for agriculture.<sup>52</sup> Another peer-reviewed study found that, in Latin America, 69% of forest degradation is a direct result of selective logging for timber, while the remaining 31% is attributed to fires, fuelwood collection and the like.<sup>53</sup> Of course, impacts are a vicious cycle as un-planned over-logging thins out and damages forest structure, aggravating the effects of drought and wildfires.



Newly established African palm oil plantations in Ucayali, Peru. As of 2012, at least 77,537 hectares of oil palm had been planted in the Peruvian Amazon. (source: Fort, R., Borasino, E. (2016). ¿Agroindustria en la Amazonía?: posibilidades para el desarrollo inclusivo y sostenible de la palma aceitera en el Perú. GRADE.) © EIA





## 2. EXPOSING AN OPEN SECRET, 2012: FACTS AND REACTIONS

© EIA

Illegal logging and timber laundering have been an open secret in Peru for decades now. Reforms that in 2000 resulted in Forest & Wildlife Law 27308 also stemmed from the mismanagement and corruption endemic to the previous system. Yet laundering of mahogany and cedar for export continued to be so pervasive that in 2006, Peru's own forest agency at the time, INRENA, found that 72% of the source concessions and communities for these species were using invented volumes.<sup>54</sup> That same year the World Bank described illegal logging in Peru as systematic and characterized by criminal networks in collusion with state actors, stating that "during the last four years, the illegal harvest and trade of wood in Peru has increased in an alarming manner."<sup>55</sup>

In 2007, international concern about the quantity of illegal mahogany exports forced Peru to agree to reduce its CITES export quota and implement a "Mahogany Strategic Action Plan". The U.S.-Peru TPA Forest Governance Annex was also negotiated in 2007 in response to these concerns. Tens of millions of dollars in bilateral funds to combat illegal logging, reduce corruption and improve timber traceability flowed into Peru's trade and forest authorities in subsequent years. Yet little was changing in the forest, as EIA showed exhaustively in its 2012 report *The Laundering Machine: How fraud and corruption in Peru's concession system are destroying the future of its forests*.

### 2.a. The Laundering Machine methodology: transparency and its limits

The culmination of a multi-year investigation, *The Laundering Machine* used a systematic methodology based on the analysis of thousands of pages of official Peruvian government

documents, interviews, testimonies, and field trips that documented the endemic fraud, corruption, and timber laundering plaguing the forest sector.

At the heart of this analysis was a cross-referencing of two databases:

- (i) CITES export documents that identified the concession where timber was supposedly harvested, as declared by the exporter in his application for a permit to export the endangered species Big-leaf mahogany (*Swietenia macrophylla*) or Spanish cedar (*Cedrela odorata*);
- (ii) Osinfor supervisory reports from their field visits to verify POA implementation in these concessions.

Obtaining the information to build these databases required, at the time, multiple information requests over many months, under Peru's Transparency Law, to both the CITES office of Minagri and Osinfor. The data came in the form of thousands of blurred photocopies that EIA had to process, digitize, and turn into Excel files.

By cross-referencing the two databases, EIA's analysis proved that *at least* 37% of the mahogany and cedar shipments exported from Peru to the U.S. during the time period 2008-2010 contained illegal timber. Osinfor's field reports regarding the declared points of harvest demonstrated falsified POAs, mis-used transport permits, unlawfully felled trees, and other infractions. In most of the cases, the forest inventories submitted by the producers, signed off by forestry consultants and approved by local authorities were 100% fake.

The real figure is almost certainly more than 37%, but at the time, Osinfor had only supervised a limited number of the POAs declared as sources for the mahogany and cedar



shipments in EIA's analysis. Moreover, while EIA's broader investigation indicated that there were high percentages of laundering for *all* species being exported from Peru, the trade data analysis had to be restricted to mahogany and cedar because documents with the data in question simply *did not exist* for other species. There was no requirement – and to this day there is no requirement – for exporters to systematically declare to any authority in Peru the point of harvest for timber that is not considered endangered by law. CITES-listed species made up 0.6% of total wood product trade flows in 2010 and even less nowadays.<sup>56</sup> So while EIA's analysis showed the power of information, it also showed the limits to this method given what was available to the public, as well as the urgency to expand the obligation to declare point of harvest for all species being exported.

## 2.b. Official responses, 2012-14

*The Laundering Machine's* analysis demonstrated the continuing scope of illegal timber trade and alerted both government and the private sector to their non-compliance with instruments including CITES, the U.S.-Peru Forest Governance Annex, and the U.S. Lacey Act. Yet effective responses in the months and years to come were frequently drowned out or beaten back by both recalcitrant industry players and cautious officials in the midst of high-profile Trans-Pacific Partnership trade negotiations.

### 2.b.i. Responses in the United States

In April 2012, after the launch of *The Laundering Machine*, EIA formally petitioned the U.S. Trade Representative to invoke Sections 6 and 7 of the Forest Annex and request that Peru conduct (a) verifications of all new export shipments from two exporters, Maderera Bozovich SAC and Maderera Vulcano SAC, between them linked to at least 77 shipments of CITES species laundered with fabricated POAs between 2008-2010; (b) verifications of any other shipments associated with 19 forestry concessions temporarily suspended in Peru at that time for egregious illegalities; and (c) audits of an additional 29 timber concessions that the Osinfor-CITES cross-checks had shown were the source of illegal timber shipped to the United States.<sup>57</sup> The petition came with hundreds of pages of relevant official documents attached supporting the crimes identified in the submission.

EIA's petition clarified that the specific illegalities identified were only one small part of a bigger picture, stating that "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."

On 6 December 2012, the Interagency Committee on Trade in Timber Products from Peru, led by USTR, responded to EIA's request by declining to do any of the above, finding that Peru was already taking adequate steps to address the problems. Osinfor's supervisions were singled out as a particularly successful and important measure in the Committee's view, although it was noted that the exclusively post-harvest nature of their visits was not ideal for preventing illegal timber from entering international trade.<sup>58</sup>

With regards to the shipment verifications, the Committee

"confirmed a significant decline in reported exports" of CITES species, and found that none of either Bozovich's or Vulcano's 2011 and 2012 shipments contained timber sourced from the 29 concessions specifically identified in EIA's petition, nor had they requested any new CITES permits. (This finding suggests the strategy adopted by Peruvian exporters and their U.S. importers as the sector came under new scrutiny: reduce exports of mahogany and cedar, where the document trail is more transparent and consequences are more severe.)

Instead of using audit and verification procedures, the U.S. and Peruvian governments agreed to a "five-point action plan" centered on the following activities:

- Conducting prior visual verifications for 100% of Bigleaf mahogany and Spanish cedar contained in POAs prior to logging approval;
- Strengthening "accurate POA development";
- Ensuring timely criminal and administrative proceedings to sanction any concessionaire, forest engineer, government official or other party for breaking forestry and wildlife laws;
- Improving systems to track and verify the chain of custody of timber exports;
- Ensuring implementation of Peru's Anti-Corruption Plan, "including activities aimed at eliminating the submission of false POAs and the approval of POAs that contain false information."<sup>59</sup>

Five years later, the "five-point action plan" agreed in 2012 has barely been implemented yet. It's worth noting that throughout this time period, the U.S. government was investing heavily in programs such as the Peru Forest Sector Initiative and PerúBosques with the stated intent to improve forest governance, build capacity and establish traceability systems.<sup>60</sup> According to USTR in May 2016, the U.S. government had already "dedicated over \$90 million in technical assistance and capacity building to support forest sector reforms and address enforcement challenges."<sup>61</sup>

### 2.b.ii. Responses in Peru

Two days after the public release of *The Laundering Machine*, the President of the Peruvian Cabinet of Ministers (PCM, *Presidencia del Consejo de Ministros*) announced that the Peruvian government was considering new and strong measures to verify the legal origin of timber, prevent illegal logging, and protect the forests.<sup>62</sup> The announcement was made through a press release following a meeting between the President of the Cabinet, the Minister of Agriculture, and the President of Osinfor.<sup>63</sup>

While this was perceived as a good sign in the moment, little materialized from the announcement. The forest authority, in the midst of institutional transitions surrounding both a new Forest and Wildlife Law and decentralization to regional government offices, made little headway with the five action points that the U.S. and Peru had agreed were necessary. One example of this inaction regards the question of sanctions or consequences for the forest engineers who signed off on false POAs.

As described in Chapter 1.c. above, the signature of a professional forestry consultant has been a key part in the

illegal timber laundering process. These specialists (until October 2015, “forest consultants” and since then, “regents” with increased legal responsibilities) must be affiliated and registered with the Peruvian professional foresters’ association, and must be accredited by Serfor as members of the official registry of professionals authorized to sign off on POAs. This registry is managed by Serfor and published on their website. Yet as of 2013 a forester had never been prosecuted for his or her actions, despite the existing set of warnings, fines, civil and criminal sanctions defined by law for falsifying POAs and related acts. Moreover, neither Serfor nor its predecessors had ever required the association to sanction or disbar, temporarily or permanently, professionals who signed false POAs.

As Osinfor’s supervision reports accumulated, the agency began to keep its own list of forestry consultants who had signed off on fake POAs. Throughout 2013 and 2014, Osinfor’s and Serfor’s leaders had a series of formal communications in which the former urged the latter to review the list of accredited individuals and remove those who had known infractions.<sup>64</sup> Yet despite Serfor’s claims that the list was going to be “cleaned up”<sup>65</sup>, enforcement on this issue remains practically null three years later.

In June 2015, in the briefing paper *“Implementation and enforcement failures in the U.S.-Peru Free Trade Agreement allows illegal logging crisis to continue”*, EIA presented official documents stating that “nearly half of all of the forest engineers in the official registry, 153 out of around 300, responsible for some 1146 false annual operating plans, have been found to have falsified forest inventories to facilitate laundering of timber.”<sup>66</sup>

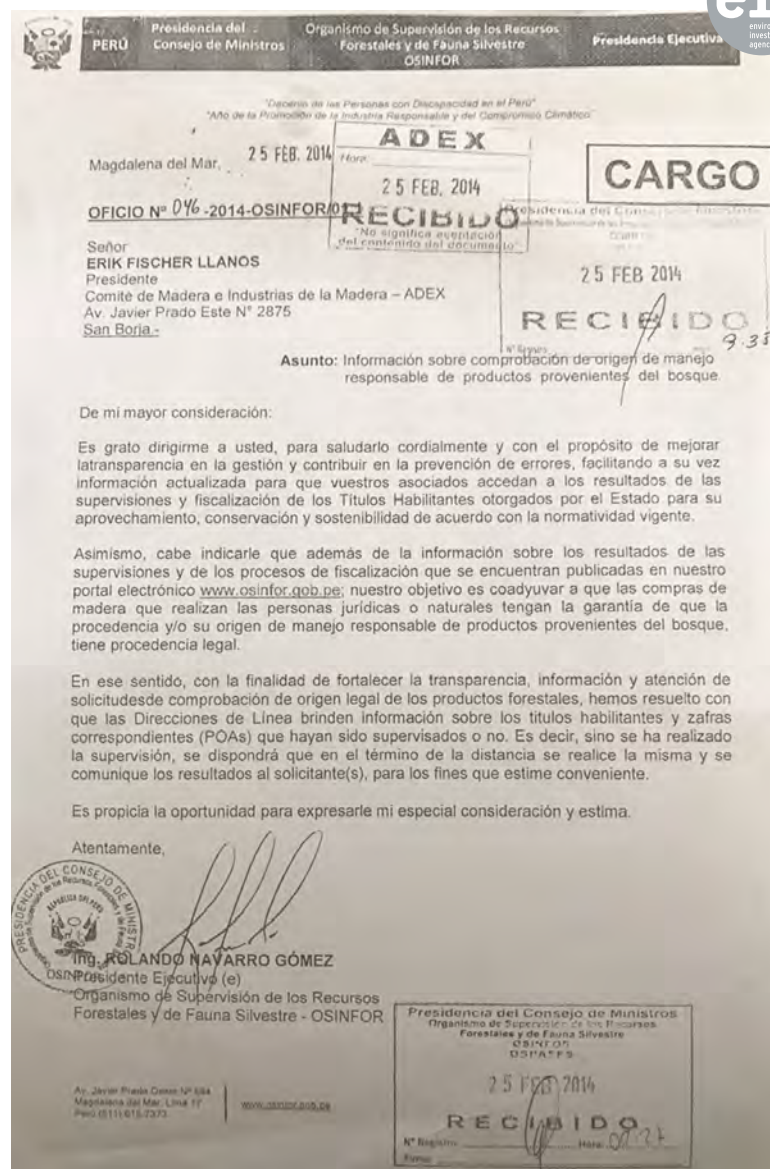
“Together, [just three forest engineers] were responsible for 189 false forest inventories in which well over 65% of the approved volumes for extraction were fabricated... The total volume of timber in the false inventories [they] signed measured approximately 500,000 m<sup>3</sup>, with a value of over \$60 million dollars. After years of delay, the collective fines they received for enabling this illegal activity amounted to less than \$3,000... To date, they have not been removed from the official list of approved forest engineers and are still authorized to carry out forest inventories.”<sup>67</sup>

In February 2017, Serfor’s new director was sent a new list of over 100 forest consultants or regents shown to have signed fraudulent POAs. At the time, he was quoted as “initiating the process of sanctions.” An Associated Press information request found that, as of April 2017, only three engineers had been removed from the accredited list for falsification, apparently the same three mentioned by EIA’s briefing. Meanwhile, of 153 people on the official regents list, one in seven was under investigation.<sup>68</sup>

### 2.b.iii. Attempts to assist Peru’s industry

In February 2014, Osinfor began to send letters to Peruvian timber exporters, offering them updated information about the legal situation of the points of harvest for timber they might plan on buying. Osinfor’s letters explain to exporters that all the data from the agency’s field verifications is publicly available.

Moreover, they state clearly that in cases where Osinfor has



**Figure 2: In this letter to Peru’s main wood exporters’ association, Osinfor offers to inspect any point of harvest about which an exporter requests information.**

not yet verified a timber source from which an exporter is considering sourcing, the agency is prepared to send staff into the field to check the legal origin as quickly as possible and with no cost for the private company (see Figure 2 for complete text).<sup>69</sup>

At this point – after years of public stories and scandals demonstrating that the majority of timber traded in Peru had illegal origins – this offer should have been a great opportunity for the exporters. They had, after all, been claiming that they were victims of the system, simple traders who bought “in good faith” from sawmills and logging operators: that they did not have the means to know if the timber they were buying was legal or not, since that would involve going themselves to the forest to check each stump, which was just not economically viable. However, as of October 2017, in response to a public information request by EIA, Osinfor stated that “to date we have not received requests to supervise enabling titles on the part of wood exporting companies.”<sup>70</sup>



### **Box 3: A Death Foretold: The Murder of Edwin Chota and colleagues**

On 1 September 2014, four Ashéninka leaders were murdered, allegedly by illegal loggers who had been operating in their community.<sup>71</sup> Edwin Chota, Jorge Ríos Pérez, Leoncio Quinticima Meléndez, and Francisco Pinedo, from the community of Alto Tamaya-Saweto, had set off to meet with Ashéninka from the Brazilian side of their shared ancestral lands regarding a more coordinated strategy to resist the incessant incursions of narcotraffickers and illegal loggers. But along the way they were stopped, tied up, shot and thrown into a nearby stream. A colleague found their remains five days later.

Edwin Chota was the head of Saweto, a community several days by boat from Pucallpa. For over ten years, Chota had been travelling this long route to lodge complaints about illegal logging with the authorities and seek urgent protection for his community, recognition of their rights to the land, and enforcement against the illegal actors, without success. He was always told that inspectors would only come if the community paid for the boat, the fuel, and the food to do their jobs. In 2013, he briefly managed to find a fresh local prosecutor willing to listen, but the resulting enforcement attempts served mainly to anger the timber mafia and the prosecutor was soon removed from his post.

Saweto was also pressing for formal title to its ancestral lands, a right guaranteed by Peru's laws. Chota had sent over 100 letters to different Peruvian authorities requesting formal recognition of some 800 km<sup>2</sup>. But among the obstacles to this goal was the fact that 80% of their historical territory had been granted as part of five different 20-year timber concessions to logging companies. The community had appealed to the national forest authority to excise their lands from the concessions, arguing violation of the International Labor Organization's Convention 169 on the rights of Indigenous and Tribal People, which Peru ratified in 1993, and its attendant national legislation.<sup>72</sup> But loggers operating in the Ashéninka territory did not want to see things change. They offered Chota bribes and then moved on to threats.

In August 2014 Chota travelled to Lima and did a round of visits to central government offices including Serfor, the parliament, the office of the President's Cabinet, and the national Ombudsman. Osinfor was the only agency that offered to follow up. On 30 August, a team of supervisors arrived to Saweto and performed as much of an inspection as possible, until they were confronted by men with chainsaws and guns. "We'll see who wins, the community or us", the loggers purportedly told the team.<sup>73</sup> (The Osinfor report, published

in September 2014, indicated that the two main concessions superimposed on Saweto's territory – Eco Forestal Ucayali and Ramiro Edwin Barrios Galván – were illegally harvesting unauthorized species without a management plan and not paying taxes.<sup>74</sup>)

Two days later, just after the Osinfor team had left, Chota and his colleagues were dead. The case became an international scandal on the eve of Peru's hosting the United Nations climate change negotiations. Stories appeared in the New York Times, the BBC, National Geographic, El País and others. Peruvian authorities scrambled to pronounce their assurances that the case would be vigorously investigated and prosecuted.

Three years later, no one has gone to jail or been put on trial. The last suspect, who had been preventively imprisoned while under investigation, was released from prison in 2016. Prosecutors say that the families of the victims aren't willing to talk.<sup>75</sup> The murdered men's widows, who bravely spoke out in the months after the murders, are afraid they will be targeted if they return to their community.

Given how little the state has protected them until now, this is a logical response. On many occasions, to reporters or colleagues or family members, Chota had predicted that his death would happen more or less this way. He had been warning of loggers' threats and asking the government to protect the people of Saweto for years. He left behind these chilling words in one recorded video interview: "Someone may have to die before they pay attention to us."<sup>76</sup>

Peru granted formal territorial title to Saweto in 2015, but the illegal logging and the death threats to the community members continue.<sup>77</sup>



Edwin Chota spoke out against territorial incursions, knowing the risks it might imply. Image used with permission from "Peru - Our Fight." Handcrafted Films (2014). Archive of Edwin Chota, Andrea V. Zarate



© EIA

**T**he most significant advance in efforts to combat Peru's illegal logging problem began quietly. Groundwork for the historic "Operation Amazonas" enforcement actions of 2014 and 2015 was laid behind the scenes as several government agencies beyond the national forestry authority began to look more closely at the illegal logging problem. The resulting inter-institutional coordination and information sharing have demonstrated just how well law enforcement *can* work in Peru when the institutional will exists.

### 3.a. New Peruvian agencies get involved

Serfor (the National Forest and Wildlife Service, under the Ministry of Agriculture and Irrigation), the regional government forestry offices, and Osinfor all have remits entirely focused on regulating or monitoring forest resources; however, there are other entities that are also relevant to ensuring proper implementation and enforcement of the pertinent laws. The most important to this story are:

- Sunat, the National Customs and Tax Administration Agency (*La Superintendencia Nacional de Aduanas y de Administración Tributaria*) is the entity that (i) collects taxes and (ii) regulates customs procedures including imports and exports. In this latter capacity, Sunat is responsible for obtaining certain information from timber exporters to ensure appropriate payment of duties, compliance with phytosanitary procedures and other pertinent laws, including granting cash benefits to promote certain exports (drawback).
- FEMA, the Environmental Prosecutor's Office (*La Fiscalía Especializada en Materia Ambiental*) is a division within the National Prosecutor's Office, also commonly called the Public Ministry. There are both national and regional Prosecutors' offices. They are charged with "defending the public interest" and have the authority to investigate and prosecute civil or criminal offenses.<sup>78</sup> FEMA's remit

includes crime related to forests and logging.

- *La Procuraduría del Ministerio del Medio Ambiente (Minam)* or the State's attorney in charge of defending the nation's environmental interests, attached to the Ministry of the Environment. The *Procurador* participates as a party in most of the legal cases involving illegal logging or illegal timber trade.

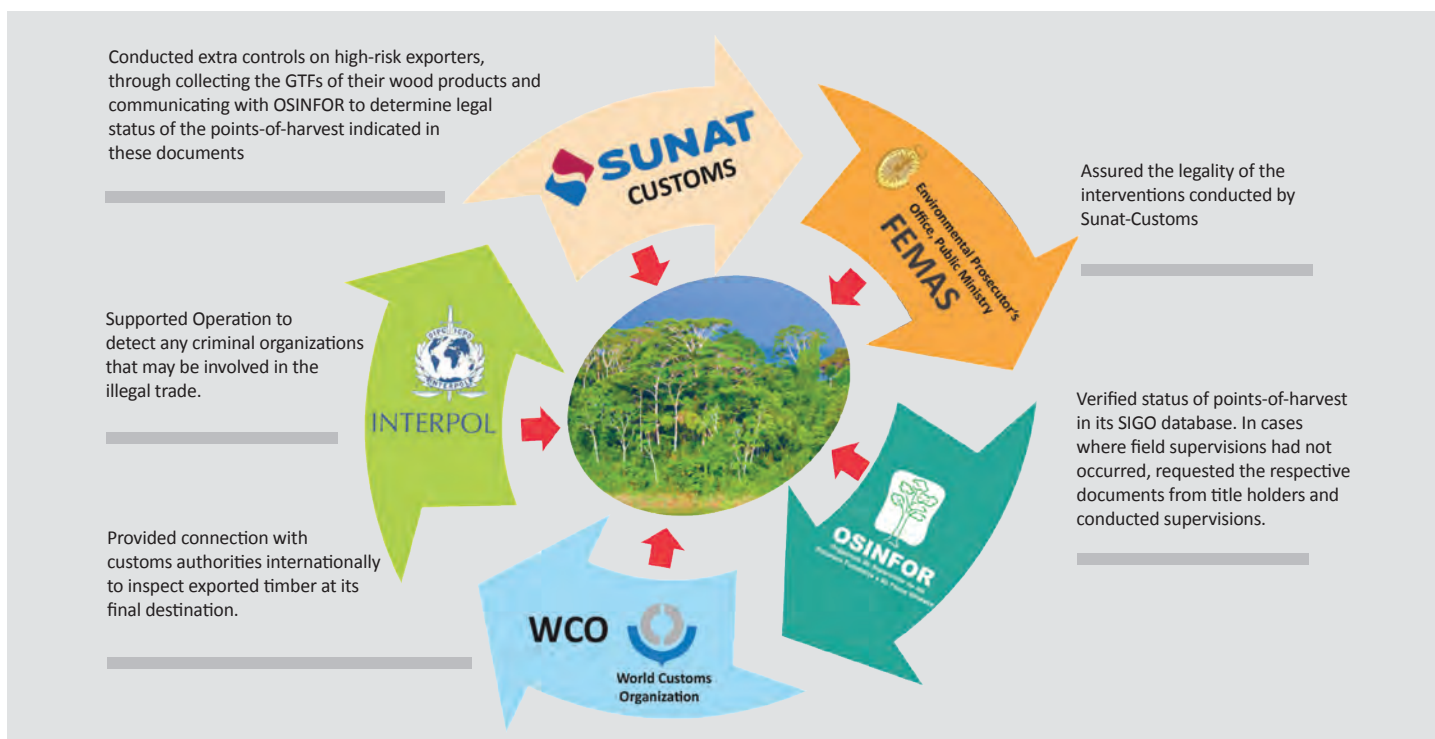
In August 2012, concerned about the findings of *The Laundering Machine*, Sunat requested a meeting with Osinfor to better understand the situation and to evaluate potential joint actions. Over time a strong working relationship and information exchange developed between these two key authorities whose roles are to monitor the first and the last points for timber chain of custody: Osinfor, at the point of harvest, and Sunat at the point of export.<sup>79</sup>

### 3.b. Operation Amazonas 2014

Between March and June, Sunat implemented *Operation Amazonas 2014*, "after intelligence they had gathered revealed that organized criminal networks were involved in illegal logging, the use of forest documents with unreliable information, and the mislabeling of timber exports," explains an article prepared by Sunat's Intelligence and Tactical Operations Team for the World Customs Organization' magazine, *WCO News*.<sup>80</sup>

*"In the process, Sunat turned to the WCO for support, which became its main ally in organizing the operation, assisting it to coordinate the logistics and make the necessary preparations, thereby enabling Sunat to involve other organizations, such as INTERPOL, the Customs services of other countries, and the national bodies responsible for supervising wood products."*<sup>81</sup>



**Figure 3: Institutional configuration for Operation Amazonas 2014 and 2015**

(Graphic recreated from Osinfor [2015], Resultados de la supervisiones y fiscalizaciones efectuadas por el Osinfor en el marco del Operativo Internacional "Operación Amazonas 2014".)

Operation Amazonas 2014 looked at problems in the timber chain of custody across the country, and conducted a set of interventions that led to the seizure of 15,693 m<sup>3</sup> of wood shipments, equivalent to six Olympic-sized swimming pools, including timber from CITES-listed tree species that "traffickers were trying to smuggle across the borders with Brazil and Colombia."<sup>82</sup>

But the most critical aspect of Operation Amazonas 2014 was the implementation of a new requirement for the duration of the Operation: mandating that exporters at the port of Iquitos – a main region for timber production and exports to Mexico and the U.S. – provide documentation about the point of harvest for all timber products.

#### **Box 4: Brief overview of timber export documents**

Timber exports are overseen by both Sunat, the tax and customs agency, and the national or regional forest authorities, which inspect shipments.

There are two main timber ports in Peru: (i) the Pacific Ocean port, Callao, just west of Lima, where inspections are conducted by the control post of an office (ATFFS) reporting directly to the national forest authority Serfor, and (ii) the Amazon River port of Iquitos, in Loreto, where inspections are conducted by the Loreto Regional Government's forestry authority. (It's important to note that timber could be leaving from other ports or overland border crossings, where there is no specific oversight mechanism for wood products.)

Sunat requires the following types of documents during the export process:

- Packing list
- Purchase invoices
- Origin certificate: tariff code and country of origin
- Bill of Lading & booking on ship
- Customs merchandise declaration, known as the DUA (*Declaración Única de Aduanas*) or DAM (*Declaración Única de Mercancías*): a form that includes data such as

exporter and merchandise description.

- Phytosanitary certificate (from SENASA)

The forestry inspection process of a random sample of shipments is parallel and different to Sunat's procedures. Until the end of 2015, generally this inspection required that the exporter show all the above customs documentation and, in some cases, the GTFs (timber transport permits) associated with the cargo in question. In the case of CITES-listed species, it is mandatory to provide GTFs. For other species this has never been codified but, through late 2015, the GTFs were commonly provided.

Once a forestry officer verifies that all is in order, s/he emits an "*Acta de Inspección Ocular de Embarque*" (Visual Shipment Inspection Note) that includes copies of the GTFs. The Acta document is maintained on file with the Forestry control point and a copy is given to the exporter, but it does not necessarily accompany the shipment or reach the importer or enforcement authorities. See Chapter 7.b. for examples of *Actas*.

It appears that Serfor has been conducting almost no Visual Shipment Inspections on non-CITES species since late 2015 (see Chapter 5.c.v. and 7.c.).

**Table 1: Key results from Operation Amazonas 2014**

Region	# logging contract titles supervised*	PAUs (sanction processes) initiated	# cases with false information	% of false information	cases archived	cases sanctioned (fined or cancelled)	logging contracts cancelled	minimum volume of timber moved illegally (m <sup>3</sup> )	value in dollars (US\$1 = 3.23 soles)
Loreto (Iquitos)	82	78	61	74.4	3	75	37	199,280.03	24,431,855.56
Ucayali (Pucallpa)	57	52	32	56.1	0	52	9	42,022.97	5,152,042.27
Huánuco	4	4	3	75.0	0	4	1	7,840.97	961,307.41
Junín	1	1	1	100.0	0	1	0	493.08	60,451.91
<b>Total</b>	<b>144</b>	<b>135</b>	<b>97</b>	<b>67.4</b>	<b>3</b>	<b>132</b>	<b>47</b>	<b>249,637.05</b>	<b>30,605,657.15</b>
% of total supervised	100%	93.8%	67.4%		2.08%	91.7%	32.6%		

\*logging contract title = *título habilitante*. (Fuente: Osinfor (2015), Resultados de las supervisiones y fiscalizaciones efectuadas por el Osinfor en el marco del Operativo Internacional "Operación Amazonas 2015", p. 63)

With this piece of data, Sunat was able to replicate the methodology used in *The Laundering Machine* – but without being hampered by the two key data limitations that EIA faced in 2012. First, Sunat obtained the point of harvest information for *all species*, not just CITES species. Second, in cases where Osinfor's SIGO database had no information about the point of harvest, Sunat had the authority to request Osinfor to go to the field and eventually verify 99% of the relevant points of harvest, in order to cross-check their field verification findings with the exporters' declarations. With such complete data, Sunat's results were dramatic. This methodology informed and then served as the basis for Operation Amazonas 2015.

Operation Amazonas 2014 cross-checked information from 144 points of harvest: 42% concessions, 37% native communities and 21% private properties, almost all of which were in the Departments of Loreto (57%) and Ucayali (40%). Of these inspections, 94% found evidence of infractions severe enough to begin a sanctions procedure (PAU). In the end, only three out of 135 cases were dismissed, and 47 contract holders (33% of all the supervisions done) had their harvest rights revoked entirely due to "grave damage to the forest resource". In 67% of those cases, Osinfor found evidence of fabricated information – i.e., trees invented in the POA documents in order to launder trees logged from elsewhere.<sup>83</sup> See Table 1.

According to Osinfor's analysis, at least 54 million board feet (245,454 m<sup>3</sup>) of illegal timber were laundered with the documents collected during the operation, worth upwards of 98 million soles (US\$30 million). The species most commonly logged illegally were *Virola sp.* (cumala), *Cedrelinga catenaeformis* (tornillo), *Chorisia integrifolia* (lupuna), *Cariniana domesticata* (cachimbo), *Clarisia biflora* (capinuri), *Calycophyllum spruceanum* (capirona), and *Dipteryx odorata* (shihuahuaco).<sup>84</sup>

Officials involved in Operation Amazonas concluded decisively that: "Beyond the Peruvian specifics, even beyond the forest sector, Operation Amazonas speaks to a problem that applies to the entire international trade in plants and wildlife: in many countries, a 'stamp' on an official document is not a sufficient guarantee of something's actual legality!"<sup>85</sup>

This special operation also convinced Sunat about the importance of working in cooperation – not only with other Peruvian authorities, but also with authorities in the countries of destination as natural allies to fight this international

***"Beyond the Peruvian specifics, even beyond the forest sector, Operation Amazonas speaks to a problem that applies to the entire international trade in plants and wildlife: in many countries, a 'stamp' on an official document is not a sufficient guarantee of something's actual legality!"***

- Sunat Intelligence and Tactical Operations Team

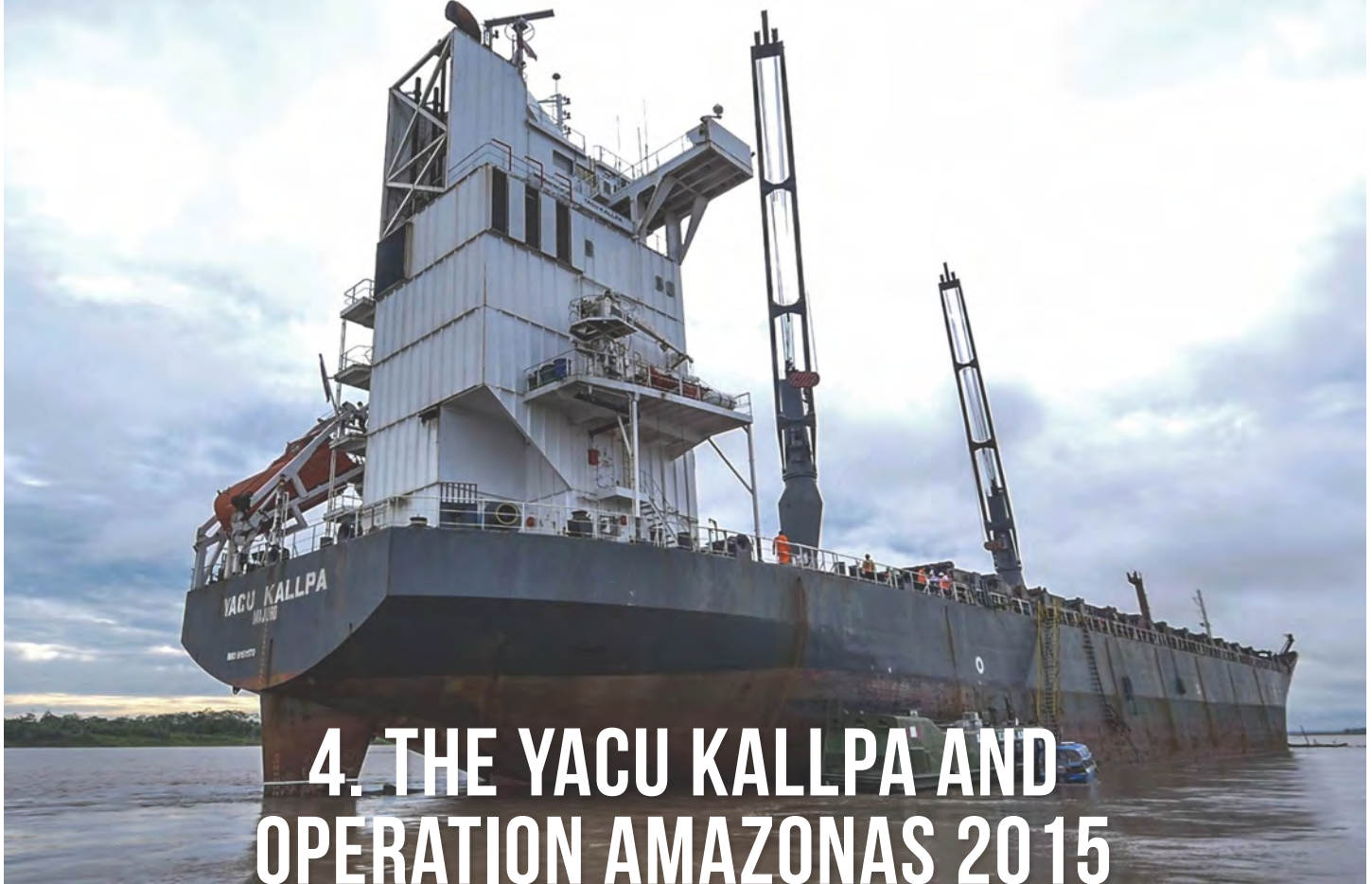
crime. In its WCO article summarizing results of the Operation, Sunat writes

*"Wood-importing countries should require the products that they purchase to have been legally harvested. This is already the case in the United States under the Lacey Act, which makes it possible to prosecute anyone knowingly in possession of illegally sourced wood. The aim is to impose penalties on the possession or importation of illegal timber in order to suppress demand, thereby eliminating or reducing the profits derived from this traffic. Australia and the European Union have taken similar measures. Comparable legal measures are urgently needed in all significant consumer countries to ensure a consistent international approach to the trade in illegal timber."*<sup>86</sup>

In October 2014, Sunat and Osinfor invited the industry, the timber exporters, the academy, other offices from the Peruvian government, civil society, and the media to a public event to present the results for Operation Amazonas 2014. Gustavo Romero, Sunat's Customs Control Superintendent (*Intendente de Control Aduanero*), acknowledged that it had taken Sunat a considerable amount of time and effort to begin to understand the Peruvian timber sector, given the excessive amount of legislation and the number of companies appearing and disappearing after only a few years of operations. However, he announced that they were now ready to go deeper and would continue the Operation in 2015.

Romero also noted that the Operation's findings showed the necessity of incorporating exporters' declarations of the point of harvest as part of their regular, mandatory paperwork procedures. This proposal was to become a flashpoint down the line.





In 2015, Sunat and its collaborators focused the efforts of Operation Amazonas on the timber being exported from Iquitos, capital of the huge Amazonian jungle region of Loreto. For at least the prior 10 years, there had been just one shipping company transporting the timber being exported from Iquitos to the United States and Mexico (and sometimes also the Dominican Republic). While the name of the shipping company changed from Yacu Puma to Yacu Taski, the company's website acknowledged that it was the same thing. The website also includes the names: "Peruvian Amazon Line", "Naviera Yacu Taski S.A." and "Agencia Naviera Maynas S.A.", while referring to "four decades of experience at your service".<sup>87</sup>

#### 4.a. The Yacu vessels: Selling Peru's forests down the river

Between 2007 and 2015, this shipping company plied the Iquitos – Houston route with three different vessels under four different names. (The Marco Manche and the Yacu Kallpa are actually the same vessel.) In order to understand the significance of this Iquitos route, EIA has accessed timber import data from Peru to the U.S. since 2007, through a combination of two sources: the Port Import-Export Revenue Service (PIERS) trade database, a commercially available dataset of all shipments into the U.S. based on bills of lading; and official Peruvian timber export data since 2011 through Sunat's online public data.

Peruvian Amazon Line  
Naviera Yacu Taski S.A.  
Agencia Naviera Maynas S.A.  
General Agents

Four decades of experience at your service

Your time 21:09 03:09 in Bremen Home - Contact us - Site Map - Español

ABOUT US SERVICES FLEET SCHEDULE AGENTS DOWNLOADS TOPICS OF INTEREST TOOLS

**OCEAN - RIVER TRANSPORTATION**

**Liner Service.** It is designed to meet the transportation needs of import/export between Iquitos on regular basis to/from Mexico and the United States ( US Gulf). For this we have a multipurpose vessel for transportation of equipment, generators, supplies for the oil industry, pipes, timber, bagged and/or loose general cargo and containers.

**Charter Service.** This service is offered when demand exceeds holds capacity of our regular service and/or the volume of the cargo or its features (extra-heavy loads, bulky) requires dedicated or specialized vessels. To do this we have agreements with owners of specialized vessels that can transport special cargo or to hire directly vessels from the international market.

Av. Caminos del Inca N° 670, Of. 302  
Santiago de Surco, Lima 33 PERÚ  
Telf. (511) 475-2033  
informes@peruvianamazonline.com.pe

Jr. Putumayo 993  
Iquitos, Maynas, Loreto, PERÚ  
Telf.: (5165) 23-3871

Screenshot from the now-disabled shipping company website describing services offered. See this report's online supplementary materials for additional screenshots.

**Table 2: Summary of Yacu Kallpa 2015 shipments of illegal timber**

Departure from Iquitos[1]	Arrival to Houston[2]	In this report	Case	total volume (m <sup>3</sup> )	% illegal origin of total volume[3]	% legal origin of total volume	% not inspected	% illegal of total inspected volume
29 December 2014	20 January 2015	YK-1	Verification requested by USTR	complete data not available	82% of La Oroya's portion of shipment [4]	--	--	
30 March 2015	24 April 2015	YK-2	Operation Amazonas 2015; Al Jazeera case study	9037.53	67.40%	10.35%	22.30%	86.70%
1 June 2015	21 June 2015	YK-3	--	data not available	--	--	--	
18 August 2015	27 September 2015	YK-4	Operation Amazonas 2015; Timber seized in Houston by U.S. HSI; DOJ investigation	13326.64	82.51%	8.98%	8.50%	90.20%
27 November 2015 (or 2 Dec.) [5]	Never arrived (abandoned in Tampico)	YK-5	Operation Amazonas 2015; Timber seized in Tampico by Peruvian FEMA Prosecutor	9651.40	96.03%	3.97%	0.00%	96.03%
<b>Totals</b>				<b>32,015.58 m<sup>3</sup></b>	<b>82.32%</b>	<b>7.86%</b>	<b>9.82%</b>	<b>91.30%</b>

[1] Source: Sunat database

[2] Source: PIERS

[3] Yacu Kallpa 2015 database: Osinfor's results for Operation Amazonas 2015, public statements and confidential sources. Data up to July 2016.

[4] Source: Informe No. 013-2016-Osinfor/01.1.1, 3 June 2016. "Asunto: Resultados de supervisión y fiscalización de títulos habilitantes y planes de manejo forestal comprendidos en la solicitud de verificación realizado por los EE.UU., en el marco del compromiso asumido en el Acuerdo de Promoción Comercial Perú – Estados Unidos." Obtained by EIA in response to request for information under Peru's Transparency Law.

[5] According to the port sources, the Yacu Kallpa left the port on December 2nd. But according to the Sunat data, the vessel left on November 27th.

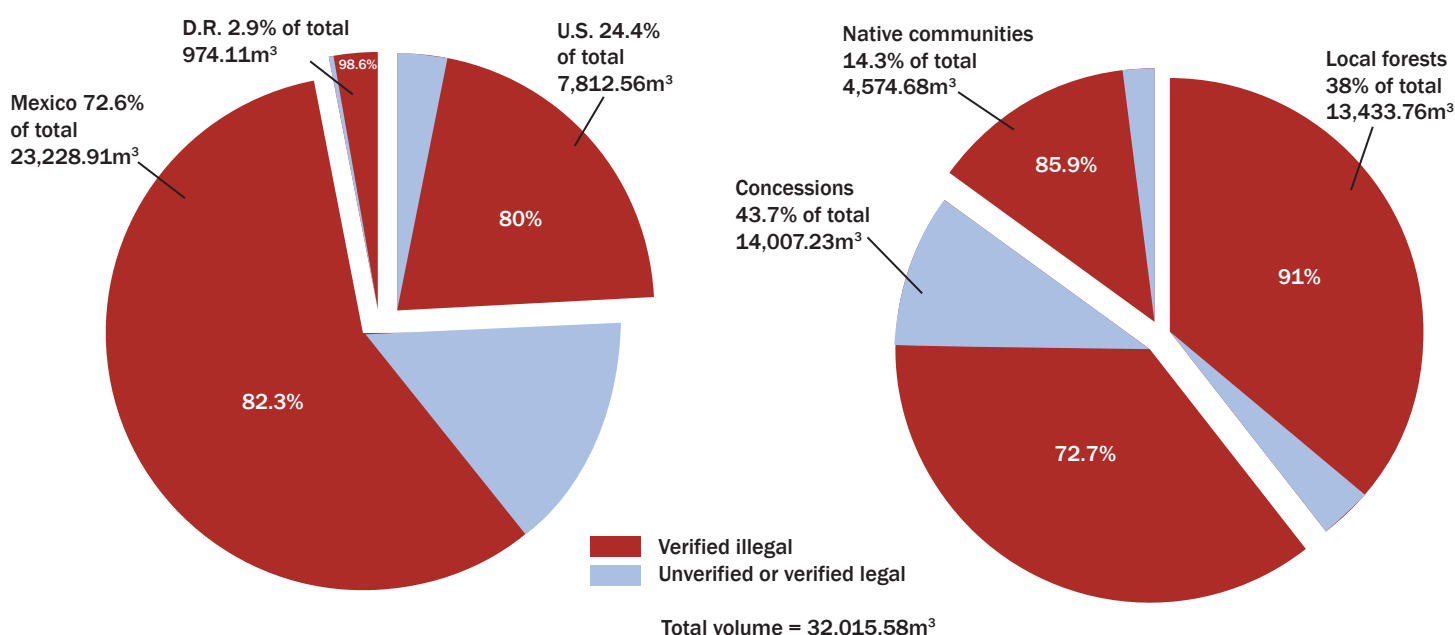
The M/V Yacu Kallpa shipped from Iquitos five times between the final days of 2014 and the end of 2015.<sup>88</sup> The final destination of each of these voyages was Houston, Texas, by way of the Brazilian Amazon, the Caribbean Sea and the Mexican port of Tampico. For those shipments with available data, 24% of the timber was bound directly for the U.S., 73% for Mexico and the other 3% for the Dominican Republic.<sup>89</sup>

Operation Amazonas 2015 focused mainly on three of these voyages (March, August, and December), with Sunat asking Osinfor to verify as many points of harvest as possible linked

to the wood on these three shipments. Taking advantage of the knowledge acquired in its previous fieldwork, Sunat looked first and foremost at shipments involving the 10 timber exporters found to be particularly problematic during the 2014 Operation.

EIA has built a database of three of these five shipments using Osinfor's results from 2015, publicly available reports and confidential sources. This dataset, hereafter referred to as the "Yacu Kallpa 2015 database", is the basis for subsequent figures in this section.

**Figure 4: Where from, where to, and how much? Illegal timber in three Yacu Kallpa 2015 shipments**





**Table 3: Timber trade Iquitos, Peru to Houston, U.S.A., 2007-2015**

Vessel name	Sailing from	Sailing until	# shipments to Houston	Sum of estimated Value (USD)	Approx. volume (m <sup>3</sup> )
Yacu Puma	Jan 2007	May 2011	25	\$21,634,290	57,998
Yacu Taski	Sep 2011	Jun 2013	8	\$10,052,590	23,717
Marco Manche	Aug 2013	Nov 2013	2	\$798,340	3,660
Yacu Kallpa*	Mar 2014	Sep 2015	8	\$5,391,720	28,437
			<b>Totals</b>	<b>\$37,876,940</b>	<b>113,812</b>

\*Please note that YK-5 (late 2015) is not considered here since it never arrived in Houston

Source: PIERs trade database; Sunat online database

Overall, in these three shipments, illegal origins were found for between 86% and 96% of the timber whose point of harvest was inspected by Osinfor. See Table 3. Four of the five shipments became embroiled in scandal over their illegal contents, as the following sections of this Chapter describe in detail.

While there is no data that would allow a cross-check of legal origin for all the other timber that has been transported through the Iquitos – Houston route over the years, an estimate can be built extrapolating back from the evidence generated by Operation Amazonas 2015. This calculation assumes that volumes of illegal trade have remained constant or diminished in the past ten years, as asserted by the Peruvian government.

Following this exercise, between May 2008, when the U.S. Lacey Act timber amendments were passed into law, and the final voyage of the Yacu Kallpa in 2015, EIA estimates that approximately 74,060m<sup>3</sup> of illegal timber, worth approximately US\$24,253,840, could have been hauled down the Amazon and entered the United States.

This amount of lumber equates to about 33,510 trees. If these trees were growing side by side in the forest, they would occupy a little over 861 hectares, or 1,722 football fields. Of course, timber trees in the Amazon rainforest aren't like corn fields, they grow dispersed across the landscape. The damage to forests from illegal logging is therefore spread out over a correspondingly larger area. The illegal harvesting of this volume of timber must have affected at least 861,207 hectares of the Peruvian Amazon – an area comparable in size to the island of Puerto Rico.<sup>90</sup>

The methodology followed for calculating these figures:

- During Operation Amazonas 2015, 91.30% of the timber on the Yacu Kallpa *whose origins were inspected by Osinfor* was of illegal origin. (See Table 2.)
- PIERs import data records 42,547,453.00 kilograms of products in HTS tariff code Chapters for wood products (44 and 94) entering U.S. ports on the three vessels owned by Naviera Yacu Puma S.A. (see Table 3) between May 2008 and December 2015, for total estimated value \$26,564,995.<sup>63</sup>
- EIA converted weight to volume for each shipment recorded in PIERs using species-specific density data (e.g. density of *Virola*, the top export timber, is 450 kg/m<sup>3</sup>)<sup>91</sup>
- A mature Amazon rainforest tree is assumed to produce an

***The illegal harvesting of this volume of timber must have affected at least 861,207 hectares of the Peruvian Amazon – an area comparable in size to the island of Puerto Rico.***

average of 4.25 m<sup>3</sup> of export-grade lumber, with a sawn wood to roundwood conversion of 1.923<sup>92</sup>

- A mature rainforest tree occupies an average of 257m<sup>2</sup> of canopy space (11m radius)<sup>93</sup>

The Yacu Kallpa and its predecessors represented roughly 25% of the total volume of wood products (11% by FOB value) formally exported from Peru during this time period, according to Sunat data.<sup>94</sup>

#### **4.b. Shifting sources to avoid scrutiny**

Analysis of the Yacu Kallpa data also demonstrates the industry's marked shift towards use of more opaque timber sources, as Sunat and Osinfor worked together to shed light on the extent of timber laundering. For example, during Operation Amazonas 2014, it became clear to these authorities that, when exporters were requested to provide their documentation, they were producing GTFs from timber contracts that had not been reported to Osinfor.

Peruvian legislation requires regional forest authorities to notify Osinfor of every timber harvesting permit within 15 days following its authorization.<sup>95</sup> But for Operation Amazonas 2014, 76.5% of the points of harvest used as a source of GTF papers did not exist in Osinfor's system, and in 2015, the percentage was 100% as of March.<sup>96</sup> If the point of harvest's approval was not reported to Osinfor, it could not be supervised. Selecting GTFs from such contracts guaranteed that no red flags would come up if anyone was going to search the SIGO database.

However, during the implementation of these Operations, once Sunat reported the "inexistent" contracts to Osinfor, the latter quickly scheduled field visits and usually revealed a fake forest inventory produced just for timber laundering. As noted in Chapter 3, out of the 144 points of harvest verified for Operation Amazonas 2014, Osinfor found evidence of illegalities in 94% of the cases.

It is probably because of this dynamic that the exporters shifted heavily towards sourcing from a harvest source that was not receiving Osinfor scrutiny, known as “local forests” (*bosques locales*). Local forests are approved by regional governments, and prior to late 2015 (entry into force of Forest Law 29763 and its regulations) Osinfor had almost no effective authority to supervise them (see Box 5 for a detailed explanation).

During mid-2015, the Regional Government of Loreto invited Osinfor to accompany them to verify a number of local forests to provide some technical support. However, the resulting reports were not incorporated into the SIGO public database, since the forests in question were not part of Osinfor’s regular responsibilities. Thus when, in December 2015, some exporters gave Sunat their GTFs corresponding to several of these same local forests, they were unaware that Osinfor had already discovered these documents were based on fraudulent inventories and being used to launder illegal timber.

The rest of the Operation Amazonas 2015 data on local forests exists because Sunat specifically requested that Osinfor conduct supervisions. 42% by volume of all the timber in the analyzed shipments for 2015 came from local forests, almost equal to concessions (43.8%) and far more than from native communities (14.3%) – and over 90% of this volume from the local forests inspected by Osinfor was illegal.<sup>97</sup> As Figure 5 shows, the percentage of timber from this opaque source grew with each shipment.

#### 4.c. Key 2015 shipments

The investigations that uncovered the truth and turned the 2015 Yacu Kallpa shipments into public scandals occurred in a slightly different chronological order than that in which the vessels launched. The first one to make it to the media was the YK-2, as part of the Al Jazeera investigative piece, “Peru’s Rotten Wood”. The second one was the YK-4, when it became public that the U.S. authorities had stopped the shipment at the port of Houston and opened an investigation that is still ongoing. The third one

was the YK-5, when a Peruvian prosecutor ordered the seizure of 15% of the shipment while still in Iquitos port and later stopped the shipment in Tampico, Mexico. The fourth one was the YK-1, when, a year after the shipment took place, the United States Trade Representative (USTR) requested that Peru’s Minister of Foreign Trade (Mincetur) investigate the legal origin of the timber exported by Inversiones la Oroza to the U.S. in this shipment.

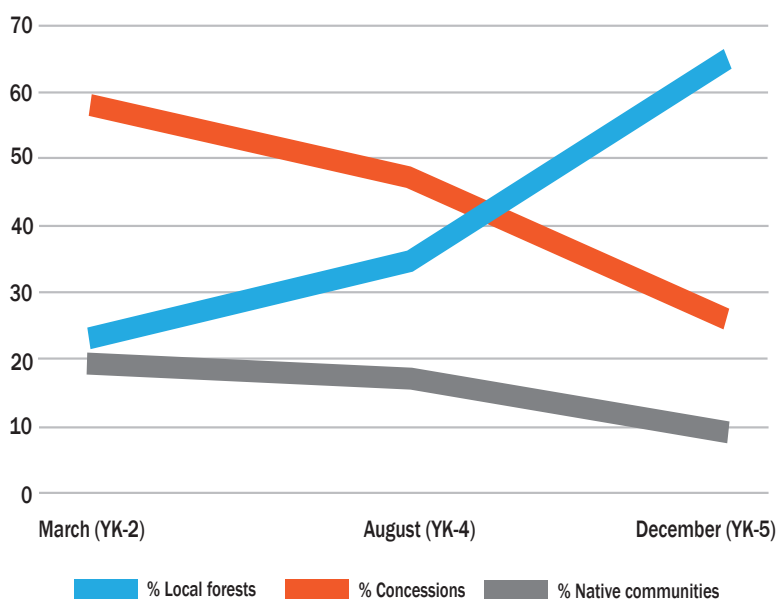
For the purposes of this report, we are presenting the shipments according to the chronological order in which they departed from the port of Iquitos; for further reference, see Figure 6: the timeline of events on p28.

#### 4.c.i. YK-1, January 2015: a U.S. trade investigation

The first shipment in this story set off down the Amazon without incident on 29 December 2014, and arrived in Houston, seemingly without red flags, on 20 January 2015. It was over a year later that the facts revealed by Operation Amazonas and other investigations led U.S. authorities to take a retroactive look at its contents. In February 2016, the USTR announced that it had asked the Government of Peru to verify the legal compliance of timber contained in this shipment, invoking for the first time the verification tool established under Article 7 of the U.S.-Peru TPA Annex on Forest Governance.<sup>103</sup>

It’s worth noting that the 2016 verification focused on timber from the company Inversiones La Oroza SRL<sup>104</sup> – one of the same companies mentioned in EIA’s verification request petition to USTR four years earlier and a supplier to Maderera Bozovich, the largest illegal timber exporter in *The Laundering Machine* 2012 analysis. (In fact, in that report, Oroza Wood SAC, a company with the same owners as Inversiones La Oroza,<sup>105</sup> notably had one of its forest concessions annulled for laundering infractions after Osinfor inspectors found fake “stumps” planted in the ground to mimic evidence of harvesting at a site where trees had been invented.<sup>106</sup>)

**Figure 5: The shift in laundering sources over 2015**



Voyage	Local forests		Concessions		Native communities	
	%	volume (m³)	%	volume (m³)	%	volume (m³)
March (YK-2)	23	2221	58	5378	19	1437
August (YK-4)	35	4694	47	6846	17	1786
December (YK-5)	65	6518	26	1782	9	1350



**Box 5: New laundering opportunities: local forests, plantations, and land-use change**

As scrutiny has increased over forest concessions and native communities, the black market in paperwork from other types of timber sources is increasing.

**Local forests**

In theory, empowering local authorities to manage their forest resources is an element of improving long-term forest governance. In practice, “local forests” have served largely as timber laundering machines with far less supervision than other types of timber sources.

Between 2009 and 2014, Osinfor barely looked at local forests because it didn’t have clear authority to do so. Osinfor’s jurisdiction is limited to supervising “enabling titles”, logging contracts for forest management (see Box 2.) Under the Forest Law 27308 and its regulations, “local forests” were managed by a municipal government or by officially-recognized autonomous committees representing a rural “population center”. These committees were then delegated the power by the national or, later, regional forest authority to grant enabling titles to individual people for logging within the designated local forest area. In theory, Osinfor could supervise these individual harvest parcels. However, in practice, the autonomous committees have almost never granted such titles, but rather logged and transported timber directly, and been given the permits and GTFs to do so by regional forest authorities.<sup>98</sup>

In addition, with decentralization, information about registered local forests was rarely reported by the regional

government to either Serfor or Osinfor. Thus the latter had neither the information nor the authority to effectively inspect or sanction. When, in 2014-15, Osinfor did begin to enter local forests more consistently – first with the regional government of Loreto, where almost all local forests are found, and then under request of Sunat during Operation Amazonas – they found almost universal irregularities and higher percentages of illegality than concessions, communities or private properties.

In total, over 90% of the timber associated with local forest GTFs supervised during 2015 was illegal.<sup>99</sup> In Datem de Marañón province, Loreto Department, it wasn’t only trees being invented: six local forests had been granted to *nonexistent* “population centers”, whose georeferenced locations turned out to be in remote, unpopulated areas or land titled to indigenous communities.<sup>100</sup> Without sanction powers, Osinfor could only remit all these cases back to Loreto’s Regional Government for legal follow-up.

Forest Law 29763 has changed the legal framework for local forests such that the enabling title is granted directly to the municipal authority, not to autonomous committees or individuals, which should allow for better control by Osinfor and regional authorities. However, to-date almost no local forests have yet been approved under the new law, while significant volumes of timber continue to circulate with GTFs linked to local forests approved before October 2015 whose contracts are valid for three to five years. While Osinfor has been supervising local forests (60 in 2016; 28 as of October 2017), it continues to lack sanctioning power due to the administrative loophole described above.



Osinfor inspectors using a canoe to verify the (in)existence of trees listed in a local forest POA inventory in Loreto. The trees’ supposed GPS coordinates were in the middle of a lagoon. © Osinfor

## Plantations

Even paperwork from tree plantations can be used to launder timber when oversight is minimal and regional forest authorities are complicit. In 2014, Osinfor examined 100 authorizations to harvest plantation timber in Loreto Department, 90 of which occurred in its southern province of Ucayali, and found rampant fraud. Satellite imagery analysis of a 25% sample found that every single site had been primary rainforest or swamp in 2011.

It's highly unlikely that any plantation could reach maturity in three years, much less a shihuahuaco plantation. At a growth rate of 1.24-2.06 cm/year, this slow-growing hardwood would have reached a whopping six cm in diameter by 2014, and will take at least another 21 years to reach *minimum* harvest size. Yet somehow shihuahuaco made up 12.7% of the 164,118m<sup>3</sup> authorized to be extracted from these "plantations" in Ucayali province. Most of the remaining volume came from other slow-growing primary forest species.<sup>101</sup>

## Land-use change

Another modality emerging as a mechanism to launder illegally logged timber are "land use change authorizations", which are

approved by regional governments for removal of forest cover to establish agriculture of any sort, including monocultures like palm oil plantations. How does this facilitate timber laundering? The land holders report to authorities that they will be removing a quantity of trees of certain species to prepare the land for the plantation, and therefore request an authorization to trade that timber. Oversight and verification of these inventories by regional governments has been almost nonexistent.

In San Martin region, a preliminary investigation conducted by EIA showed multiple such authorizations being approved over land whose forest cover had already been removed, with the regional government signing off on volumes of timber per hectare that are several times above typical logging volumes. The situation is so well known by the timber industry that in a meeting held in the jungle town of Tarapoto, San Martin, in April 2017, between the regional and national forest sector authorities and the local timber industry, the regional industry association (ADIMARSAN) requested that the Regional Government suspend all authorizations to trade timber from land use change authorizations until their legality could be verified.<sup>102</sup>

While neither Mincetur nor USTR to this day have made public the complete results of the verification conducted, EIA obtained the June 2016 Osinfor report submitted to Mincetur with results from its inspections of the shipments in question. The findings: 82.6% of the timber that La Oroza had sent north in this vessel was illegal, 16.8% was as-yet unverified, and exactly 0.57% had confirmed legal origin.<sup>107</sup> In August 2016, the U.S. Interagency Committee on Trade in Timber Products from Peru released a summary report corroborating the open secret of rampant illegality.<sup>108</sup>

The U.S. Committee's report explains that La Oroza's timber in the January 2015 Yacu Kallpa shipment was associated with 12 distinct points of harvest: eight concessions, two native communities and two local forests. For the verification process, Osinfor conducted inspections in the three titles that it hadn't already visited, and was joined by Serfor and the regional government of Loreto in re-visiting two more. A "detailed chain-of-custody" review was also conducted. The findings: not one of the POAs associated with La Oroza's wood were legitimate.

*"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."*

Eight of the 12 concessions and communities had their timber harvest titles cancelled, all were sanctioned, and the regional government was left to decide how to handle the local forests. Osinfor shared its evidence of illegal activity with civil and criminal authorities in Peru.

The U.S. Timber Committee report recommends a series of urgent "areas of additional work" that Peru should prioritize to get the illegal logging situation under control, including:

- "Timing of post-harvest inspections, so that illegally harvested timber can be detected prior to export [...];
- Prompt, full implementation of the new electronic timber tracking system [...];

- 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 [GTFs], 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[...];"

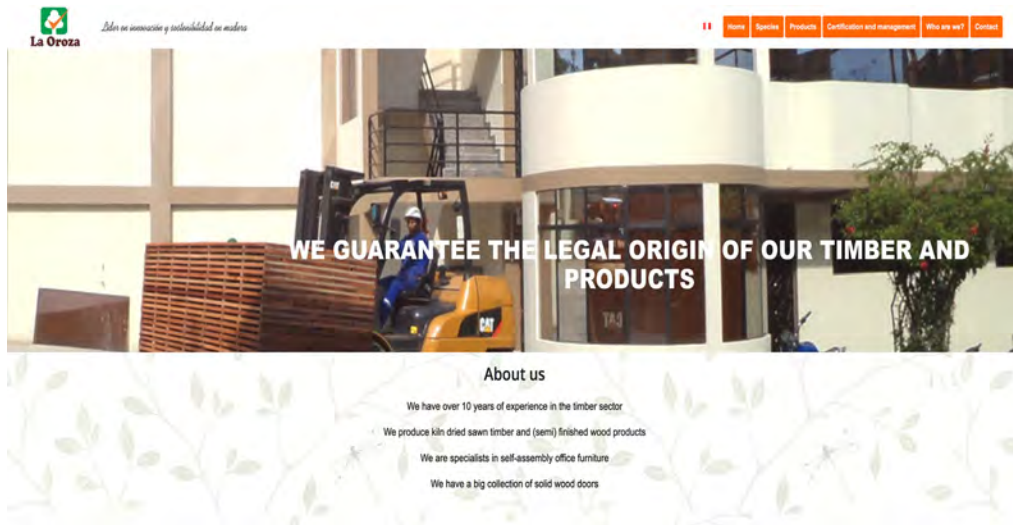
While these follow-up points are indeed essential, they were not new – and in fact were highly reminiscent of the "five-point action plan" that the U.S. and Peru agreed to implement back in 2012, which itself mostly echoed the original commitments included in the TPA Forest Annex, which should have been fully implemented by July 2010.

Peruvian officials announced their intention to implement most of the recommendations during a meeting of the Sub-Committee on Forest Sector Governance in November 2016. An official joint statement between the U.S. and Peruvian governments was released at that time, although not even the commitments due by the first quarter of 2017 had been implemented almost a year later.<sup>109</sup>

## 4.c.ii. YK-2, March 2015: International headlines over "Peru's Rotten Wood"

The second Yacu Kallpa shipment of 2015 left Iquitos on 30 March and arrived in Houston on 24 April, again without apparent red flags at that time. However, five months later this shipment became embroiled in international headlines when news network Al Jazeera launched a high-profile exposé.<sup>110</sup> "Peru's Rotten Wood" used a wealth of documents, interviews, and field investigation to show the detailed story of illegal logging from stump to U.S. shelf, and highlighting the complicity of officials and traders throughout the process. "Almost everything is illegal... everyone knows, even the





Screenshot from Inversiones La Oroza S.R.L.'s website, November 2017. Curiously, the text "we guarantee the legal origin of our timber and products" is not found on the Spanish language version of this image on the same website as of November 2017.

authorities know, that there is a chain of corruption on a big scale," said one veteran trader in the documentary.

The most complete data from Operation Amazonas 2015 shows that at a bare minimum, 67.4% of the timber in this shipment was illegal. However, only 10.4% of the timber was positively verified as coming from the origin indicated by its GTFs, while 22.2% came from sources that Osinfor hadn't inspected yet as of the writing of this report. Of the timber from *supervised* points of harvest, 86.7% was proved illegal.

Al Jazeera started investigating for "Peru's Rotten Wood" during the final months of 2014. Around March 2015, while accompanying an Operation Amazonas action in the port of Iquitos, the reporters covered Sunat officials checking on an Inversiones La Oroza shipment of cumala (*Virola sp.*) before it was loaded onto the Yacu Kallpa.

Over the course of the documentary, the journalists follow how Osinfor traces three GTFs associated with this same

cumala timber back to the native community of Lancha Poza, where, it turns out, no logging actually occurred and invented trees dot the landscape. The cumala, however, had long since left the docks bound for Houston and its buyer, Las Vegas-based Global Plywood & Lumber (GPL). When confronted with the fake GTFs as evidence of his illegal imports, GPL's owner Kenneth Peabody insisted on screen that he complies fully with the Lacey Act.

Released in August 2015, this documentary's vivid example of the mechanisms at work allowing blatantly illegal timber to enter the export supply chain appears to have been a tipping point for U.S. authorities. While no action was taken in relation to the third YK shipment in June – which had already arrived to the U.S. when the documentary was aired – plans were forming on the part of both Peruvian and U.S. enforcement officials.



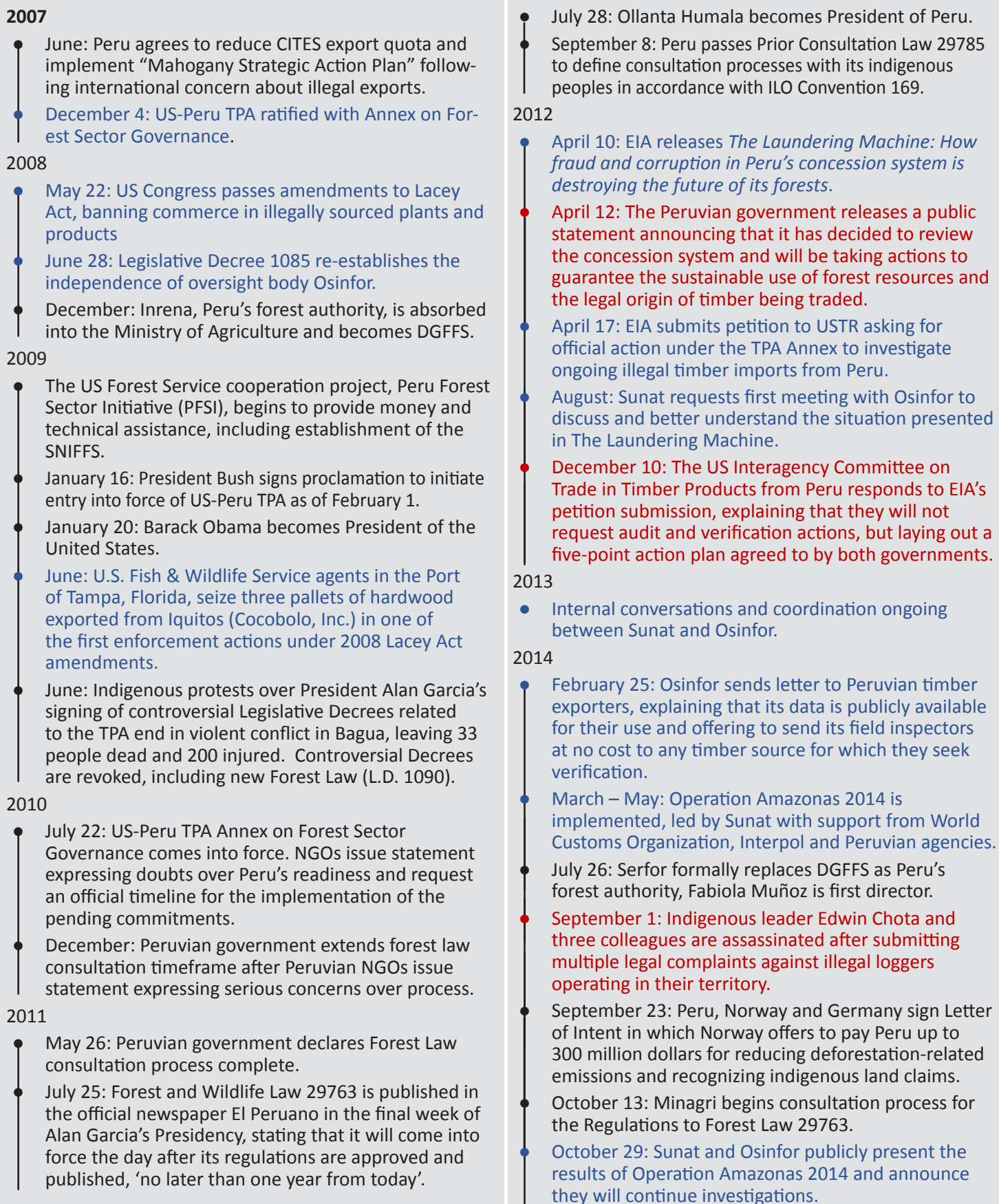
Al Jazeera reporter approaches GPL owner Kenneth Peabody with information about his illegal timber imports. © Al Jazeera

**FIGURE 6: Action and Reaction: Key dates and events in the fight against illegal timber trade in Peru (2007-2017)**

*Enforcement actions or related events*

*Pushback reactions from industry or governments*

*Important contextual events*





- December 1–12: Peru hosts the UNFCCC Conference of the Parties in Lima. Edwin Chota's murder, illegal logging and international trade are raised in multiple public and official fora.
- December 11: Launch of Peru's National Pact for Legal Wood.
- December 29: Yacu Kallpa voyage YK-1 departs Iquitos.

## 2015

- January: Sunat and Osinfor sign an inter-institutional agreement for coordinated research and information exchange.
- January: Sunat launches Operation Amazonas 2015.
- January 20: The YK-1 arrives to Houston; this shipment will later be examined as part of USTR verification request for Inversiones La Oroza, found to have >82% illegal timber.
- March 30: Yacu Kallpa voyage YK-2 leaves Iquitos. This shipment was featured in the Al Jazeera documentary; 87% of verified volume and at least 67% of total volume later found to be illegal.
- April 24: YK-2 arrives to Houston.
- June 27-28: Joint operation by FEMA, Police, Sunat, Dicapi and Osinfor in rivers and sawmills near Iquitos captures timber worth US\$1.7 million.
- July: Sunat and Osinfor officers involved in Operation Amazonas present their findings in Washington D.C., meet with US authorities.
- August 12: Al Jazeera International releases "Peru's Rotten Wood" documentary.
- August 18: Yacu Kallpa voyage YK-4 leaves Iquitos. 90% of verified volume and at least 82% of total volume later found to be illegal.
- August 22: Peruvian Ombudsman (Defensoría del Pueblo) sends official letters to relevant Peruvian institutions expressing the need to intensify actions in light of increasing deforestation rate
- Late August: Osinfor and FEMA overflight near Cordillera Azul National Park documents heavy equipment building three illegal roads and transporting a large flow of illegal logs.
- September 21: YK-4 arrives to Tampico, MX. Mexican authorities stop and hold the timber that is offloaded for Mexican import.
- September 24: Peruvian government emits Legislative Decree 1220 providing the Public Ministry new powers to seize, confiscate or destroy timber and equipment associated with illegal logging.
- September 26: Peruvian government emits Legislative Decree 1237 modifying the Penal Code to increase penalties for forest crime.
- September 27: YK-4 arrives to Houston; its remaining load is stopped by Homeland Security authorities based on data shared by SUNAT.
- October 1: New Forest & Wildlife Law 29673 goes into effect, the day after its Regulations are published and

four years after Law's publication.

- October 15: Mexican authorities release the illegally logged timber from YK-4 after strong pressure from the Mexican-Peruvian Chamber of Commerce.
- November: Officials in the Port of Houston seize 24 pallets of timber exported from port of Callao by Corporación Industrial Forestal SAC, destined for Popp Forest Products, Inc., under charges of violating the Lacey Act.
- November 23 – December 4: A forest sector strike begins in Loreto, Ucayali and Madre de Dios. Over the next 10 days protestors associated with the timber industry march repeatedly, block roads, burn tires.
- November 24: Iquitos environmental prosecutor seizes 15% of timber in Yacu Kallpa's 5<sup>th</sup> voyage YK-5 while ship is still in Iquitos port.
- November 30: Osinfor's offices in Pucallpa are attacked with a Molotov cocktail backpack.
- December 2: U.S. Representative Earl Blumenauer gives floor speech in Congress about the worrying situation in Peru.
- December 2: Pucallpa Congressman Carlos Tubino demands in PCM meeting that Rolando Navarro be fired immediately "for destroying the forest industry in Pucallpa."
- December 2: YK-5 voyage departs Iquitos with 15% of its load under seizure but still on board; forest verifications eventually document that over 96% of the timber on board had been illegally logged and laundered.
- December 3: Peruvian ambassador to the Organization of American States Juan Jimenez makes a speech at OAS commission on hemispheric security about the success of Operation Amazonas and Osinfor's model.
- December 4: Iquitos protestors throw stones at Osinfor's office, break windows, and burn coffins with names of Osinfor President, Serfor Director.
- December 7: At internal meeting at Foreign Relations ministry, Mincetur and Serfor complain that Osinfor and Sunat are destroying the country's image and will bring TPA sanctions from the US, affect TPP negotiations, and destroy timber exports.
- December 9: Brazilian authorities stop the YK-5 in Macapá, interrogating the captain of the vessel and reviewing documents.

## 2016

- January 5: YK-5 arrives to the Dominican Republic, is told not to unload.
- January 8: Internal official documents allow the YK-5 to unload illegally logged timber at the port of Haina, D.R.
- January 8: Peru's national environmental prosecutor and the Loreto environmental prosecutor jointly send documents to Interpol to request seizure of timber documented to-date as illegal on the YK-5.
- January 11: Loreto prosecutor sends a formal request to D.R. authorities to seize the illegal timber that has been unloaded, as well as the timber that remains in the vessel.

- January 11: A prosecutor from the D.R. executes a judicial order dated January 8<sup>th</sup> to seize the illegal timber already unloaded from YK5.
- January 12: Peru's Minister of Environment holds a confidential meeting with National Prosecutor.
- January 13: Ministers of Agriculture, Foreign Trade, and Production, Serfor director, and Minagri's chief of staff attend an unscheduled, confidential meeting with the National Prosecutor and his Environmental Prosecutor.
- January 14: The US Ambassador to Peru visits Rolando Navarro's office to express his support of Osinfor's work.
- January 15: A resolution from the Presidential Council of Ministers terminating Rolando Navarro is published in the official gazette.
- January 21: The YK vessel is put on sale through an online advertisement, "to be sold 'as is where lies' at Tampico."
- January 22: Loreto environmental prosecutor sends an international alert to Interpol Peru requesting they notify the Mexican government to seize the YK-5's entire shipment of timber.
- January 26: The YK5 arrives to Tampico, Mexico. The vessel and the crew have been abandoned by the shipping company.
- February 4: Trans-Pacific Partnership trade agreement final negotiated text is signed in Auckland, including provisions to combat illegal trade in timber and wildlife among signatory nations.
- February 6: The YK-5 timber is offloaded and put under the custody of the Mexican authorities.
- February 26: The US Interagency Committee on Trade in Timber Products from Peru activates US-Peru TPA Annex measures, officially requesting Mincetur to verify legality for a January 2015 Inversiones La Oroza shipment.
- April: Peru's national police conduct a raid on "Los Patrones de Ucayali" timber trafficking mafia.
- June 6: The US Department of Homeland Security executes a Search Warrant on the premises of importer Global Plywood & Lumber, for probable cause that they have violated the US Lacey Act.
- July 28: Pedro Pablo Kuczynski becomes President of Peru.
- August 16: Peru's President moves the High Commission on Illegal Logging from an independent commission to under the Ministry of Agriculture.
- August 17: The US Interagency Committee releases a summary report on the results of its verification request, confirming that Peru found most of Inversiones La Oroza's timber on YK1 was of illegal origin.
- September: Seized illegal timber in Tampico begins to be released to its importers after political pressure. Final shipments released in December.

- October: High level Peruvian delegation visits D.C., claiming at official meetings that Peru has already resolved illegal timber issues.
  - November 4: US and Peruvian governments hold meetings, issue joint statement announcing actions that Peru will implement "to address on-going challenges regarding timber export products and strengthen the forestry sector."
  - December: Seized timber from YK-4 is destroyed in Houston.
  - December: SERFOR promotes decree to weaken DL 1220 and DL 1237.
- 2017
- January: U.S. DOJ and Popp Forest Products reach settlement to destroy timber and waive further civil enforcement actions.
  - January 20: Donald J. Trump becomes President of the United States.
  - January 23: U.S. pulls out of the Trans-Pacific Partnership.
  - March-April: US customs officials stop multiple shipments of Peruvian timber, requesting paperwork to demonstrate legality.
  - March 20: Serfor "launches" the national digital information control system for timber tracking (MC-SNIFFS), in pilot stage.
  - March 24: SUNAT circulates draft legislation to modify Customs Merchandise Declaration (DAM) to include points of harvest information.
  - April: Serfor and ADEX present their analyses of the proposed DAM modification stating that "traceability is impossible".
  - July 12: Large joint enforcement operation breaks up "Castores de la Selva Central" timber trafficking mafia.
  - September: Multi-sectoral delegation of U.S. officials visits Peru to meet with counterparts and conduct site visits regarding legal timber trade.
  - October 5-6: Serfor hosts International Seminar on Traceability.
  - October 20: USTR requests U.S. Customs & Border Patrol to block imports from Inversiones La Oroza based on continued evidence of illegally harvested timber in its supply chain.
  - November 9: Global Witness releases "Buyers in Good Faith" report, with undercover footage showing that exporters of Yacu Kallpa timber in 2015 knew or had reason to suspect that their wood was illegal.
  - November 20: Center for International Environmental Law releases "'Continuous Improvement' in Illegal Practices in the Peruvian Forest Sector," demonstrating exporters' evolving tactics to avoid transparency, and continue trade in high-risk timber.



**Table 4: Exporters and importers of timber on YK-4 shipment ultimately detained in Houston, September 2015**

Exporters from Peru	# GTFs	Volume (m <sup>3</sup> )	Importers to U.S.
MADERAS DE LA SELVA PERUANA S.A.C.	5	148.433	GLOBAL PLYWOOD & LUMBER TRADING LLC SABRA INTERNATIONAL INC.
INVERSIONES WCA E.I.R.L.	14	419.744	GLOBAL PLYWOOD & LUMBER TRADING LLC GREY FORESTAL SA DE CV SABRA INTERNATIONAL INC.
INVERSIONES LA OROZA S.R.L.	35	1515.565	GLOBAL PLYWOOD & LUMBER TRADING LLC
INDUSTRIAL MADERERA ZAPOTE S.A.	3	27.956	TROPICAL MOULDINGS L.L.C.
CORPORACIÓN INDUSTRIAL FORESTAL SAC	18	718.668	SUN CORE LTD
SICO MADERAS S.A.C.	2	73.023	SABRA INTERNATIONAL
<b>Totals</b>	<b>77</b>	<b>2903.389</b>	

Source: Informe 069-2016-Serfor-DGGSPFFS-DCGPFFS

#### 4.c.iii. YK-4, August 2015: A seizure in Houston

By this time, red flags had been raised in both Peru and the U.S. Despite the Al Jazeera documentary's airing on 12 August, the Yacu Kallpa left Iquitos again on 18 August, with timber from five Peruvian exporters, destined for seven Mexican importers and four different companies in the United States (see Table 4). At least 82.5% of all the timber onboard this shipment turned out to be illegal, linked to false POAs from concessions, communities and local forests. Of the remainder, 9% was positively verified back to point of harvest, and 8.5% remains unsupervised at the writing of this report. Of the timber from *supervised* points of harvest, 90.2% in total was proved illegal.<sup>111</sup>

First, when it arrived in Tampico, Mexico, some 10,212m<sup>3</sup> of timber were detained temporarily by Mexican authorities who had been in communication with their Peruvian and U.S. customs counterparts about its illegal origin in Peru. This wood, however, was released two weeks later under strong pressure from industry and the Peruvian embassy (see Box 8).

Then in Texas, the YK was detained by U.S. customs authorities upon arrival into Houston on 27 September. They held up 71 shipping containers adding up to 1,770 metric tons or 3,589 m<sup>3</sup> of timber – enough to fill three American football fields with timber pallets.<sup>112</sup> The timber was associated with 89 distinct GTFs which, in turn, indicated 33 different points of harvest. Of these, 15 were concessions, 13 were local forests, and five were native communities, again clearly demonstrating the industry's shift to local forests as a timber (or GTF paperwork) source.<sup>113</sup>

The wood remained in Houston for months under an exclusion order from customs authorities. Warehouse fees mounted for the traders as communications ensued between U.S. and Peruvian officials regarding whether the latter were able and willing to vouch for its illegal status. Upon conducting complete inspections of all points of harvest in the GTFs associated with the Houston cargo, Osinfor's supervision reports, cross-checked with Sunat's export documents, ultimately demonstrated the illegal origin of over 97% of the timber that arrived to the U.S (3066 m<sup>3</sup> of 3138 m<sup>3</sup>). Yet Serfor and Mincetur were unwilling to go on record admitting it, opting instead to defend the exporters for having purchased "in good faith" as Chapter 5.b. of this report details.

This was the situation when, on 6 June 2016, the U.S. Department of Justice executed a search warrant under the Lacey Act, entering the premises of one of this shipment's importers, the same Global Plywood & Lumber featured in Al Jazeera's exposé. Once again, La Oroza's illegal exports lie at the heart of the matter.

---

***Upon conducting complete inspections of all points of harvest in the GTFs associated with the Houston cargo, Osinfor's supervision reports, cross-checked with Sunat's export documents, ultimately demonstrated the illegal origin of over 97% of the timber that arrived to the U.S (3066 m<sup>3</sup> of 3138 m<sup>3</sup>).***

---



Port of Houston, where authorities detained 71 shipping containers from the Yacu Kallpa in September 2015. Osinfor and Sunat cross-checks eventually demonstrated illegal origin of 97% of this shipment. © EIA

### Box 6: Excerpts from the GPL Search Warrant

Homeland Security Investigations filed a search warrant on 6 June 2016 in the U.S. District court for the Southern District of California, to search the offices of Global Plywood & Lumber, Inc (GPL), “an importer and wholesaler of timber and wood products, with annual sales that exceed \$2.5 million.”

The investigators sought evidence “that La Oroza knowingly exported wood from Peru into the United States, when it knew, or in the exercise of due care should have known, that the wood was taken and transported in violation of underlying Peruvian law and that a violation of the Lacey Act was committed in that GPL imported timber when it knew, or in the exercise of due care should have known, that the wood was illegal under Peruvian law...”:

The Affidavit filed by HSI Special Agent Sonia Tapia in support of the warrant application lays out a series of red flags and due care failures regarding GPL’s dealings with La Oroza.

“Beginning in or about 2010, GPL imported wood and wood-products from Peruvian exporter *Inversiones La Oroza* (La Oroza) and others. In or about 2010, the Peruvian Forest Service investigated a concession which La Oroza had declared as the harvest site for a large export of cedar to the United States. The investigation revealed that only 20 percent of the shipment could have come from the concession and the remaining 80 percent must have been illegally taken elsewhere.”

“In 2012, the Environmental Investigation Agency (EIA) a non-governmental organization focused on environmental issues, published an expose highlighting the Peruvian Forest Service’s findings regarding La Oroza’s illegal actions. As part of its report, EIA identified GPL as an importer of the timber illegally exported by La Oroza. EIA used GPS tags, Forest Service data, an in-person forestry inventory, and interviews with local residents to confirm that the timber imported by GPL from La Oroza was illegally logged, as the harvest location documentation was false.”

And yet, “Between 2012 and 2015, GPL significantly increased the amount of wood it imported from La Oroza, (from 648m<sup>3</sup> worth \$246,575 in 2012 to 4413m<sup>3</sup> worth \$1,939,870 in 2015).”

GPL also ignored direct warnings of trouble ahead, immediately before its final shipment:

“In or about July, 2015, a reporter for Al Jazeera approached GPL manager Kenneth Peabody outside of his home, in connection with investigative reporting that Al Jazeera was conducting on the export of illegal timber out of Peru. The reporter informed Peabody that the wood it was purchasing from La Oroza was illegal, and attempted to provide Peabody with the documents showing illegality. The reporter asked Peabody how GPL was conducting ‘due care’ to ensure that the wood it purchased was legal. Peabody told the reporter that his company ‘complied with all the requirements,’ and then entered his vehicle.”

Not long after this visit, “La Oroza shipped timber on the *MN Yacu Kallpa* on or about August 14, 2015” accompanied by GTFs corresponding to several different supposed sources, including one for a concession that Osinfor had supervised

months before the shipment. In the Supervision Report for this concession (019-2015-OSINFOR/06.1, dated 18 June 2015), observations included no evidence of roads, trails, stumps, storage yards, a census, or 180 of the trees that were supposed to have been cut. “Based on these observations, the Forest Service concluded that the Concession could not be the source of timber listed in any [GTFs]”, and the concession’s logging authorization was revoked.

Critically, it turns out that GPL had the ability to access this information *before* the Yacu Kallpa set sail – had it sought to check: “Osinfor entered information into [its public online database] SIGO regarding the results of [this Supervision Report], as well as the revocation of the POA for the Concession, prior to August 2015.”

The HSI agent thus concludes, “Based on training and experience, an importer which has been identified as an importer of illegal products in multiple public forums should take measures to ensure the legality of any future imports. If GPL had, in an exercise of due care, consulted the Peruvian Forest Service’s publicly accessible database at any time in August or September of 2015, GPL would have learned that the ability to harvest from the Concession (16-REQ/C-J-131-04) had been revoked, and that timber declared as coming from the Concession was illegal under Peruvian law.”

Case 3:16-mj-01610-MDD Document 1 Filed 06/06/16 Page 1 of 39

AJD (in Div. 06/07) Application for a Search Warrant

UNITED STATES DISTRICT COURT  
for the  
Southern District of California

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)  
GLOBAL PLYWOOD & LUMBER, INC. AKA GLOBAL  
PLYWOOD & LUMBER TRADING, LLC, LOCATED AT 11935  
STOWE DR., SUITE 106, POWAY, CALIFORNIA 92064

Case No. \_\_\_\_\_

FILED  
JUN 06 2016  
CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_

16MJ1610

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A.

located in the \_\_\_\_\_ Southern \_\_\_\_\_ District of \_\_\_\_\_ California \_\_\_\_\_, there is now concealed (identify the person or describe the property to be searched):

See Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

☒ evidence of a crime;

☒ contraband, fruits of crime, or other items illegally possessed;

☐ property designed for use, intended for use, or used in committing a crime;

☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 545	Smuggling Goods into the United States
16 U.S.C. § 3372, et. seq.	The Lacey Act

The application is based on these facts:

☒ Continued on the attached sheet.

☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

\_\_\_\_\_  
Sonia Tapia Jose Boyco, Special Agent  
Printed name and title

Sworn to before me and signed in my presence.

Date: 6/3/16

\_\_\_\_\_  
Hon. Mitchell D. Dembin, U.S. Magistrate Judge  
Printed name and title

City and state: San Diego, California

Source: Application for a Search Warrant filed 6/6/16 in U.S. District Court for the Southern District of California, In the Matter of the search of Global Plywood and Lumber, Inc. Case 3:16-mj-01610-MDD, Document 1.



The search warrant, a remarkable and public document, shows, step by step, the lack of due care on the part of Global Plywood and Lumber (see Box 6), as well as retroactive attempts to clean up its Lacey Act declaration paperwork after being informed that the timber would be tested to verify species. The document also describes proactive collaboration between enforcement authorities in the U.S. and Peru.

However, as a result of this September seizure, the ongoing investigations under Operation Amazonas 2015, and two powerful new Decrees (see Box 7), these same Peruvian enforcement officials were beginning to receive intense pushback from other industry-friendly government agencies and from the logging industry itself – nowhere more than in Iquitos, where the Yacu Kallpa became ground zero for a showdown.

As of late 2017, no criminal charges or civil penalties have yet been announced in the ongoing Lacey Act investigation. As for the actual illegal timber, U.S. Customs Enforcement stated

in early 2017 that they had reached out-of-court agreements with importers to destroy what was still sitting in the Houston warehouse, without any admission of fault on the companies' end, but also without precluding further legal action.<sup>114</sup> The companies involved paid storage fees and disposal costs. Downes and Reader Hardwood Co. of Stoughton, Massachusetts, which has imported and sold Peruvian timber, including mahogany, for over a decade,<sup>115</sup> is quoted in an AP story as having lost \$250,000. "I'm all done with Peru," says the company's president, who insists he's only bought from legal sources.<sup>116</sup>

Interestingly, though, as of the end of 2017 Inversiones La Oroza was still holding a valid Forest Management and Chain of Custody certification from the Forest Stewardship Council (FSC), a global system of principals and criteria for evaluating sustainable forest management and trade (see Box 12).<sup>117</sup> The company has also received technical assistance and publicity from USAID's PerúBosques and GIZ's ProMaderas in the last three years.

### **Box 7: New tools: Legislative Decrees 1220 and 1237**

By the middle of 2015, the Humala administration faced a growing drumbeat of news stories and signals of concern from its own agencies regarding the widespread illegalities affecting Peru's timber trade. In August 2015, the national Ombudsman (*Defensoría del Pueblo*) added its voice, sending official letters to several Peruvian institutions expressing grave concerns regarding the increasing rate of deforestation and requesting that they intensify their actions and facilitate adequate budgets for enforcement. In early September 2015, Osinfor reported the results from an overflight near Cordillera Azul National Park, in which officials observed three roads being built into the jungle with at least 20 pieces of heavy machinery and full logging trucks present. At that moment there were no valid timber contracts in the area, which meant that all the timber being moved had an illegal origin and was going to be laundered upon its arrival to Pucallpa.<sup>118</sup>

On 24 September, the Humala administration issued Legislative Decree 1220, "Measures for the Fight against Illegal Logging", significantly strengthening the enforcement tools available to the Public Ministry (Prosecutor's office) to combat logging in protected areas, buffer zones, and other forest areas without any legal logging rights. The Decree's core measures expanded the Prosecutors' interdiction power to seize and confiscate either timber products and/or any instruments of the crime – trucks, boats, tractors or other logging machines, chainsaws, generators, etc. – and even to damage or destroy these goods on-site in cases where seizure and transport is not feasible.<sup>119</sup>

This decree was proposed and supported by Sunat, Osinfor, FEMA, the *Procuraduría* of the Ministry of Environment, and the High Commissioner to Fight Illegal Logging. The final version won out over a competing text proposed by Serfor that only considered administrative measures and did not include the ability for prosecutors to seize shipments.

Two days later came Legislative Decree 1237, which modified

the Penal Code to increase the severity of penalties for crimes including illegal logging, trafficking of flora and fauna, and obstruction of any related investigations. Put together, these two new norms set the stage both for the Loreto Environmental Prosecutors' actions against YK-5, and for the backlash that accompanied it.

Pushback against the Decrees came quickly. As section 4.c.v. describes, the forest sector took to the streets in protest. In December 2015, two Congressmen known for their ties to timber and/or mining interests, Carlos Tubino and Amado Romero,<sup>120</sup> introduced Bills attempting to overturn LD 1220 for criminalizing the sector and "violating indigenous peoples' right to prior consultation", and to suspend for four years any interdictions against "small forest extractors".<sup>121</sup> Although these initial bills did not pass, efforts to modify or overturn 1220 and 1237 have continued.



In this image from 15 September 2015 overflight, trucks full of timber and materials on illegal road are clearly visible.



Packets of timber were placed under seizure order by FEMA while the Yacu Kallpa was still in Iquitos. © EIA

#### 4.c.iv. YK-5, December 2015: Bankruptcy in Tampico

Despite the seizure of its September shipment contents, the Yacu Kallpa returned to Peru and again loaded up to leave Iquitos in late November with timber destined for the Dominican Republic, Mexico, and Houston.<sup>122</sup> But this time, the Yacu Kallpa never made it to Houston. In fact, it was abandoned in Mexico by its shipping company, where it remained when this report was written.

Things went wrong before it even left port. Using existing Osinfor supervision reports focused on local forests inspected at the request of the regional government (see Chapter 4.b.), FEMA was able to determine that some 1312 m<sup>3</sup> of the timber bound for export – equivalent to around 15% of the shipment, over 50 truckloads of wood, worth 1.6 million soles (US\$493,000) – was illegal.<sup>123</sup> On 24 November, FEMA arrived with police to the vessel by dawn, just hours before its scheduled departure, requested the captain to call the companies' lawyers, and ordered the seizure. 80% of the timber in question belonged to Inversiones La Oroza, the rest to two other exporters, Sico Maderas SAC and Corporación Inforest SAC.<sup>124</sup>

At the time of the seizure, the majority of the timber identified as illegal was already onboard the ship. When the Prosecutor requested the captain of the vessel to offload the illegal timber before departing the port, the shipping companies and the exporters claimed that they had already paid to load the timber and wouldn't pay again to unload it. Witnesses of this event confirmed that the shipping company informed the prosecutor that the cost to unload the timber would be around US\$37,000 (about 120,000 Peruvian soles). The prosecutor did not have that amount of funds available, but requested support from other governmental offices. However, when he came back with the money, he was told that the price was actually over US\$215,000 (about 700,000 Peruvian soles).<sup>125</sup> The new amount was above the levels that a public institution could easily pay, so offloading the timber became impossible.

Meanwhile, the shipping company, Agencia Naviera Maynas, was writing angry letters to FEMA demanding that the



The captain of the ship was interrogated by Brazilian authorities in Macapá © Brazil Federal Police

government pay them thousands of dollars for the costs that, they argued, the delayed departure was generating. In parallel, the Loreto logging industry began to spearhead portside protests in Iquitos and Pucallpa (See 4.c.v.).<sup>126</sup> The prosecutor's office ultimately authorized the YK-5 to leave – on the condition that the captain of the vessel and the manager of the shipping company assumed legal responsibility for returning the vessel to Iquitos with that same officially confiscated timber on board, within about 60 days, the standard timeframe for a YK roundtrip. To make this commitment enforceable, they signed a legal document.<sup>127</sup>

But the YK-5's trip north took three times longer than usual, fraught with strange deviations from course, in what some observers questioned as possible attempts to offload illegal product or confuse authorities. As one Peruvian news outlet memorably wrote, comparing the boat to an Amazonian delicacy, "The Yacu Kallpa is more slippery than a paiche fish."<sup>128</sup> The vessel was stopped in Brazil by authorities who confirmed illegal timber on board; it changed flags, changed motors, replaced its crew, and sat without moving for weeks in the middle of the ocean. Some pallets were offloaded in the Dominican Republic while others were seized at the request of Peruvian authorities. It made a strange route deviation to approach the port of Kingston, Jamaica, where it had no products to load or unload.

---

***Osinfor's data showed that a full 96% of the wood on the YK-5 was associated with illegal origin.***

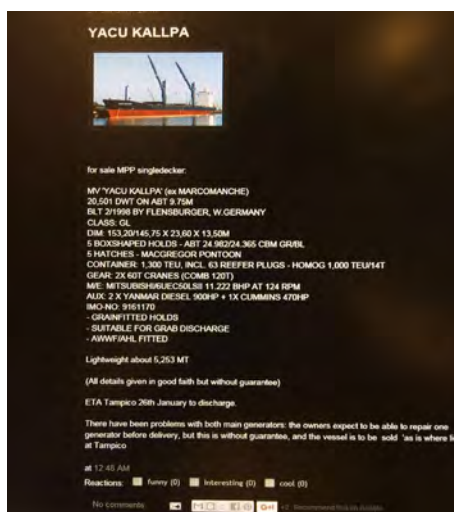
---

Representatives from the shipping company gave interviews and sent letters to media arguing that all the "suspicious movements" had simple explanations: terribly bad luck with the vessel generators and engines; their technical operator in Miami ordering a stop due to the failing generator, forcing them to change flags to change operators; the whole crew quitting while at port in the Dominican Republic; and, finally, needing to approach Jamaica to get cellphone coverage because the vessel communications equipment was failing too.<sup>129</sup>

Meanwhile, Osinfor was focused on conducting the remaining inspections in those points of harvest associated with the rest of the shipment on board. By 8 January, while the vessel sat in the Dominican Republic, the FEMA national and regional Loreto prosecutors jointly sent documents to Interpol to request seizure of the timber documented to-date as illegal on the YK-5: at that moment, 71% of the load. By the time the YK-5 arrived in Tampico, on 26 January 2016, Osinfor's data showed that a full 96% of the wood on the YK-5 was associated with illegal origin.



FIGURE 7: The final voyage of the Yacu Kallpa



"There have been problems with both main generators: the owners expect to be able to repair one generator before delivery, but this is without guarantee, and the vessel is to be sold 'as is where lies' at Tampico."

The YK-5 crew remained stranded on the boat for days in Tampico port. © Yacu Kallpa Crew

At that point, the Peruvian environmental prosecutors had already requested Mexican authorities to seize 100% of the load. While Mexican regulations do not require its importers to demonstrate the legal origin of timber being brought to the country (see Box 8), Peruvian prosecutors requested the seizure based on the violations to Peruvian law, appealing to bilateral prosecution agreements. In parallel, both Peruvian prosecutors linked to the case travelled to Tampico to be there for the vessel's arrival and Mexican authorities' intervention over its illegal load. On 6 February, Mexican government officials in Tampico offloaded and seized the timber. It reportedly covered two city blocks and sat six stories high.<sup>130</sup>

But before the Yacu Kallpa arrived to Tampico, the vessel and its entire crew had already been abandoned by its owners, who declared bankruptcy.<sup>131</sup> On 21 January, when the Yacu Kallpa was still *en route*, the vessel was put on sale through an online advertisement.

The Yacu Kallpa crew was eventually repatriated to Peru with the support of the Peruvian consulate in Mexico.<sup>132</sup> Regarding the seized timber, an international investigative journalism series revealed that it was released by the Mexican authorities between October and December of 2016, against the instructions from the Peruvian prosecutor's office and without even notifying the Peruvian government. This case continues to be under

investigation in Peru and, after the news about the release of the timber in Mexico, both FEMA and Peru's state attorney for environmental issues (*Procuraduría* Minam), have announced that they will start new investigations against all involved in the irregular and secretive release of these thousands of cubic meters of illegal timber. The environmental prosecutor

from Iquitos claims that the value for the timber that they requested to be seized in Tampico added up to almost US\$18 million (around 57 million Peruvian soles). According to Peru's state attorney for environmental issues, the only authority that could have authorized the release of the timber was the Peruvian prosecutor's office and this did not happen.<sup>133</sup> However, since

**Table 5: Exporters of Yacu Kallpa illegal timber, 2015**

"Verified illegal" timber is associated with GTFs from logging contracts that Osinfor supervised and found evidence of fabricated information, laundering and/or other illegal activities. "Verified legal" timber is from contracts that Osinfor supervised and found everything in order.

Peru exporter	Volume (m³) of illegal timber on ship			Total timber verified illegal (m³)	Total timber not verified (m³)	Total timber verified or presumed legal (m³)	Grand Total (verified illegal or legal + not verified) (m³)	% verified illegal of total	% verified illegal of verified
	YK-2	YK-4	YK-5						
INVERSIONES LA OROZA S.R.L.	3,282.78	4,102.02	2,745.70	10,130.50	1123.362	375.794	11,629.66	87.1%	96.4%
INVERSIONES WCA E.I.R.L.	884.93	2,826.86	2,735.14	6,446.92	177155	591.907	7,215.98	89.3%	91.6%
CORPORACION INDUSTRIAL FORESTAL S.A.C.	719.95	1,428.16	142.63	2,290.74	880.793	257.489	3,429.02	66.8%	89.9%
SICO MADERAS S.A.C.	350.32	459.24	683.08	1,492.64	12.434	229.44	1,734.52	86.1%	86.7%
CORPORACIÓN MADERERA LORETO S.A.C.	21.84	747.25	357.17	1,126.25	482.45		1,608.70	70.0%	100.0%
TRIPLAY IQUITOS S.A.C.	96.51	358.02	685.23	1,139.76	114.019	233.471	1,487.25	76.6%	83.0%
CORPORACION INFOREST MC S.A.C.				1,277.72			1,277.72	100.0%	100.0%
SCAVINO MADERAS E.I.R.L.		556.05	507.57	1,063.62	82.2		1,145.82	92.8%	100.0%
LAMINADOS Y MANUFACTURAS DE MADERA	336.00	90.00		426.00	200	270	896.00	47.5%	61.2%
GREEN GOLD FORESTRY PERU SAC		45.30		45.30		477.907	523.21	8.7%	8.7%
EXIMVAL E.I.R.L.	352.08			352.08	35.677		387.76	90.8%	100.0%
INDUSTRIAS MADEX E.I.R.L.	45.86	135.18	96.10	277.14			277.14	100.0%	100.0%
MADERAS DE LA SELVA PERUANA S.A.C.		148.43		148.43	36.632		185.07	80.2%	100.0%
INDUSTRIAL MADERERA ZAPOTE S.A.		99.81		99.81		79.783	179.59	55.6%	55.6%
MADERAS IMPREGNADAS TROPICALES S.A.C.			38.16	38.16			38.16	100.0%	100.0%
<b>Totals</b>	<b>6,090.26</b>	<b>10,996.31</b>	<b>7,990.78</b>	<b>26,355.06</b>	<b>3,144.72</b>	<b>2,515.79</b>	<b>32,015.58</b>	<b>82.3%</b>	<b>91.3%</b>

(Source: Yacu Kallpa 2015 database)

**Table 6: U.S. Importers of illegal timber**

"Verified illegal" timber is associated with GTFs from logging contracts that Osinfor supervised and found evidence of fabricated information, laundering and/or other illegal activities. "Verified legal" timber is from contracts that Osinfor supervised and found everything in order.

U.S. importer	Volume (m³) of illegal timber on ship			Total timber verified illegal (m³)	Total timber not verified (m³)	Total timber verified or presumed legal (m³)	Grand Total (verified illegal or legal + not verified) (m³)	% verified illegal of total	% verified illegal of verified
	YK-2	YK-4	YK-5						
GLOBAL PLYWOOD & LUMBER TRADING LLC	1043.94	1982.64	142.63	3026.59	236.39	108.28	3371.25	90%	93%
SUN CORE LTD	719.95	718.67	937.705	1581.25	257.49	880.79	2719.53	58%	86%
GREY FORESTAL SA DE CV		43.269	108.56	980.974	-	-	980.97	100%	100%
SABRA INTERNATIONAL INC.		309.02	258.64	417.58	0.00	36.63	454.21	92%	100%
GRUPO TENERIFE S.A. DE C.V.				258.64	-	-	258.64	100%	100%
TROPICAL MOULDINGS L.L.C.		12.70		12.70	15.26	-	27.96	45%	45%
<b>Total</b>	<b>1763.89</b>	<b>3066.30</b>	<b>1447.54</b>	<b>6277.72</b>	<b>509.13</b>	<b>1,025.70</b>	<b>7812.56</b>	<b>80%</b>	<b>92%</b>

(Source: Yacu Kallpa 2015 database)



the moment the timber was seized, it was known that a lobby of Peruvian and Mexican industry members and officers was activated to push for its release (see Box 8).

In May 2017, a judge in Iquitos ruled in favor of one of the companies whose timber was on this final shipment of the Yacu Kallpa, declaring null the pre-departure confiscation of Sico Maderas SAC's timber. Although Osinfor inspections have clearly shown that these GTFs were used to launder illegal timber, the judge cited even the Pope in his argument that the action violated "the company's liberties" and "right to work",

and ordered that FEMA return the timber associated with Sico Madera's eight GTFs and pay legal fees. As of this report's publication, the Prosecutor's office had appealed the decision.<sup>134</sup>

The fall-out from a year of intense scrutiny on the Yacu Kallpa's contents thus found the boat disgraced and discarded in Mexico; football fields of timber in Mexican, Dominican Republic and U.S. warehouses; and investigations active under the U.S. Lacey Act, the U.S.-Peru TPA and Peruvian domestic laws. By January 2016, it also found the head of Osinfor out of a job and efforts at political pushback in high gear.

**Table 7: Mexican importers of the Yacu Kallpa's illegal timber, 2015**

"Verified illegal" timber is associated with GTFs from logging contracts that Osinfor supervised and found evidence of fabricated information, laundering and/or other illegal activities. "Verified legal" timber is from contracts that Osinfor supervised and found everything in order.

Mexican exporter	Volume (m <sup>3</sup> ) of illegal timber on ship			Total timber verified illegal (m <sup>3</sup> )	Total timber not verified (m <sup>3</sup> )	Total timber verified or presumed legal (m <sup>3</sup> )	Grand Total (verified illegal or legal + not verified) (m <sup>3</sup> )	% verified illegal of total	% verified illegal of verified
	YK-2	YK-4	YK-5						
CG UNIVERSAL WOOD SA DE CV	592.875	2102.816	556.191	3251.882	559.4	242.853	4054.135	80%	93%
CG GRUPO FORESTAL S.A. DE C.V.	480.743	1398.219	534.727	2413.689	705.569	514.547	3633.805	66%	82%
MADERERIA SIERRA VERDE S.A. DE C.V.	72.113	1226.816	1001.953	2300.882		115.823	2416.705	95%	95%
TRIPLAY Y AGLOMERADOS TANY S.A. DE C.V.	432.509	448.017	685.234	1565.76	314.019	503.471	2383.25	66%	76%
INDUSTRIAL FORESTAL DE OCCIDENTE SA DE CV	350.321	386.213	574.524	1311.058	12.434	229.44	1552.932	84%	85%
MADERAS LA LAGUNA SA DE CV	666.014	205.181	572.02	1443.215	34.438	27.611	1505.264	96%	98%
TRIPLAY Y MADERAS DE MAYOREO S.A. DE C.V.		188.175	1225.208	1413.383			1413.383	100%	100%
GREY FORESTAL SA DE CV	311.639	562.836		874.475		290.366	1164.841	75%	75%
TRIPLAY Y MADERAS DE IMPORTACION SA DE CV	471.242	197.129		668.371	80.165		748.536	89%	100%
MADERAS TORRES S.A. DE C.V.	352.078	42.576	283.14	677.794		64.525	742.319	91%	91%
GRUPO TENERIFE S.A. DE C.V.		308.401	305.578	613.979	10.224		624.203	98%	100%
SUD AMERICAN LUMBER S.A. DE C.V.		44.535	569.915	614.45			614.45	100%	100%
PROVEEDORA DE MADERAS COMERCIALES S.A. DE C.V.		212.631	224.426	437.057			437.057	100%	100%
BOZOVICH S. DE R.L. DE C.V.	277.264			277.264	155.988		433.252	64%	100%
MUEBLES FINOS TORRES S.A. DE C.V.		343.418		343.418	82.2		425.618	81%	100%
MADERAS Y TRIPLAY EL FENIX S.A. DE C.V.	98.582	127.872	140.582	367.036	10.943	4.6	382.579	96%	100%
MADINSA TABLEROS S.A. DE C.V.	130.672			130.672	117.964		248.636	53%	99%
MAZTER MADERAS S.A. DE C.V.			96.099	96.099			96.099	100%	100%
MAZTER MADERAS S.A. DE C.V.	45.858	46.465		92.323			92.323	100%	100%
MANUFACTURAS DE MADERAS EXCEL S.A. DE C.V.		88.719		88.719			88.719	100%	100%
LUIS ALBERTO VILLAREAL FLORES			52.51	52.51			52.51	100%	100%
GRUPO DAGS S.A. DE C.V.	44.455			44.455			44.455	100%	100%
CARPICENTRO S.A. DE C.V.			38.16	38.16			38.16	100%	100%
MADERIL LA VIGA S.A. DE C.V.				0	35.677		35.677	0%	0%
<b>Totals</b>	<b>4326.365</b>	<b>7930.019</b>	<b>6860.267</b>	<b>19,116.65</b>	<b>2119.021</b>	<b>1993.236</b>	<b>23,228.908</b>	<b>82.3%</b>	<b>91.3%</b>

### Box 8: The need for Mexican legislation to prevent illegal timber trade

As this report shows, a high percentage of the wood that Peru exports to Mexico is illegal. Data from Operation Amazonas 2015 proved that at least 82.5% of the timber onboard the Yacu Kallpa's August shipment to Mexico and the U.S. was of illegal origin. Similarly, 96% of wood onboard the Yacu Kallpa's December shipment was associated with illegal origin. Yet Mexican enforcement authorities are not entitled to act upon illegally harvested timber entering the country, nor are Mexican importers legally required to demonstrate the legal origin of their wood products.

The message Mexico is conveying is that even if imported wood has been illegally harvested in its country of origin, it can still enter into Mexico's markets. The end result is a trade that adversely affects indigenous and local communities and undercuts legal businesses on both ends of the supply chain.

Documents obtained by EIA show that on 26 September 2015 a shipment of 5487.30 metric tons (10,212 m<sup>3</sup>) of Peruvian timber were offloaded from the YK-4 in the Port of Tampico, Mexico.<sup>135</sup> Through other sources EIA learned that Peruvian and U.S. customs authorities were already sharing information about the illegal origin of the timber and thus decided to share their concerns with the Mexican authorities. Consequently, the wood was temporarily detained by Mexican port authorities based on Osinfor field reports that documented illegal origin for the portion of product destined for Mexico. At the time, the Mexican authorities requested that their importers document the legal origin of the timber, explaining that they had received information regarding its potential illegal nature.

Following that action, the Association of Mexican importers, the Mexico-Peru Chamber of Commerce and even the Peruvian Ministry of Foreign Affairs, through the Peruvian Embassy in Mexico City, started lobbying the Mexican government for the shipment to be released.

On 9 October 2015, the National Association of Importers and Exporters of Forestry Products in Mexico (IMEXFOR) sent a letter to Tampico's Port Management Authority requesting that the extra costs of storage and cargo maneuvers be forgiven to the importers given that such costs were not attributable to them but corresponded to a request received by "other authorities."<sup>136</sup>

That same day, members of the Mexico-Peru Chamber of Commerce met with the *Chargé d'affaires* of the Peruvian Embassy in Mexico City to inform them and to request the Peruvian Government's involvement in the case.

As a follow up to that meeting, in an official letter dated 12 October 2015, the *Chargé d'affaires* of the Peruvian Embassy in Mexico City wrote to Mexico's General Customs Administrator stating that the above situation had been "affecting the normal development of trade between Peru and Mexico and deteriorating the trade relationship between exporters and importers that both countries had been strengthening bilaterally and within

the framework of the Pacific Alliance."<sup>137</sup> (The latter is an agreement between Mexico, Colombia, Peru and Chile.)

Under mounting pressure, on 15 October 2015, Mexican authorities released the illegally logged timber under the argument that the only legal requirement for importing timber to Mexico is that it must comply with phytosanitary regulations. On 19 October, the same officer mentioned above sent an email to Eduardo Guiulfo, a Peruvian representing the Mexican importer Sudamerican Lumber and the Mexico-Peru Chamber of Commerce, to inform him that the timber had already been released thanks to the intervention of the Peruvian embassy in Mexico.<sup>138</sup>

Less than two months later, another shipment left the port of Iquitos in Peru destined for the Dominican Republic, Mexico and the United States. This time only 2% of the YK-5 cargo destined for Mexican importers was of legal origin (112 m<sup>3</sup> of 6972 m<sup>3</sup>). Although authorities initially seized the shipment upon its arrival to Tampico<sup>139</sup>, it was released by the end of 2016 to its importers by the Mexican authorities, in spite of the official request submitted by the Peruvian prosecutors' office and without notifying the Peruvian authorities. Once again, "the person responsible for rescuing the seized shipment of timber was the President of the Mexico-Peru Chamber of Commerce Eduardo Guiulfo, a Peruvian businessman based in Mexico." The Peruvian State Attorney for environmental issues (*Procuraduría MINAM*) has declared that the only authority with the capacity to order the release of the timber was the Peruvian prosecutor, and this did not happen, which is why he has announced new legal actions against those involved.<sup>140</sup>

Despite concrete evidence that most of the YK-4 and YK-5 shipments were illegally harvested in Peru, the Mexican legal framework was not able to prevent this wood from entering the national market. Cases like this increase the overall supply of illegal timber in Mexico, reducing prices and negatively affecting Mexico's forestry industry, much of whose domestic supply comes from community-owned and managed forests. There is an urgent need for Mexico to pass legislation that restricts imports of illegally sourced timber, to safeguard not only national forest products from unfair competition but also indigenous and local communities seriously affected by illegal logging.



Some of the 10,212 m<sup>3</sup> of Peruvian timber offloaded in early 2016 in the Port of Tampico; 98% was of illegal origin. © Yacu Kallpa Crew



#### 4.c.v. Strikes, Coffins and Molotovs

The partial seizure of the YK's final 2015 shipment, added to the September shipment still detained in Houston, provoked immediate response in Iquitos. As the Prosecutor's office attempted to have the ship unloaded, protesters associated with the logging industry took to the streets. Most of the anger was directed towards Osinfor and its president at the time, Rolando Navarro.

As mentioned, the cargo businesses in Iquitos port refused to offload the seized timber from the Yacu Kallpa, demanding the Prosecutor's office pay more than five times the originally quoted price.<sup>141</sup> Before and after the boat departed Iquitos on 2 December, with seized wood still aboard, protestors blocked city roads with large trucks and signs, while burning tires and logs in the middle of the streets. People threw stones and broke windows at Osinfor offices. Men marched through Iquitos carrying empty coffins draped with the names of officials including Navarro, which they proceeded to burn on Osinfor's office doorstep.

Further south in both Pucallpa, Ucayali region, and Puerto Maldonado, Madre de Dios region, the local forest sectors were already agitated not only over the seizures but over the new regulations described in Box 7 that made cracking down on illegal trade more feasible. Between 23 November and 4 December, the protests snowballed into an organized "forest sector strike" across the Amazonian regions.<sup>142</sup> The strikers' platform of demands included repealing Legislative Decree 1220, excluding forest crimes from Legislative Decree 1237, slowing application of the new Forest Law and financing processes to formalize the sector. But the biggest focus was on demands to "paralyze Osinfor's arbitrary and



Molotov bombing of Osinfor office in Pucallpa captured by security camera © Ojo-Público



Coffins prepared for Rolando Navarro (Osinfor) and Fabiola Muñoz (Serfor) are burned during a protest in Iquitos, December 2015 © Facebook



March organized by Iquitos timber industry interests © Facebook



The key demands of the timber industry "Indefinite Strike" © Facebook

repressive actions, generating chaos in the forest sector that leads to (i) loggers' informality; (ii) increase in coca planting and its consequences: (iii) favors increase in wood imports, leaving thousands of families without work". The protesters called to "remove Rolando Navarro Gómez for being an enemy of the Forest Sector."

As in Iquitos, Pucallpa industry also blocked roads and gathered in front of Osinfor's office shouting, insulting, and threatening the authorities. On the night of 30 November, Osinfor's office in Pucallpa was attacked with a backpack of Molotov cocktails. The bomb exploded and a fire was started. Given that the action happened around 3 am, it seems that the objective was not to hurt anyone, but clearly the tone of the threats was in crescendo.

These strikes, protests and price hikes were not disconnected spontaneous manifestations; rather, they were organized actions led by forest sector professionals, timber traders, and financiers.<sup>143</sup> The coffins and cocktails were crude manifestations of what was also taking place behind the closed doors of some of Lima's highest political offices, as Chapter 5 will describe.

#### 4.d. Meanwhile, on the Pacific: Popp Forest Products

Houston is a destination not only for timber via the Amazon River but also for shipments embarking from Callao, Peru's largest port, just west of Lima, on the Pacific Ocean. And once Sunat began to conduct cross-checking during Operations Amazonas, it turned out that many wood

shipments out of Callao suffered from laundering problems too. In December 2015, U.S. officials in the Port of Houston seized 24 pallets of timber exported by Corporación Industrial Forestal SAC and destined for Oregon-based importer Popp Forest Products, Inc., under charges of violating the Lacey Act.<sup>144</sup> The same Corporación Industrial Forestal SAC was the exporter with the second-largest amount of illegal timber in the various Yacu Kallpa shipments, after Inversiones La Oroza.<sup>145</sup>

The action was based on a U.S. government investigation conducted after Homeland Security received a report from Peru, under a Customs Mutual Assistance Agreement, providing the results of an Osinfor inspection which indicated that “the timber could not be the species authorized for harvest. This finding was corroborated by testing by the U.S. Forest Service’s

Forest Products Laboratory, which concluded that samples taken from the shipment were not the species authorized for harvest.”<sup>146</sup>

In January 2017, the Department of Justice reached a settlement with Popp Forest Products whereby the company would pay all costs for transport, destruction and disposal of the seized product, to ensure that it would not enter into U.S. commerce streams. In return, the U.S. government agreed to waive further civil enforcement action, fines or penalties, but left the door open for potential criminal investigations.<sup>147</sup> According to the official records, the value of this timber was of \$22,500, but the amount paid for the transport, destruction and disposal of the timber has not been made public yet.

### Box 9: Using organized crime statutes to fight timber mafias

Two recent enforcement events suggest that illegal logging is becoming a more high-profile crime for the government to combat, and that Peru’s agencies are gaining experience in how to do so effectively, even if the cases are not targeting the largest traders or if the subsequent legal prosecution isn’t successful.

#### “Los Patrones de Ucayali”

In April 2016, Peru’s national police swooped down on the “Bosses of Ucayali”, a criminal network dedicated to exporting illegal wood to China, Mexico and the United States.<sup>148</sup> The operation detained 19 people, including three local cops and four officials from the regional government’s forestry office, and seized timber, money, weapons, properties, computers, and vehicles.<sup>149</sup> It was a watershed moment, the first time that the Peruvian government had used legal statutes designed to fight organized crime to tackle illegal logging, laundering and export fraud. These statutes (Law 30077) give prosecutors a powerful toolkit for conducting investigations, for example allowing wiretaps and undercover agents, and can result in more serious penalties than infractions under forestry statutes alone.<sup>150</sup>

Wilman Carrasco, chief of the police’s environment department, described working with Julio Guzman, *procurador* at the Ministry of Environment, on a 10-month investigation into this network of logging financiers and corrupt officials, who over six years had allegedly facilitated an average of 300 m<sup>3</sup> monthly in exports of shihuahuaco and other woods.<sup>151</sup>

Other members of the mafia remain at large. The case is ongoing as this report is published, having been moved from the courts in Ucayali to Huanuco and finally to Lima like the hot potato that it apparently is.

#### “Los Castores de la Selva Central”

On 12 July 2017, the Interior and Public Ministries conducted a major joint operation to break up the “Beavers of the Central Jungle”, a criminal organization operating in Junín, Ucayali and Lima regions. Eighteen members were detained, including

its apparent boss, people involved in document falsification and transport, and the Administrator of the Central Jungle (*Selva Central*) forest authority, i.e. the head of the regional Serfor office who, according to the Interior Minister, provided fake documents to the criminal organization to launder illegal timber.<sup>152</sup>

Forestry consultants and other officials from Ucayali’s Regional Government forest authority were also part of the network.<sup>153</sup> Police destroyed an illegal logging camp as well as machinery, and confiscated trucks, tractors, machinery, documents, a computer and cellphone. The Beavers are accused of illegal traffic of wood products in its aggravated form, among other crimes against natural resources.<sup>154</sup>

It’s worth noting that most of the people arrested in both of these operations are low- to mid-level operatives, not the financiers and intellectual authors behind the criminal networks. However, the fact that more institutions from the Peruvian government are investing personnel and resources in investigating these cases is already a good sign. It will still send a crucial signal if these cases are prosecuted fairly and result in serious consequences for the people involved.



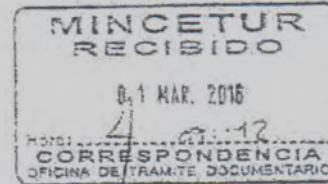
Mugshot of the leader of “Los Patrones de Ucayali”, wanted for organized crime, with a reward of over US\$6000 from the National Police. © RPP Noticias (<http://rpp.pe/peru/actualidad/estos-son-los-mas-buscados-por-la-policia-y-las-recompensas-por-ayudar-a-capturarlos-noticia-985561/9>)



OFICIO N° 94 -2016-MINCETUR/DM

Lima, 29 FEB 2016

Señor Embajador  
**MICHAEL FROMAN**  
Representante Comercial de Estados Unidos  
USTR  
Washington, D.C.  
Estados Unidos de América.-



ASUNTO: Casos de madera peruana decomisada en Houston

Me dirijo a usted para saludarlo cordialmente y al mismo tiempo expresarle nuestro agradecimiento por la participación de los Estados Unidos de América (EEUU) en la última reunión del Grupo de Expertos sobre Tala Ilegal y su Comercio Asociado - EGILAT en el marco del Foro de Cooperación Asia-Pacífico y el Comercio Asociado - los Estados Unidos de América, realizada en Lima, Perú, el 24 de febrero de 2016.

El motivo de la presente es informar a usted que el gobierno peruano ha solicitado a la Oficina de Asesoría Jurídica del Ministerio de Comercio Exterior y Turismo, que se encuentre a cargo de la representación legal peruana en el proceso de decomiso de la madera

## 5. SHOOTING THE MESSENGER, ACTIVATING THE SPIN CYCLE

When the illegal logging status quo is shaken, Molotov cocktails and burning coffins are a loud and sometimes effective way of making a point. But there are other, quieter ways to quash reforms and sabotage enforcement efforts. From late 2015 until now, entrenched logging interests and their political patrons have engaged in a series of targeted efforts to shoot the proverbial messenger and spin the story rather than address the underlying problems.

### 5.a. Firing Osinfor's President, bullying FEMA

In early January 2016, the YK-5 was still *en route* to Mexico and the industry was livid about the seizures in both Iquitos and Houston. Osinfor's crews continued conducting field verifications for the points of harvest for the timber inside the vessel, and reporting back higher and higher percentages of illegal origin, eventually surpassing 96% of the volume on board. With this data on hand, the National FEMA Prosecutor, Flor de María Vega, and the Iquitos FEMA Prosecutor, Jessica Quiroz, activated regional and bilateral legal cooperation agreements on criminal issues to request legal actions from the countries where the Yacu Kallpa was trying to unload timber, and requested the support of Interpol.<sup>155</sup> Peruvian trade officials, meanwhile, were trying to stop these international legal actions, arguing that the accusations of illegal trade could negatively impact the U.S.-Peru TPA or even the ongoing TPP negotiations.

On 13 January, the day after the YK-5 was detained by Dominican Republic authorities at the request of FEMA Iquitos, Peru's National Prosecutor Pablo Sánchez was visited by a delegation of senior officials from the executive branch: Juan Manuel Benites, Minister of Agriculture (Minagri); Piero Ghezzi, Minister of Production (Produce); Magali Silva, Minister of Foreign Trade (Mincetur); Fabiola Muñoz, the

head of Serfor, and Guillermo Freundt, the chief of staff for the Minister of Agriculture. The objective of the meeting – as recalled to EIA by multiple participants – was to request that the National Prosecutor instruct his Environmental Prosecutor Vega to step back from the Yacu Kallpa case.

The visitors argued that the FEMA prosecutor's actions qualified as "treason to the country", since she could be responsible for Peru receiving international sanctions and, eventually, for the U.S. government to annul its trade agreement with Peru. The previous day, on 12 January, the Minister of Environment (Minam), Manuel Pulgar Vidal, had also visited the National Prosecutor, but it is unknown whether they talked about the Yacu Kallpa.<sup>156</sup> The National Prosecutor received these visitors, but continued to support Vega's efforts.

In parallel, regional and national representatives from the Peruvian timber industry, with the support of some members of Congress, were in high-level meetings demanding that the Presidency of the Council of Ministers (*Presidencia del Consejo de Ministros*, PCM), the governmental institution under which Osinfor sits, remove Rolando Navarro, accusing him of destroying the forest industry and being the reason for all the national and international investigations that the sector was facing. While the then-President of this Council, Pedro Cateriano, publicly backed Navarro's work,<sup>157</sup> it did little for his eventual fate.

The evening of 14 January 2016, Rolando Navarro was confidentially informed that President Ollanta Humala had signed a resolution removing him as President of Osinfor, stating that he had "completed his term," although he was still months away from serving out the official four-year period.<sup>158</sup> Navarro was removed so abruptly that the government lacked a new candidate to designate, so he was "temporarily" replaced with someone else from within Osinfor, "until a

new President is appointed". After the strong national and international reaction against Navarro's termination – both in the media and at political levels – the Peruvian government announced the creation of a committee to define an open search process to select the new President.<sup>159</sup> But as of late 2017, such a selection process has never been announced nor a new permanent president appointed.

The sudden removal of Navarro occurred while PCM President Cateriano was on an official trip to the U.S., and had left the then-Minister of Foreign Relations, Ana María Sánchez, in charge. Ironically, while on his official visit to Washington, D.C., Cateriano was touting the "fight against illegal logging" and advances in bilateral collaboration with his U.S. counterpart even as Sanchez signed the resolution to fire Navarro.<sup>160</sup>

It's also worth noting that only a month before, in December 2015, Peru's ambassador to the Organization of American States (OAS), Juan Jimenez, made a speech to the OAS Committee on Hemispheric Security, praising the efforts of Osinfor and urging other countries across the Americas to support its efforts and assume responsibility for their role – as countries of destination for illicit products – in the fight against the illegal timber trade.<sup>161</sup> "This Committee on Hemispheric Security must approach illegal logging understanding that its transnational organized crime deploys important resources to affect our societies in a violent and aggressive way", stated Jimenez, who had previously been Peru's Minister of Justice and then President of the PCM.

The news about Navarro's termination arrived on the evening of the same day that he had received a visit from the U.S. Ambassador to Peru, Brian Nichols, who spent the morning at Osinfor offering accolades and promises of support for his efforts to fight the illegal timber trade through inter-institutional cooperation.

The termination was formalized by its publication in the Peruvian official newspaper, *El Peruano*, on 15 January.<sup>162</sup> The announcement turned into a media firestorm for the Humala administration, with wide coverage both in Peru and internationally regarding the message of capitulation it sent to the illegal logging mafia.<sup>163</sup> Several key donor countries supporting efforts to reform Peru's forest sector, including Norway and the United States, expressed their official concern.

Navarro, now without official backup, and still receiving death threats towards both himself and his family, felt that he could no longer safely remain in Peru. He left his homeland in January 2016, and has not yet been able to return. It is unclear when, if ever, it will be safe for him and his family to move back to Peru.<sup>164</sup>

### **5.b. A "paper-based" approach: Peruvian officials defend illegal exports to the U.S.**

In the weeks after Navarro's ouster, various Peruvian governmental authorities and private actors took actions to spin and deny the levels of illegality in the timber sector that his Osinfor team had been revealing. The Minister of Agriculture toured sawmills in Iquitos in the company of the Regional Governor of Loreto, Fernando Meléndez, who insisted that all the timber on the Yacu Kallpa was legal.<sup>165</sup> Exporters Inversiones La Oroza and Corporación Interforestal submitted a precautionary measure in Iquitos requesting the courts to order the release of all timber on the ship, claiming that they

*Navarro, now without official backup, and still receiving death threats towards both himself and his family, felt that he could no longer safely remain in Peru. He left his homeland in January 2015, and has not yet been able to return.*

had purchased it "in good faith", suggesting that they were not aware of the illegal origin of the timber they were exporting.<sup>166</sup> This phrase, which is not consistent with the requirements to assure legal origin codified in Peru's Forest Law, has been invoked repeatedly to defend the indefensible.

But the most explicit and direct attempt to defend the illegal timber exports materialized as a letter sent by the then-Mincetur Minister Magali Silva, to then-U.S. Trade Representative, Michael Froman.<sup>167</sup> The letter was drafted by the then-director of Serfor, Fabiola Muñoz, and sent to Silva "following the special request of the [then] Minister of Agriculture", Juan Manuel Benites. With minor modification, Silva sent the letter to Froman on 29 February 2016.

The letter is sent in reference to "Cases of Peruvian timber seized in Houston" (from the September seizure described in Chapter 4.b.iv), and the main point made is that at the time when the forest timber products left Peru, they had "all the legal documents validly produced by the Forest and Wildlife Regional Authority of Loreto". It is the old – and legally useless – "good faith" excuse made official, in black and white. The letter fails to add, however, that those "valid" documents were based on fake information illegally produced by the timber operators and illegally validated by the regional authority. Osinfor field verifications had demonstrated that the overwhelming majority of forest inventories related to the YK-4 shipment were faked: the trees did not exist in the field, or, when they did exist, they were still standing. Almost no evidence of timber harvesting was found in any of the timber contracts declared as points of harvest for the timber in question.

It does not appear that U.S. authorities paid too much attention to this letter, owing to the nature of the U.S. Lacey Act, which is a "fact-based statute", not a "document-based statute" as explained by the U.S. Department of Justice.<sup>168</sup> That is, Lacey Act enforcement focuses on the *actual* legal origin, not solely the *documents* that accompany a product, which might include fraudulent information – as is evident in this case.

When pressed about this letter in later interviews, former Minister Silva responded that "when I wrote this letter, there had been no result, positive or negative, from the Prosecutor's office regarding this shipment. If we had had reliable findings of a completed investigation we would certainly have emitted an informative note to U.S. authorities."<sup>169</sup> Again, Silva omits the most relevant pieces of information: on 14 January 2016, before being arbitrarily terminated, Rolando Navarro had sent an official letter to several Peruvian government offices reporting the results for



***By the time that she sent the letter to Ambassador Froman making the “good faith buyer” excuse an official argument, both Minister Silva and Serfor Director Muñoz had plenty of official evidence about the illegal origin of the timber in question.***

Operation Amazonas 2015, in which he explained that Osinfor had already documented the illegal origin of at least 89.5% of the timber included in the shipment detained in Houston.<sup>170</sup> Therefore, by the time that she sent the letter to Ambassador Froman making the “good faith buyer” excuse an official argument, both Minister Silva and Serfor Director Muñoz had plenty of official evidence about the illegal origin of the timber in question.

In the same 2017 interview, Silva agrees that the publicity surrounding Osinfor’s work and the illegal shipments was viewed with discomfort by other elements inside the government. “Sometimes news like this goes around the world and if we have a stagnating economy it’s risky because they say, ‘never again will we buy from Peru’.”<sup>171</sup> Various sources have corroborated that this perception drove many of the high-level discussions around Rolando Navarro’s firing and other efforts to tamp down on enforcement.

In such a situation, one can focus on building the country’s reputation, making sure that steps are taken to truly guarantee the legality of its timber exports. Or one can set about to shoot the messenger: obfuscate and destroy the evidence of illegal origin, weaken the institutions documenting it, and make sure that no one can replicate something like Operation Amazonas.

#### ***Letters from Serfor***

The letter sent by Mincetur to USTR was not the only letter produced by the Peruvian government to try to justify the trade of illegally logged timber. Eight weeks later, on 8 April 2016, Serfor Director Fabiola Muñoz sent two letters to the Assistant Port Director for U.S. Customs and Border Protection, in charge of the Peruvian timber detained in Houston.

The first one is numbered Carta 061-2016-Serfor-DE,<sup>172</sup> in reference to “Case of Peruvian timber seized in Houston”. The second one is numbered Carta 062-2016-Serfor-DE,<sup>173</sup> in reference to “Case of Popp Forest Products Inc”. Following the content and tone of the letter sent to Ambassador Froman, these letters focus on the argument that the timber left the country with the “proper documentation,” and ignore the fact that said documentation was based on false information, in itself a violation of Peruvian law. In Carta 062, Muñoz also explains that Serfor has received a communication from Popp Forest Products complaining about their timber detained in Houston. (This timber was not part of a Yacu Kallpa case, as explained in 4.d.).

Interestingly, the annexes to Muñoz’s letter acknowledge that in February 2016, authorities already had evidence from Osinfor about the illegal origin of the timber. Nonetheless, Muñoz insists on arguing that everything was done according to the books and expresses her “deep concerns” about the timber being detained in Houston.

## **El Comercio**

¿Por qué el Mincetur av...

Lo contradictorio ocurre en este punto: en su carta, Silva informa a los EEUU que la carga salió del Perú con documentos oficiales e insistió en que el Perú mantiene su compromiso en la lucha contra la tala ilegal. Aunque, en la carta no se hace referencia a la investigación que habían realizado el Osinfor, la Sunat y los otros entes involucrados en la Operación Amazonas.



**El Comercio** consultó a la ex ministra **Magali Silva** respecto al contenido de esta carta. Ella respondió que se decidió enviar el documento por la situación generada entre autoridades estadounidenses y exportadores por el envío de la madera retenida en Houston en enero de 2015. Según Silva, esta decisión se tomó en una reunión con cinco sectores (Ministerio de Agricultura, la Sunat, el Serfor (Servicio Nacional Forestal y de Fauna Silvestre), el Ministerio de la Producción y el Osinfor) que terminó firmando ella como titular del Mincetur, sector garante del **TLC con EEUU**.

**Ex-minister of MINCETUR Magaly Silva, interviewed by Peru's leading paper *El Comercio* regarding her letter to the US Trade Representative, denied having “reliable findings” of illegal timber exports. © *El Comercio***

Two weeks later, on 22 April 2016, Director Muñoz sent a new letter, Carta 094-2016-Serfor-DE,<sup>174</sup> to Steve Popp, from Popp Forest Products, responding to a letter sent by Popp on April 15<sup>th</sup> where he complains that the lawyers from the U.S. Department of Justice have rejected the content of the above-described letters 061 and 062. In her communication to this U.S. importer, the Serfor director explicitly gives him a number of arguments to fight the U.S.’s enforcement action against imports of timber harvested in violation of the Peruvian law, elaborating on the “good faith” argument that the real illegal origin does not matter because the importer did not know about it.

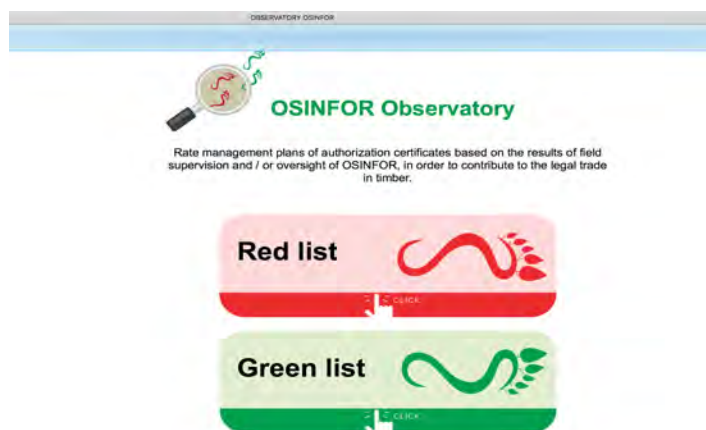
#### ***Letters from Osinfor***

It’s important at this juncture to remember another set of letters. In mid-May 2015, while Operation Amazonas was revealing the overwhelming percentages of illegal timber being shipped through the Yacu Kallpa, Osinfor sent a series of letters to the industry reiterating the message it had communicated in letters sent during 2014 (see Figure 2).<sup>175</sup> The agency warned companies about the high percentages of illegality being found in timber exports and invited them, again, to check directly with Osinfor in case the points of harvest for timber they planned on buying were not already found in Osinfor’s public digital database SIGO.<sup>176</sup> In both the 2014 and 2015 letters, Osinfor offers to go to the field, with no cost to the exporter, to verify the legal (or illegal) origin of the timber of interest – in other words, to do the exporters’ due diligence for free. Once again, no one took Osinfor up on their offer.<sup>177</sup>

This point is particularly important to understand in light of the argument frequently made by Serfor and the industry, namely that the points of harvest associated with the GTFs seized on the YK “did not appear in SIGO” at the time. That is: there was no “red light” indicating illegalities in the POA from where the timber supposedly came. The final internal report on a Serfor investigation into the YK-4 shipment, for example, states that in the SIGO, “between 16 June [20]15 and 11 August [20]15, the time period in which the 89 GTF in question were emitted, none of [the associated points of harvest] showed any legal processes, they were therefore emitted without problems as no restriction was found.”<sup>178</sup>

The problem: many of those POAs / points of harvest were not in SIGO because Osinfor didn’t even know they existed. As discussed in Chapter 4.b., many of the logging permits nowadays granted to communities and concessions are never reported by regional forest authorities to either Serfor or Osinfor in Lima in spite of a regulation that makes it mandatory for whoever approves a forest contract to inform Osinfor in the next 15 days.<sup>179</sup> Obviously, then, these forests do not get supervision visits. Operation Amazonas 2014 found that 76.5% of the points of harvest were simply unknown to Osinfor, and through early 2015, the percentage climbed to 100%.<sup>180</sup>

Given the disorder and pervasive illegality in the sector, therefore, a reasonably cautious exporter should search not only for the absence of “red light” but the presence of a “green light” – that is, evidence that their timber source was inspected and found to be legitimate. And if there were no information either way in SIGO, the letters Osinfor had been sending since 2014 were and remain an explicit invitation to ask for that data to be generated.



The web interface of Osinfor’s SIGO database

### 5.c. Weakening Institutions and laws

The evidence shows that even as the results of Operation Amazonas were being applauded internationally, the reaction of key elements of the Peruvian government was to make sure that it could not be replicated. This involved attempts to weaken institutions, to remove individuals who would not toe the line, to discontinue activities that compiled records which could be later tracked down, and to modify regulations.

#### 5.c.i. Rendering Legislative Decree 1220 toothless

On 22 July 2016, a few days before Pedro Pablo Kuczynski took over the Presidency, the Humala administration approved

new regulations for DL 1220. As explained in Box 7, DL 1220 facilitates enforcement activities by public prosecutors over illegally logged timber and the equipment involved in its harvesting, processing, or transporting. This Decree had enabled the on-boat seizure of the illegal timber shipment on the Yacu Kallpa’s last journey, and its potential to fight illegal timber trade quickly spurred strikes and violent protests as described in Chapter 4.c.v.

The new DL 1220 regulations render it largely ineffective in the fight against illegal logging and related trade. The most important aspects include:

- Limiting the definition of “illegal timber” to exclude any timber that has been subject to “secondary transformation” and beyond. *This conflicts with the definitions used in the Forest Law and in Peru’s criminal code.*
- Dictating that a prosecutor can no longer use Osinfor’s original field reports as evidence. These reports have provided key data to Operation Amazonas, as well as to the U.S., Mexican and Peruvian authorities who seized the timber in Houston and Tampico, and for the verification that was the focus of the U.S. Timber Committee report. According to the new DL 1220 regulation, the prosecutor can only use the final agreed sanctions resulting from the Osinfor reports, after the entire administrative process is completed – a process that can take years to complete.

These regulations will make actions such as Operation Amazonas impossible, causing great damage to both past and current law enforcement efforts. The change has been opposed by the Procuraduría office of Minam and by the FEMA.

On 15 August 2016, a group of Peruvian civil society organizations sent a letter to Peru’s President Pedro Pablo Kuczynski asking him to eliminate the new regulations.<sup>181</sup> On 19 August, FEMA Prosecutor Vega publicly supported their derogation during her presentation at APEC’s specialized group session on illegal logging, EGILAT, in Lima. She referred to the attempt to “tie her hands” with new regulations which, according to the prosecutor’s office interpretation, violate Peruvian law.<sup>182</sup> “We will not allow for this to happen. We are already requesting the derogation of the regulations,” she stated, according to the Peruvian chapter of Transparency International, Proetica.<sup>183</sup> This statement re-activated political efforts to try to remove her, but as of this report’s writing, she was still in her position.

#### 5.c.ii. Attempts to weaken Osinfor

Osinfor’s data is powerful, but if it cannot be linked to specific timber shipments, it has limited utility or impact. Sunat and Operation Amazonas changed the game in 2014-15 by requesting that exporters provide point-of-harvest data for all species, not just CITES-protected ones, and then cross-checking this with supervision reports.<sup>184</sup> At that moment, Osinfor’s data took on a new and dangerous meaning for those interested in maintaining the status quo. In addition to abruptly terminating Navarro from Osinfor’s presidency, there have been repeated attempts to weaken Osinfor.

##### *Attempts to relocate it*

In 2000, Peruvian Law 27308 (Article 6) created Osinfor as an autonomous entity, but from its beginning in 2004 it was





Osinfor supervisions are universally acknowledged to be a critical tool in verifying legal origin. Yet with only about 28 inspectors spread across the entire country, the agency does not currently have the budget or capacity to check every point of harvest in Peru. © Osinfor

absorbed into the then-forest authority, INRENA,<sup>185</sup> and it was only in 2008 that the agency regained its independence<sup>186</sup> after the U.S.-Peru TPA Forest Annex reiterated that Osinfor must be “an independent and separate agency”. Currently, it remains an independent entity attached to the Presidency of the Council of Ministers (PCM).

In recent years, Osinfor has become one of the most successful Peruvian institutions focused on improving forest governance (see Box 2). Its success is directly related to the autonomy under which it operates. Any attempts to weaken this independence will diminish transparency in Peru’s timber sector, have negative impacts for Peru’s international commitments to reduce deforestation, go in the opposite direction of the objectives of the Peru-Norway-Germany 2014 Letter of Intent, and be an explicit violation of the U.S.-Peru TPA. It would send a signal to both illegal operators and officials tasked with enforcing the laws that Peru is not committed to stopping the illegal harvest and trade of its forest resources.

Around August 2015, EIA got access to a draft decree that would relocate Osinfor from the PCM and place it under the Ministry of Agriculture, the sector for which it is expected to conduct independent oversight. A parallel decree laid out measures that would diminish Osinfor’s capacities and budget. Due to national and international pressure, neither decree was approved, but there have been additional attempts to accomplish these objectives.

#### ***The Transition Report***

In order to facilitate the transfer of power and tasks after a presidential election, representatives from the outgoing and new administration work together to prepare transition reports for the incoming authorities. EIA obtained access to the draft transition report prepared about Osinfor for the July 2016 transition from President Humala to President Kuczynski. As

the proposed relocation to the Ministry of Agriculture had already been rejected, the plan became to move Osinfor to the Ministry of Environment.

The transition draft suggests that “the PCM has not permanently supervised or monitored [Osinfor’s] actions”, resulting in “isolation of the entity with regards to other administrative authorities in the forest sector (Serfor, Sernanp, Minagri, Minam, ANA, GORES [regional governments]), affecting national forest policy.” Therefore, “To improve the articulation and coordination between Osinfor and the other stakeholders from the forest sector, we recommend modifying its ongoing location, to move it to the environment sector... There is no risk of losing independence, since Minam does not approve forestry or wildlife contracts.” The draft also recommends that “Osinfor’s ongoing functions and activities must be reviewed, since it seems that it has been expanding into issues that are beyond its mandate.”

The logic behind the transition draft seems to be: Osinfor has been working hand in hand with institutions beyond the forest sector (Sunat, FEMA) and must be relocated in order to be under control and cease to conduct activities like Operation Amazonas 2014 and 2015.

#### ***Attempt to limit its capacity***

In June 2016, a new draft for a decree to limit Osinfor’s capacity started circulating. This time the plan included two main points:

1. **Article 10.3.** During the first 15 days of each fiscal year, Osinfor must produce and make public an annual calendar of supervisions, including the list of all the timber contracts and their specific POAs to be supervised. The list can only be modified to include timber contracts newly approved, through the request of the owner of the given timber contract, or through specific request by Serfor.

2. **Article 10.4.** Supervisory field reports produced by Osinfor cannot be communicated to any entity (including within the government) or to any person or company until the resulting legal process has reached a certain administrative stage (which can take years).

A list and calendar of supervisions is, in essence, a guarantee to illegal traders that they can use the GTFs from any other source timber contract to launder trees without running any risk of being detected. Moreover, this provision would eliminate the possibility for another Operation Amazonas by preventing Sunat and Osinfor from (a) implementing their cooperation agreement, where Sunat can request data about the point of harvest for a specific shipment waiting to be exported and request that Osinfor go immediately to verify its legality, or (b) transmitting information about illegal origin in a timely manner to other authorities in Peru or abroad by restricting sharing of supervision reports.

This decree also faced resistance and was not ultimately approved, but similar threats remain.

#### 5.c.iii. Re-location of the High Commissioner against Illegal Logging

In the wake of the September 2014 assassination of Edwin Chota and his fellow community leaders (see Box 3), the Humala government created the position of the High Commissioner to Combat Illegal Logging. Initially the High Commissioner was a full-time position, and his office was independent and attached to the PCM just like Osinfor. But in August 2016, under President Kuczynski, the independent office was removed and the position was assigned to whoever occupies the seat of the Vice Minister of Agriculture, as just one more of his many responsibilities.

#### 5.c.iv. Serfor stops collecting point-of-harvest information

As Chapter 7 describes in detail, between late 2015 and now, Serfor has apparently stopped doing any inspections of non-CITES species export shipments in the port of Callao or other ports. These Prior Visual Inspections (see Box 4) were the moment in which Serfor produced *Acta* documents with key source information including collection of point-of-harvest data for wood product exports (i.e. the GTFs linking back to logging contracts of origin).

When EIA requested a reference to the regulation or other official communication dictating the rationale for this rule, Serfor provided a 28 October 2015 letter from its Director, addressed to the Superintendent of Sunat, referring to changes occasioned by the recent entry into force of the Regulations for the new Forestry Law 29673. Article 178 of these Regulations states that Serfor must emit permits for exportation, importation and re-export of species listed by CITES or required as such under other international treaties or Supreme Decrees. “In this sense”, the letter states, “while no legal instrument is approved that expressly restricts the trade in other species, only CITES species are restricted....”<sup>187</sup>

A port inspection, it should be stated, is not the same as a permit. EIA has found no text where the Forest Law or its Regulation state that only CITES species should be inspected. As described further in Chapter 7, EIA did receive a packet of information with results from the 23 inspections conducted in 2016 – down from over 900 the previous year, and using a

simplified form to collect far less data. This gaping data hole makes Sunat’s advances in traceability essentially impossible to replicate after 2015.

#### 5.c.v. Serfor modifies GTF formats

Under the Regulations to Law 29763, GTFs are issued directly by logging contract owners and processing facility title holders or their regents, or by the local government and its regent in the case of local forests, using a basic format defined by Serfor.<sup>188</sup> Exact formats thus differ between regions and companies, which can complicate matters for a buyer attempting to verify that documents are legitimate and complete.

On 6 October 2015, Serfor promulgated Resolution 122-2015-Serfor-DE to clarify what information the GTF formats should contain. Similar in most regards to the previous requirements, the new format does not however require the RUC of the timber contract holder – the unique tax-identification number that is the only foolproof way to identify the company or individual associated with the timber’s point of harvest. (See images in Box 1.) Since many of these forms are filled by hand or on old typewriters, or printers that end up placing the text overlapping with the lines of the form, and since the resulting text is often illegible, incomplete or misspelled, there are many situations in which the name of the community or the concession is unclear. The most efficient way to identify the owner is to include the unique ID. Removing the RUC opens up the possibility of a new way to obscure the source of timber or its connection with logging companies that have a history of illegal activities.

Most dangerously of all, Serfor has confirmed its new guidance for industry: it is not necessary for sawmills and other processing facilities to include point-of-harvest information on the GTFs they issue – not only RUC but even the name and contract number of the title holder.<sup>189</sup> The GTF from processing facilities is thereby divorced from the timber’s origins, making it impossible to verify legal origin further down the supply chain. As we shall see in the next chapter, this is an intentional strategy.



The YK-5, offloading timber in Dominican Republic, January 2016 © EIA





## 6. TRACEABILITY... OR WITHOUT A TRACE?

© Toby Smith / EIA

Peru's current laws, regulations, and bilateral trade commitments clearly state that it is necessary to demonstrate the legal origin of wood products, and that traceability from the forests to the point of sale, including export, is the mechanism for doing so (see 6.a below). Moreover, consumer markets are now demanding it, and consumer country laws are being enforced.

How to define and implement traceability in practice is an urgent discussion in Peru in the wake of enforcement actions described in Chapter 4 as well as new actions taken by the United States in March and April 2017. During this time, all Peruvian timber importers had their shipments detained for up to four months while U.S. authorities conducted investigations during which they requested paperwork including documentation about point of harvest (GTFs), invoices, and declarations from the Peruvian exporter. The delays cost importers \$10-15,000 per container,<sup>190</sup> and appear to have been a wake-up call that traceability was a concept with serious financial and legal consequences.

Then in early September 2017, a multisectoral delegation of U.S. officials, including representatives from Homeland Security, Fish and Wildlife Service, Aphis, Forest Service, Department of Justice, Customs and Border Patrol (CBP), and the U.S. Trade Representative's office, came to Peru to meet with their counterparts and visit concessions, sawmills, and control posts in the Amazon to deepen their understanding of how timber flows work from the forest to U.S. markets.<sup>191</sup> In meetings, they referred to the containers detained, and stated that the U.S. will consistently demand solid evidence of legal origin back to point of harvest in the forest, not just to the sawmill.

Following this, on 19 October 2017, the United States Trade Representative, Robert Lighthizer, ordered CBP to block future timber imports for a period of three years from the Peruvian exporter Inversiones La Oroza, "based on illegally harvested timber found in its supply chain".<sup>192</sup> This decision is based on results of the verification action requested by USTR to its Peruvian counterpart, Mincetur, in February 2016, under the

auspices of the U.S. – Peru Trade Promotion Agreement. In the verification briefing sent to USTR in July 2016, the Peruvian government documents the illegal origin of over 80% of the timber that Inversiones La Oroza exported to the U.S. in January 2015 (see Chapter 4.c.i).

However, now that buyers and importing countries want more transparency, Peru's industry is arguing for less. As this chapter lays out, in response to proposed reforms to export paperwork that would make it more feasible for exporters, buyers, and enforcement officials to verify legal origin, both Peru's chief trade association and the National Forest and Wildlife Service (Serfor) itself have responded with a noteworthy combination of resistance and candor: arguing that, actually, traceability cannot be done<sup>193</sup> – and, in the process, appearing to implicitly acknowledge years of fraud based upon their persistent historic claims of traceability.

Their multi-pronged argument is that (1) tracking a physical wood product back to origin is impossible, (2) products of "secondary transformation" are not subject to traceability documentation requirements anyway, and (3) everything beyond rough sawn timber is a product of secondary transformation and thus does not need to be traced.<sup>194</sup> Put another way: because processing facilities mix wood from *many* origins, they cannot be expected to report the origins of *any* of the wood.

Moreover, Serfor is promoting an interpretation of the Law and Regulations to make this argument official. As of this report's writing, Serfor's public position is that industry does not need to indicate any point of origin further back than a sawmill on their GTFs.<sup>195</sup> This interpretation will make it impossible to trace any wood product for sale or export back to its forest source and therefore, given the way U.S. and European Union regulations are now being enforced, will make it essentially impossible for Peruvian timber to legally enter those markets.

Traceability is increasingly an expectation in international trade for all sorts of products, not only wood products;

*Serfor's public position is that industry does not need to indicate any point of origin further back than a sawmill on their GTFs. This interpretation will make it impossible to trace any wood product for sale or export back to its forest source and therefore, given the way U.S. and European Union regulations are now being enforced, will make it essentially impossible for Peruvian timber to legally enter those markets.*

moreover, it allows businesses to better manage their supply chain, increase efficiency and control for risks. Tools and best practices are evolving and advancing. This may be a watershed moment in Peru; a recent national workshop on traceability indicates how seriously stakeholders are now taking the issue (see Box 10). Will the sector be able come to terms with the need to adapt to the international trade context? Or will traders continue attempts to obfuscate their supply chains and ask clients to believe their wood is all acquired “in good faith”?

#### **6.a. Laws and markets agree: documented verification of legal origin is necessary**

Over the past ten years, the need for verification of legal origin and traceability has been enshrined in Peru's binding bilateral commitments, laws, and regulations. Timber traders and government officials were heavily involved in the process of developing these laws and regulations. The same expectations are also being established through court case precedents in consumer countries.

##### **The legal framework**

*The U.S.-Peru TPA Annex on Forest Sector Governance*, in force since January 2009, obligates Peru to “develop systems to verify the legal origin and chain of custody of CITES-listed tree species and develop systems, including requirements for management oversight and record keeping, to reliably track specimens from harvest through transport, processing and export” [emphasis added here and elsewhere in this section], noting in footnotes that “an effective chain of custody system should provide management oversight, document control, material separation and tracking, purchasing and receiving, processing, shipping and sales, claims and training, and may employ innovative tracking technologies, such as barcodes.”

*Peru's Forest and Wildlife Law 29763* makes “legal origin” one of the law's General Principals, stating in Article 2 (numeral 10), “it is the obligation of people or entities who own or administrate goods, services, products and sub-products of the forest and wildlife patrimony of the nation to demonstrate their legal origin.”

Article 120 of this law, “Authorization of centers of transformation”, states that “Serfor, with the prior opinion of the Minister of Production, establishes coordination and implementation mechanisms to assure traceability of the forest resource from its extraction to its commercialization, including exportation.”

#### **Box 10: Peru hosts an international seminar on Traceability**

On 5-6 October 2017, Serfor convened an event called “Traceability: a tool for responsible management and timber trade” with the objective of improving shared understandings of the concept and its application to wood products in order to “develop transparent mechanisms to guarantee legal origin of wood and wood products, improving the competitive positioning of our companies, our country's image in international markets, and the wellbeing of our population.”

Participants from various countries representing logging companies and traders, indigenous communities, NGOs, international cooperation, technical experts, academia, and government agencies shared experiences, reviewed existing tools and systems, and discussed the challenges for achieving traceability in Peru. EIA encourages interested readers to review the presentations available at Serfor's website: <http://www.serfor.gob.pe/cuidando-el-bosque/trazabilidad>

Likewise, in Article 127, “Chain of custody of forest and wildlife products”, the law goes on to state that “Serfor develops transparent mechanisms to verify the legal origin and chain of custody of timber species, including the requirements for supervising management and maintaining registries, with the objective of tracing the products in a reliable way from extraction to their transport, processing and export.”

*The Regulations for Law 29763* defines “traceability” in the following way: “Mechanism that consists of systematically associating a flow of information with a physical flow of products, in such a manner that in any given moment the legal origin of said products can be identified and monitored.” In article 169, the Regulations state that traceability consists of mechanisms and procedures that permit tracking (historically) of the location and trajectory, from origin, of forest products and products derived from these, through the length of forestry production chain, using diverse tools. Serfor establishes the instruments that will assure traceability for forestry products. In the case of secondary transformation, Serfor, with prior opinion and in coordination with the Ministry of Production, formulates and implements traceability mechanisms.”<sup>196</sup>

The same Regulation also clarifies how legal origin should be determined, stating in Article 168 that everyone is obligated to be able to document legal origin of “products or subproducts in their natural state or primary transformation” through verification of specific documents: for native species from natural forest, the required document is the respective GTF (see Box 1 of this report for an explanation of GTFs).<sup>197</sup>

Three things are critical to note in the text of these laws and regulations: First, verification of origin and traceability are linked to *physical forest products*, not to aggregated volumes or percentages. Second, the GTF – in this case, the one issued by the point of harvest title-holder, which





Traceability helps companies to maintain efficient operations and good records, as well as being a legal necessity in a high-risk environment. © EIA

indicates timber origin – is the key document for verifying legality. Three, “secondary products” are treated differently but still require traceability mechanisms.

#### **Consumer markets and case precedent**

As mentioned previously, the Lacey Act is a fact-based statute whose enforcement depends on diverse forms of evidence. Lacey legal precedent on timber and wildlife clearly shows that cases are based on the legal status of the actual *physical product* that is in question.

The E.U. Timber Regulation states that a “due diligence system should provide access to information about the sources and suppliers of the timber and timber products being placed on the internal market for the first time, including relevant information such as compliance with the applicable legislation, the country of harvest, species, quantity, and where applicable sub-national region and concession of harvest....”.<sup>198</sup> Subsequent official guidance states that “if the general information [on species, country, and supply chain complexity] shows potential risks, special attention must be given to gathering product-specific information. If the product is derived from several timber sources, it is necessary to assess the risk for each component or species.”<sup>199</sup>

The EUTR has varied degrees of implementation across its 28 member states. However, the question of what make an adequate due diligence system is rapidly being clarified by Competent Authorities and court cases. A recent court decision in The Netherlands found that Dutch company Fibois BV had not conducted or documented adequate due diligence of timber imported from Cameroon. The case hinged on “missing contractual documents linking the logs that were processed and sold to the trees identified on harvest documents”.

*“For the first time, a European court has explicitly ruled that Operators in the E.U. must not only undertake meaningful Due Diligence but must also be able to supply documentary proof of compliance with the EUTR on request. The court concluded that it is not sufficient for Operators to rely solely on government paperwork as evidence of meaningful Due Diligence when importing from countries with significant risk of corruption and documented illegal logging. The judge*

*The need for verification of legal origin and traceability has been enshrined in Peru’s binding bilateral commitments, laws, and regulations.*

*also ruled that the Dutch EUTR Competent Authority, the Food and Consumer Product Safety Authority (NVWA), was mandated to request that Operators must make available full supply chain documentation including logging permits, transport documents, and financial records associated with timber shipments throughout the supply chain.”<sup>200</sup>*

For at least the last decade, it has been well known internationally that Peru qualifies as a country “with significant risk of corruption and documented illegal logging”.

#### **6.b. Time for a DAM change: The fight over export paperwork**

Given the plethora of legal obligations, combined with the international echo of Operation Amazonas’s findings, it is no surprise that more and more public and private actors want Peru to provide transparent and standardized information that can connect timber exports with their point-of-harvest origin. The logical point for requiring this information is in Sunat customs paperwork (see Box 4).

U.S.-Peru bilateral meetings were held in November 2016 after the U.S. government issued its final report from the audit conducted under the Forest Annex, showing ongoing high levels of illegal timber entering the U.S. trade stream (see Chapter 4.b.i.). During this meeting, Peru agreed to implement measures that included “amend[ing] export documentation requirements to improve traceability of all timber flows”.<sup>201</sup> This was a key development: a direct commitment that would allow the Sunat-Osinfor methodology to become standard practice for all timber species, not only CITES-protected ones. Officials who participated in that meeting assured EIA that the initial version of the bilateral statement specified that the customs document would include the GTF, the logging contract (*título habilitante*), and the species; however, the Peruvian officials requested that the text be as simple as possible, arguing it was not necessary to specify all those details since it was clear that both sides were in the same page about what needed to be included.

Peru committed in writing to doing this modification of the customs form (known as DAM, its Spanish acronym), by the first quarter of 2017.<sup>202</sup> The first draft proposal, created by Serfor – with participation of forest sector institutions excluding Osinfor – was kept confidential. It did not include the basic changes Sunat felt were necessary to live up to Peru’s commitment: the logging contract number(s) and POA number(s) associated with the export. The Ministry of Economy and Finance supported Sunat’s position, arguing that, since it was a customs form, Sunat had the right to lead. Sunat therefore prepared its own proposal and in March 2017 pre-published it on its website to receive comments from the public. This is when the new strategy from the timber industry, with the support of Serfor, emerged.

## 6.c. The new position: “We’ve never known where our wood comes from”

In the letter prefacing their comments on Sunat’s proposal to modify the DAM customs form, the timber committees for the Peruvian private sector institutions Association of Exporters (ADEX) and National Society of Industries (SNI), both of whose presidents are part of Maderera Bozovich,<sup>203</sup> state that “it is necessary to inform you that this requirement is technically impossible because it is not feasible to associate a load of export timber to one or more GTFs. In reference to this point, it is important to add that it is impossible to conduct traceability from the product to be exported to the logging contract [point of harvest] or vice versa.”<sup>204</sup> [emphasis added.] This noteworthy letter goes on,

*“The products described in tariff codes 4407 (Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm) and 4409 (Wood {including strips and friezes for parquet flooring, not assembled} continuously shaped {tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like} along any of its edges, ends or faces, whether or not planed, sanded or end-jointed), to which the proposed legal reform refers, correspond to products of secondary transformation and therefore there is no obligation whatsoever to issue GTFs.*

*“If we understand the logic of this proposal...Traceability and verification of origin is not achieved, since the wood in all transformation processes begins as a big amount of raw material coming from many points of harvest and in the productive process is mixed innumerable times until the final batch of exported products. As such, this final batch cannot refer to a single point of harvest or a single GTF, because ultimately it is made up of different percentages of timber originating in different points of harvest and GTFs that were mixed along the productive chain.”<sup>205</sup>*

Using almost the same words as the industry memo, Serfor, in its technical report 034-2017-Serfor-DGPCFFS-DPR also submitted to Sunat during the comments process, claims that “the probability of determining the [specific contract associated with point of harvest] for a transformed product at the export stage is practically null.”<sup>206</sup> According to Serfor, “The information on origin of transformed products is determined in the verifications in primary transformation centers [i.e. sawmills], based on the existence of raw material and the information registered in the operations books.”

As reviewed in Chapter 6.a., since 2008 the concept of traceability and verified legal origin has been a touchstone of Peru’s forestry laws and pronouncements about cleaning up its timber sector, and a key focus of foreign aid. Yet now, according to the industry and Serfor, physical traceability is either “impossible” altogether or, while theoretically possible, simply too complex and costly to be realistic.<sup>207</sup>

In the comments cited above, the industry reminds Sunat that under current legislation, “secondary transformation” products are not subject to requirements to provide GTFs, as they are regulated under the Ministry of Production (Produce) rather than Serfor. They then claim that all of tariff code 4407 is “secondary transformation”. This code, to be clear, includes even sawn timber that hasn’t been sanded, planed, or kiln-

Sr. Walter Cárdenas Mendoc  
Superintendencia Nacional de Aduanas y Administración Tributaria –  
SUNAT

Presente

De nuestra mayor consideración:

Por medio de la presente nos es grato saludarlo y hacerle llegar nuestros comentarios respecto al reciente **Proyecto de Modificación del Instructivo de Declaración Aduanera de Mercancías (DAM)** para incluir información en la declaración de exportación de los productos forestales maderables clasificados en las partidas del sistema armonizado 4407 y 4409, aprobado por Resolución de Superintendencia Nacional Adjunta de Aduanas N° 041-2016/SUNAT/A.

Al respecto, deseamos hacerle las siguientes precisiones:

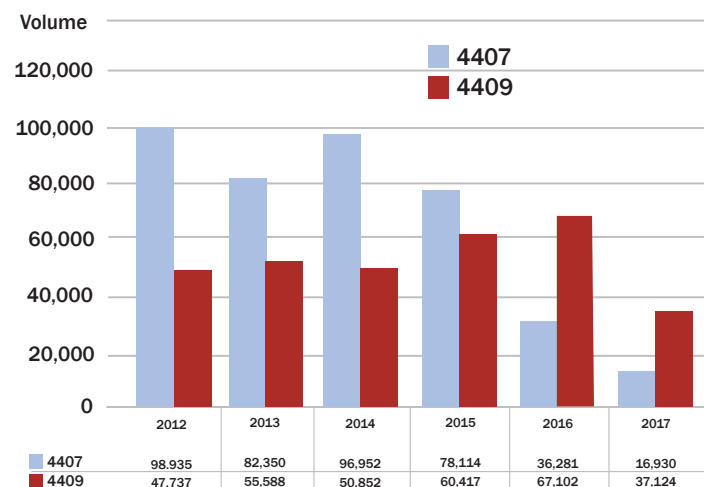
1. El proyecto en mención requiere que el exportador consigné los números de las Guías de Transporte Forestal (GTF), así como los números del Título Forestal (TF) que son consignados en los referidos GTF para que el

*“In reference to this point, it is important to add that it is impossible to conduct traceability from the product to be exported to the logging contract or vice versa...”*

2. Actualmente, la Ley Forestal solo establece la emisión de GTF para el caso de productos con transformación primaria, es decir, productos obtenidos después de que las trozas llegan al aserradero, lugar en el que se realiza el corte para obtener tabloneras, maderas cortas, tabillas de madera o paquetería. Al respecto tomar en cuenta el adjunto denominado Ley 29763.
3. La transformación secundaria corresponde a procesos para darle valor agregado a la materia prima, es decir, para obtener productos elaborados y destinados al consumo directo, tales como puertas, pisos, marcos, muebles, entre otros. Es importante mencionar que la referente a transformación secundaria es competencia del Ministerio de la Producción.

dried. While there is no universal categorization for products of primary and secondary transformation (see Box 11), few timber traders and customs authorities around the world would consider basic sawnwood to be secondary processing. For reference, in 2015, tariff code 4407 represented 45% of Peru’s wood product exports, while flooring, molding and other more highly processed products in tariff code 4409 made up another 40%.<sup>208</sup> But between 2015 and 2016, declarations of sawn timber exports to Sunat went down 25% while declarations of 4409 products were up 16%. It would be valuable for the customs agency to verify that this large shift reflects actual changes in the industry’s processing capacity, and not just a change in the way products are being declared to avoid key requirements (see Figure 8).

**FIGURE 8: A shift in tariff code usage. Wood product exports (thousands of m<sup>3</sup>) by declared tariff code.**



(Source: Sunat data.)



### Box 11: Primary and secondary transformation: what's what?

There is no universal definition, internationally or even in Peru, of primary and secondary transformation. Seemingly intuitive definitions can create loopholes that allow industry to argue almost everything is a complex processed product not subject to Serfor's oversight.

The Regulations to Forest Law 29763 define a product of primary transformation as "Product that comes from a primary transformation plant which are not final products or for direct use, that is, those which will go on to be inputs to centers of secondary transformation," implying therefore that products of secondary transformation are "final or for direct use".

The Regulations go on to define "centers of transformation" as "a processing installation, industrial or artisanal, fixed or mobile (workshops, plants, portable sawmills or others), that uses as raw material either a specimen of flora, in which case primary transformation of the resource is being done, or a product of primary transformation, in which case secondary transformation is being done."

The Operations Book for Centers for Primary Transformation of wood products and subproducts, approved in 2015, includes a list of possible products of primary transformation that includes everything from flitches to long, narrow, and short dimension sawn wood, boards, strips, panels, and wood that has been molded, chipped, or tongue-and-grooved.<sup>209</sup> This is a longer list than that defined by Article 300 of the regulations to the previous Forest Law 27308, which included among other things roundwood, flitches, chipped or shredded wood, laminates, pre-parquet, dimensioned timber, boxes, pallets and "similar products".<sup>210</sup>

The FAO/UNECE *Forest Products Annual Market Review* classifies primary products to include all roundwood, sawnwood (including planed and sanded), and wood-based panels, as well as charcoal, chips, particles, pellets etc. "Secondary processed wood products" are considered to be continuously shaped sawnwood (i.e. flooring, parquet, or decking), builder's joinery (e.g. windows, doors, assembled panels, shingles), manufactured products (e.g. tools, handles, coffins), furniture, domestic/decorative products, wrapping and packaging materials, prefabricated houses and other items assembled from primary processed wood products.<sup>211</sup>

In this letter and elsewhere, the industry states that they can only use a "balance of volumes" approach, in which a processing plant keeps track of the volumes of primary inputs and applies a conversion factor to estimate the volume of transformed products that are produced from a given batch of wood. They maintain that this approach is sufficient as long as all the logs coming into a mill originate in authorized, controlled areas.<sup>212</sup>

In fact, Serfor has begun to use the "balance of volumes" approach to justify a dangerous new interpretation of the Regulations. As laid out in their recent official written and oral presentations, the GTFs issued by centers of primary transformation are no longer being required to include information about the point of harvest at all. These transport permits – the documents subsequently supplied to customs authorities or importers as a form of substantiating legal origin – are thus utterly de-linked from the forest and connected only to sawmill facilities.<sup>213</sup>

To recap industry's and Serfor's current argument: if everything going into a mill is legal, everything coming out will be too, so there's no need to exert the time and cost to maintain traceability. And because, they claim, anything other than a squared log is "secondary processing", essentially no wood exports leaving Peru should be subject to any requirement to provide any documentation of harvest origin. All this in a country where official government inspections still indicate that over 70% of the timber going into sawmills is coming from sources that break the law.<sup>214</sup>

This situation should raise an immediate alert in the destination countries for Peruvian timber exports. Without the ability to connect their products to points of harvest, importers will not be able to comply with the minimum expectations for due diligence (EUTR) and reasonable due care (Lacey Act) in a high-risk environment. Taken to its logical conclusions, this



Serfor's public presentations show that legal origin is not being traced beyond the primary transformation facility (step 6). Will this approach effectively exclude Peruvian timber from E.U. and U.S. markets?

approach would in practice exclude Peruvian timber – legal or illegal – from E.U. and U.S. markets.

### 6.d. And what about the MC-SNIFFS?

Just a few days before the letters emerged describing this new aligned position on traceability from the industry and Serfor, the same agency had publicly announced its new "tool that will allow for the tracking of the timber from the forest up to its sale".<sup>223</sup> It was the official launch of the long-awaited traceability system first envisioned back in 2007 as a way to meet U.S.-Peru TPA commitments to verify legal origin and control chain of custody.

The "Control Module" for the system was referred to for years as the "SNIC" and has now been re-christened MC-SNIFFS ("MC" for the Spanish *Módulo de Control*) to indicate that it is just one piece for a larger and still theoretical "National Forestry

### Box 12: FSC: No guarantee for legality

Bozovich Group is one of several ADEX members with Forest Management and Chain of Custody certification from the Forest Stewardship Council (FSC). Another company with FSC CoC certification is Inversiones La Oroza, whose exports have been under investigation in both Peru and the United States for illegal timber. Inversiones La Oroza obtained an FSC CoC certificate for its sawmill in Loreto in 2015,<sup>215</sup> and certification of its own forest concession was granted in September 2017.<sup>216</sup>

Peru's Forest Law 29763, Article 127, specifically mentions forest certification as a tool for traceability, and FSC has long championed its systems as a way to ensure legal sourcing. However, the FSC's chain of custody certification does not require physical traceability of wood products through different stages of processing, but instead relies on a volume-based ("balance of materials" or "balance of volumes") approach. Additionally, the CoC certificate as such does not refer to the actual wood product, but certifies only the facility where it has been processed. It basically states that the sawmill is capable of keeping physically separated any certified timber that it might receive from the rest of the non-certified timber. A sawmill can thus be FSC CoC certified without actually producing any certified material.

CoC certificates are frequently used in combination with the FSC "controlled wood" label, which aims to ensure that timber does not come from illegal or controversial sources, while not meeting the higher standard of the FSC "Forest Management" certificate. "Controlled wood" does not require traceability back to the point of harvest, and field verification is only done on a small sample of suppliers.<sup>217</sup> Inversiones La Oroza processes "controlled wood" in addition to certified material.

It has long been a concern that companies take advantage of the FSC label by mixing small quantities of certified wood into their production, and get a CoC certificate for their sawmills, in order to greenwash the majority of their business. Such is the case with Austrian timber giant Schweighofer, which has processed millions of cubic meters of illegal and suspicious timber in its various FSC CoC certified sawmills in Romania, only about 2 percent of which come from its own certified forests.<sup>218</sup> After years of investigations and public exposés by independent



A Schweighofer mill in Romania. © EIA

groups and journalists, the FSC finally disassociated itself from Schweighofer in February 2017.<sup>219</sup>

Various companies with FSC-certified chain of custody have been found involved in illegal timber trade cases under the U.S. Lacey Act and E.U. Timber Regulation. In the U.S., Gibson Guitars was found guilty of importing illegal ebonies from Madagascar and agreed to over USD 600,000 in penalties, fines and forfeitures.<sup>220</sup> In the largest illegal timber case in the U.S. to date, Lumber Liquidators was found guilty and fined USD 13.5 million in 2016 for importing illegal timber into the U.S. from Russia via China.<sup>221</sup> In 2017, the Netherlands' competent authorities issued an injunction with fines against the company Fibois B.V. for importing suspicious timber from Cameroon without conducting proper risk assessment and due diligence despite concerns raised by independent groups.<sup>222</sup> All of the above companies had obtained FSC CoC certificates.

It is to be hoped that the FSC will be able to increase transparency and traceability in the supply chains bearing its certification, and improve accountability within its own system. Until then, while FSC or other private certification systems can form part of a complete due diligence approach, their rigor has not proven sufficient in high-risk environments to be a proxy for legality.

and Wildlife Information System" (SNIFFS). The language on the SNIFFS website as of the end of 2017 stated that the system, as managed by Serfor, will "provide reliable information to verify legal origin" and provide information in real time to "achieve the traceability of products, through a unique species code that permits the identification of its origin in any part of the supply chain, to its final destination."<sup>224</sup>

At the launch, then-U.S. Ambassador in Peru, Brian Nichols, commented that "we are celebrating a huge historic accomplishment. Something that will transform the world," adding that the SNIFFS will be key for the fight against transnational crime since it will allow for the traceability from the origin of the product up to the international buyer. This system has represented a major investment: according to USTR Ambassador Froman, "the U.S. government has also dedicated over \$90 million in technical assistance and capacity building to support forest sector reforms and address enforcement

challenges, including the development of a state-of-the-art electronic timber tracking system."<sup>225</sup> At the time of the launch, the system had recently launched its first voluntary tests with a few companies after eight years of development.<sup>226</sup> In October 2017, Serfor officials stated that there were six registered users and 200 permits registered within the system.<sup>227</sup>

MC-SNIFFS is not the only investment. GIZ has been funding development of software called DataBosque designed to help companies track timber from their logging operations.<sup>228</sup> Serfor and the National Forestry Chamber (CNF) are currently implementing a project funded by the ITTO in the regions of Madre de Dios and Ucayali to demonstrate the feasibility of using simple traceability software. Participants describe the system as "easy to use" even for small businesses. Says one, "we need to encourage a change in attitude among the authorities and the users – the loggers – such that they use traceability to guarantee legal origin of the wood."<sup>229</sup>



## 6.e. From officially laundered to really clean: it's possible

Serfor and the Peruvian timber industry's assertions that it is impossible to connect a shipment with its points of harvest are contradictory to many public statements made since 2007. They also shine a harsh light on all the information submitted over the years by ADEX's members to the Peruvian government and to their international clients (see Box 13).

The following Chapter 7 shows a detailed analysis of GTFs presented to Serfor by timber exporters during Visual Prior Inspections in the Port of Callao throughout 2015. And EIA has received hundreds of pages of additional data with GTFs provided during these Inspections between 2013 and 2016. In other words, many if not all of ADEX's timber exporter members have been submitting GTFs to the forest authority for years that supposedly link back to specific points of harvest. Yet since the second quarter of 2017, their representatives now say that "it is not feasible to associate a load of export timber to one or more GTFs."

Did something change? Or were they committing fraud all that time? It is hard to conclude otherwise.

### Box 13: An exporter "comes clean" about its GTFs

In a document sent to Sunat after U.S. customs blocked the entry of a timber shipment from Maderera Bozovich to Oakland in April 2017, the company admits that all this time they have been providing GTFs to the authorities and their international clients only as a reference for volume and not to document origin.<sup>230</sup> Here is a translation of the text (original in Spanish):

"As part of the due diligence to which he is obligated, at our client's request we have provided documentation of the GTFs for raw material purchase (not for sale or transport to the port, given that these neither exist nor are defined by law), acceding to his requirement for the purposes of the "Lacey Act", which obliges the U.S. buyer to collect the greatest information possible about legality and origin of the products he imports."

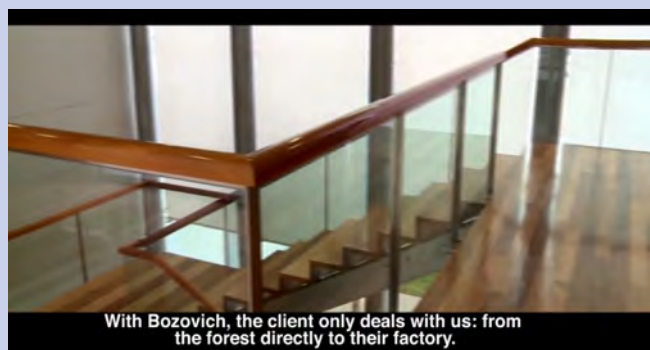
However, continues Maderera Bozovich,

"the GTFs provided correspond to an assignment we have done ourselves based on a **chain of custody** system using balance of materials accounting. This assignment is not done based on the geographic origin (that is, POA or enabling title) but rather for **volume** of species and products...the GTFs assigned to our client assure a volume of legal origin sent from Peru to foreign markets and do not relate to the geographic origin of the exported material, given that our productive process implies constant mixing of volumes of the same species with different GTFs from distinct geographic locations, making it as a result a technical impossibility to relate any determined export to one enabling title [point of harvest] or GTF." (Bold and underline from original text.)

Exporters like Bozovich insist that the "balance of volumes" chain of custody approach is adequate since everything entering their productive process is legal. It is interesting, though, to compare this statement with the results from the 2015 Callao database which reveal (i) many GTFs from

Can planed or dried sawn timber be traced back to origin? Decking and flooring? Most anything is traceable with the appropriate tools and resources. Of course, the financial implications of insisting on physical traceability for all transformed wood products raise legitimate questions. The best solution for Peru will likely require adjustments not only in sawmills and transformation facilities but also in information management and declaration systems to allow for disclosure of the multiple sources from which the raw material in processed wood products originated. In other words, even if it's not feasible to declare *one* point of harvest for a batch of wood product, it should be feasible to declare *all* the points of harvest that were combined to produce that batch.

In order to determine the legal origin of wood products, exporters should present any and all GTFs issued by the title-holder of the point of harvest (that is, the GTF linked directly to the wood that leaves the forest, *not* the primary processing facility) that may be linked to the transformed products.



Bozovich says that "the client only deals with us: from the forest to their factory." Yet among Bozovich's export shipments inspected by Serfor in Callao port during 2015, 45% of the associated GTFs whose point of origin had been verified by Osinfor were in the SIGO "red list" for high risk of illegality. © Exportando Perú - Pisos de madera Bozovich [video file, Youtube]

illegal points of harvest, and (ii) clear differences in the percentages of GTF from Osinfor's SIGO "red list" and "green list" depending on the level of enforcement of the country of import, as if the exporters were selecting the GTFs depending on the destination of the product (see Chapter 7). The same pattern can be observed for Maderera Bozovich exports.

These findings are noteworthy in the context of Bozovich's Responsible Purchasing Policy, available in English and Spanish on the company's website. The policy identifies the GTF as the document whose information "allows the verification of timber's traceability from its origin and determines its legality". It also describes the internal process that Bozovich follows to conduct an "Assessment of parameters for risk of origin", the mechanism through which, they assure, "after a thorough review of the documentation related to the legality and traceability, the existence of risk is eliminated and the procurement proceeds." Note, to be clear, that the policy was created in January 2016. (Source: <http://www.bozovich.com/wp-content/uploads/2017/02/MBS-Responsible-Procurement-Policy.pdf>)

[Volver al Inicio](#)

Ingresar título habilitante o titular: Bosques Locales

[Descargar relación de titulares](#)

N°	Titular	Título Habilitante	Modalidad	Departamento	N° POA	Inicio de Vigencia del POA	Zafra o Período	Ver detalle	Ver Ubicación en el SISFOR
1	COMITE AUTONOMO DEL BOSQUE LOCAL DE NUEVO SAN JUAN-MORONA	16-YUR/L-MAD-SD-002-14	Contratos de Administración de Bosques Locales	LORETO	POA 1	31/03/2014	2014-2015		
2	ASOC. AUT. ADM. DEL BOSQUE DEL POBLADO RURAL PUERTO AMERICA - RIO MARAÑON	16-LOR/L-MAD-SD-012-14	Contratos de Administración de Bosques Locales	LORETO	POA 2	17/12/2015	2015-2016		
3	ASOC. AUT. DE ADM. DEL BOSQUE LOCAL PINTULLACTA	16-IQU/L-MAD-SD-002-14	Contratos de Administración de Bosques Locales	LORETO	POA 2	09/06/2015	2015-2016		
4	ASOCIACION AUTONOMO DE ADMINISTRACION DEL BOSQUE LOCAL DEL POBLADO RURAL JUANCHO PLAYA - RIO NAPO	16-IQU/L-MAD-SD-008-13	Contratos de Administración de Bosques Locales	LORETO	POA 2	19/12/2014	2014-2015		
5	ASOCIACION AUTONOMO DE ADMINISTRACION DEL BOSQUE LOCAL DEL POBLADO RURAL SANTA CLARA - RIO MARAÑON	16-LOR/L-MAD-SD-013-14	Contratos de Administración de Bosques Locales	LORETO	POA 1	30/12/2014	2014-2015		
6	ASOCIACION BOSQUE LOCAL AUTONOMO DE LA COMUNIDAD NATIVA TAHUANTINSUYO-RIO UCAYALI Pérez Gyare Line	16-REQU/L-MAD-SD-002-14	Contratos de Administración de Bosques Locales	LORETO	POA 2	04/05/2015	2015-2016		
7	ASOCIACION BOSQUE LOCAL COMUNIDAD JORDAN - RIO UCAYALI	16-REQU/L-MAD-SD-020-15	Contratos de Administración de Bosques Locales	LORETO	POA 1	09/10/2015	2015-2016		
8	ASOCIACION BOSQUE LOCAL COMUNIDAD LAS MALVINAS-RIO UCAYALI	16-REQU/L-MAD-SD-017-14	Contratos de Administración de Bosques Locales	LORETO	POA 2	09/04/2015	2015-2016		
9	ASOCIACION BOSQUE LOCAL COMUNIDAD LENCIO FRASCO - RIO UCAYALI	16-REQU/L-MAD-SD-017-14	Contratos de Administración de Bosques Locales	LORETO	POA 2	09/04/2015	2015-2016		
10	ASOCIACION BOSQUE LOCAL COMUNIDAD PATAKAL - RIO UCAYALI	16-REQU/L-MAD-SD-017-14	Contratos de Administración de Bosques Locales	LORETO	POA 2	09/04/2015	2015-2016		

## 7. ALL PORTS AND ALL DESTINATIONS: CALLAO DATA

While the Yacu Kallpa data provides a vivid case study of the ongoing high levels of illegality and lack of due diligence to properly track timber supply chains, it is only part of the picture. In parallel, the analysis of another set of data from timber shipments exported between January and December 2015 from Peru's main port, Callao, to countries around the world, demonstrates that Peru has been widely and consistently exporting illegally-sourced timber.

The Callao data reveals that, for the 2015 shipments selected by the National Forest and Wildlife Service (Serfor) as a sample for verifications, only 16% of the points of harvest declared by the traders are definitely legal. In at least 17% of the points of harvest Osinfor has verified illegal logging and/or timber laundering – and the other 67% remain undefined, either because it has not been verified by Osinfor or because not enough information has been provided to check legality for the point of harvest. The illegal and undefined timber went to importers in 18 countries. There are patterns in the data suggestive of deliberate efforts by exporters to use less transparent sources in general and to selectively seek either “green listed” or untraceable paperwork for countries with due diligence requirements.

### Why is this analysis focused on 2015 data?

For almost a decade now, EIA has been requesting access to official data from Peruvian forest authorities regarding the points of harvest declared by exporters. This declaration is part of the Visual Prior Inspection process done by Serfor in port, over a sample of the exports, during which exporters must provide GTFs corresponding to their products; see Box 4. The document generated by these inspections is called an *Acta de Inspección Ocular Previa* (called *Actas* here), and GTFs are attached to it. For years EIA was informed by the authorities that such data did not exist for timber species other than those listed in the Appendices of the Convention on International Trade of Protected Species (CITES), which for Peru are mahogany and cedar.

But in 2015, during the Q&A section of an official bilateral meeting in the context of the U.S.-Peru FTA, Serfor's director declared that, actually, they were collecting such data for all species. EIA once again began to officially request *Actas* from recent years, with limited success: delayed responses, expired

timelines, incomplete and fragmented data, and – in general – unwillingness to share it.

For *Moment of Truth*, EIA submitted repeated access-to-information requests for the 2015-2017 data to conduct a multiyear analysis. But in its first written response Serfor informed EIA that, as of October 2015, it had stopped conducting inspections for outgoing shipments and compiling *Actas* for non-CITES species.<sup>231</sup> Clearly, Serfor appears to have provided an inaccurate official response to EIA, since the Center for International Environmental Law (CIEL) obtained *Actas* and their attached GTFs covering a period through January 2016. Until a few months ago, EIA's understanding was that Serfor had stopped collecting the data after early 2016.

However, as the analysis for this report was being finalized, EIA received a new package of data from Serfor consisting of *Actas de Inspección* conducted over a sample of 2016 shipments coming out of the port of Callao, with their corresponding GTFs. Although this appeared, at first, to be good news, a review of the scanned documents proved that while inspections may not have stopped altogether, the amount and quality of information being gathered had been reduced dramatically. There are only 23 *Actas* for wood products from 2016, compared to over 900 for 2015. Also, the format for the *Actas* was modified to remove key pieces of information such as exporter, importer, country of destination and *zafra* (harvest season/year), among others. Section 7.b. on Callao 2016 data goes into more detail.

EIA had submitted a request for both the 2016 and the 2017 data, but no 2017 data was included in Serfor's response. The one-sentence letter accompanying the packet states that it includes a CD with the scanned version of the *Actas de Inspección* and GTFs “verified at the port terminal for the year 2016”, and adds that “now we are verifying and stamping only the GTF of the products to be exported.” EIA requested further clarification of this response, with no success.<sup>232</sup>

In the absence of an official explanation, EIA's interpretation is that Serfor has not been producing any *Actas de Inspección* for 2017, but is only reviewing and stamping GTFs and possibly not keeping any copies or records. This would mean that Serfor's new forms and procedures make it impossible to reproduce the analysis of legal origin conducted for Operation



Amazonas and the 2015 Callao data presented below. As a result of this step backwards in terms of data collection and transparency, there is no credible way for the Peruvian authorities to demonstrate whether things have improved from the situation documented for 2015. If anything, the steps towards opacity suggest that there are no improvements to show.

### 7.a. Key findings from Callao 2015 data analysis

The recently released report from the Center for International Environmental Law, *“Continuous improvement” in illegal practices in the Peruvian Forest Sector*, presents an in-depth analysis of Peruvian timber export data out of Callao port during 2015. EIA was granted access to the raw data used by CIEL for their report, and was able to replicate some of CIEL’s analysis as well as to produce our own.<sup>233</sup>

The CIEL authors received access to over 900 files of *Actas de Inspección* conducted by the ATFFS-Lima, a Serfor office located in the port of Callao, over a sample of the universe of wood product shipments. CIEL analysts eliminated incomplete or illegible files and worked with 865 *Actas*. The products exported in this sample of shipments were worth U.S. \$39,954,140. Based on Sunat 2015 export data, CIEL estimates the sample to be approximately 41% of the year’s total exports of HS44 (the international tariff code chapter for non-furniture wood products) from Peru. CIEL’s analysis further excluded 10 *Acta* files corresponding to inspections of CITES species (which do not include information about point of harvest and for which a different administrative procedure is followed), and proceeded to analyze the 2364 GTFs that came associated with the remaining 855 *Actas*.

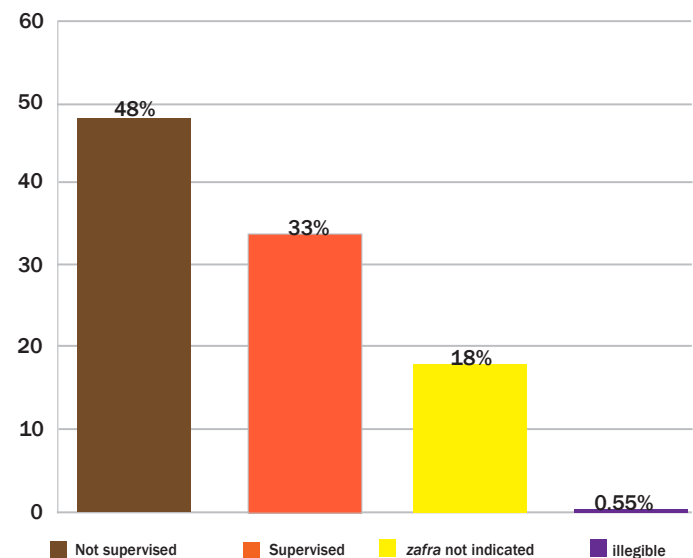
Specifically, CIEL cross-referenced the point of harvest named in each GTF with Osinfor’s SIGO database of field verifications to obtain reports on whether the wood came from a point of harvest with verified illegal logging and/or timber laundering (“red list”), little or no risk (“green list”), or unknown (for the cases in which the logging contract does not exist in SIGO, or has not been verified yet).

According to CIEL’s analysis, of these 2364 GTFs, representing 347 unique points of harvest, only 33% had definitely been verified by Osinfor and appear in SIGO, while 48% of the points of harvest had not been supervised. For the other almost 19% it was impossible to know if they have been supervised or not, either because the *zafra* (year of harvest) was not indicated on the GTF – as regulations require it to be – or because the paperwork was simply illegible.

CIEL’s analysis of the data shows that Peruvian timber exports go to 35 countries on five continents, with the top importers being China (42%), Dominican Republic (20%), USA (10%), Mexico (9%), France (4%), and Holland (3%).<sup>234</sup> 186 importers and 67 exporters were identified, although a group of six large exporters account for 50% of the GTFs used in the analysis: Maderera Bozovich SAC (17.5% of total GTFs analyzed), Inversiones La Oroza SAC (11%), Peruvian Flooring SAC (9%), Inversiones Técnicas Maderables SAC (5%), Consorcio Maderero SAC (4%) and Maderera Rio Acre SAC (4%).

The majority of the GTFs used to support the origin of the timber correspond to native communities and concessions (38% and 37% respectively) but local forests (15%), private properties (4%), and “complementary plans” for timber harvest in Brazil nut concessions (4%) are also important. (Note these latter did not appear in the Yacu Kallpa GTFs because they are a type of permit

**Figure 9: Callao 2015 data: Supervision status for 347 points of harvest (Source: CIEL, 2017)**



found almost exclusively in the southern Department of Madre de Dios, which is disconnected from the Ucayali-Loreto river trade routes and sends its export timber via highway to the Pacific coast).

CIEL’s analysis of the 791 GTF (33.4%) that were found in the Osinfor SIGO database shows that over half (51%) were from points of harvest on the red list; that is, were undergoing or had undergone sanctions processes (PAU) for falsified data or other major forest law infractions. Among those points of harvest, all types of logging contracts were risky but to varying degrees: 49% of GTFs from native communities came up red in SIGO, as well as 23% of concessions, 57% of private properties, and a striking 96% of local forests.

When the red vs. green GTFs were analyzed by export destination, clear differences emerged. Consumer countries where no illegal timber trade prohibition, due diligence, or due care standards exist were on the receiving end of higher percentages of “red” paperwork, that is, associated with illegal logging at points of harvest. (See Figure 11.) While data shows that all countries receive illegal timber, the contrasts between China (71% red list) or Mexico (75% red list) – countries with no demand-side policies – and the U.S. (28% red list) or France (9% red list) – countries with demand-side policies that include criminal sanctions – raise many questions and provoke some hypotheses. Australia is the exception, showing 67% high-risk paperwork despite having a demand-side policy, although it is still going through an extended soft implementation period during which no sanctions are applied for violations of the due diligence requirements for importers.

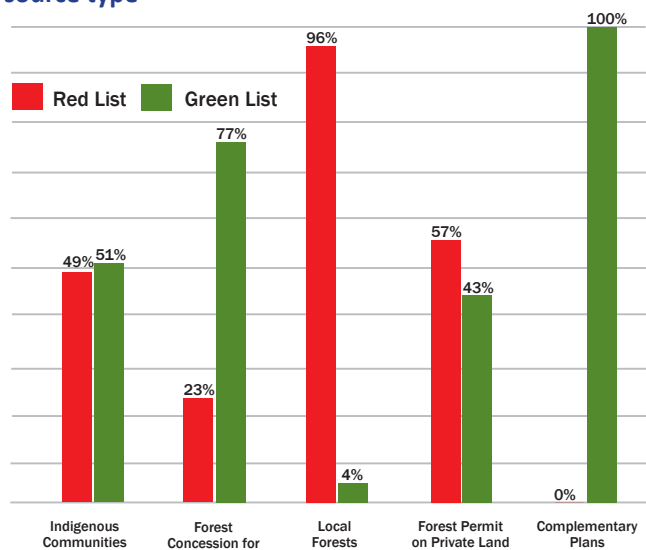
Comparing the point of harvest declared by each exporter with the situation found in the field by Osinfor’s inspections, we observe that almost all exporters have red-listed sources of timber for their shipments (see Table 11). This is not an exception but rather the norm, even after successive trade and media scandals in recent years regarding the high percentages of illegality for Peruvian timber exports. The percentages, though, seem to indicate a pattern related to how strong the policies and their enforcement are perceived to be in the country of destination.

**Table 8: Callao data 2015: Exports from supervised points of harvest on the illegal logging red-list, by source type**

Type of logging contract	Total # of GTFs	Total # timber contracts represented	# GTFs from supervised points of harvest	% GTFs from supervised points of harvest*	% supervised points of harvest on red list
Forest concessions	880	73	184	46%	23%
Native concessions	899	100	429	48%	49%
Local forests	360	64	125	21%	96%
Private properties	98	55	51	35%	57%
Complementary plans	104	54	2	2%	0%
Afforestation and reforestation concessions	1	1	0		n/a

\* these totals reflect that 19% of the GTFs did not indicate the zafra, which makes it impossible to know whether the point of origin was actually supervised.

Source: Callao 2015 database

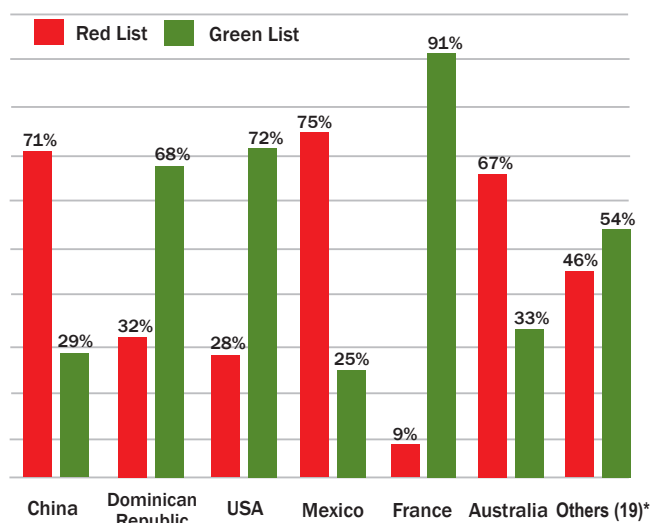
**Figure 10: Red- and green- list timber exports by source type**


Source: CIEL, 2017

### 7.b. The (high) risk of not knowing

As explained above, CIEL's analysis found that only 33% of the GTFs submitted by the exporters for this sample correspond to POAs that have been supervised by Osinfor. In the remaining 67% of cases, however, other POAs from the same logging contracts declared by exporters had been supervised (see Figure 13 on p. 70 for a graphic explaining how this works). Each POA corresponds to one logging season's operations in a specific parcel within a larger forest area managed by the same company, community or local forest committee, and each year the contract owner can only harvest from that specific parcel – harvesting outside of the parcel, even if still inside the logging contract, is illegal.

Therefore, the results of one POA parcel's supervision can provide an idea of what might be expected from field supervision of a nearby parcel, since it indicates the way a given contract owner conducts business. It is reasonable to expect that an unsupervised POA from a logging contract with several previous POAs in red, might also be in red, while another with previous results in green might more likely be green again.

**Figure 11: Red and green list timber exports by destination country**


Source: CIEL, 2017

To get an idea of the risk assessment for cases where the precise POAs have not been supervised, EIA developed a basic classification of three levels of risk: low, medium, and high. Applying these risk criteria to the 67% of GTFs from the Callao 2015 dataset whose POAs had not been verified by Osinfor, EIA obtained the results in Table 9.

#### 7.b.i. By country of destination

Looking at the data by country of destination, we can observe that almost two-thirds of GTFs from unsupervised POAs used to support timber going to Peru's largest international markets correspond to mid- and high-risk points of harvest. A well-managed due diligence system should have deterred exporters from these kinds of timber sources.

As Table 10 shows, all 34 countries that appear as destinations for Peruvian timber exports in the sample taken by Serfor in 2015 at the port of Callao, received timber with either a documented illegal origin or some level of risk. Just nine out of the 34 received only low-risk timber, and those were mostly countries with low numbers of GTFs. The rest had a variety of combinations of verified red list, mid-risk and high-risk timber.



**Table 9: Risk categories for point-of-harvest papers in Callao 2015 data**

Total GTFs not supervised or undefined	Factors considered for risk level	1636
Low Risk	all the previously supervised POAs are in green	36%
Mid Risk	at least one and up to 50% of previously supervised POAs are in red the logging contract has never been supervised before information on GTF submitted by the exporter is illegible	20%
High Risk	over 50% of the previously supervised POAs are in red the logging contract has been annulled by the authorities due to severe infractions the logging contract does not exist in SIGO there is no information about the logging contract or the GTF	44%

**Table 10: Low, mid, and high risk timber exports: Destination countries**

	Destination	# GTF	# Verified Red	# Verified Green	# Low Risk	# Mid Risk	# High Risk
1	China	1021	209	90	272	91	359
2	Dominican Republic	479	54	120	85	124	96
3	USA	251	30	71	50	31	69
4	Mexico	220	51	19	23	29	98
5	France	85	4	39	25		17
6	Holland	64			61	1	2
7	Cuba	39	13	5		11	10
8	South Korea	34	3	9	3	14	5
9	Belgium	33	2	8	19		4
10	Puerto Rico	28	7	3	3	6	9
11	Australia	27	9	3	3	1	11
12	Taiwan	20	4		9	2	5
13	North Korea	15		13	2		
14	Spain	14	3	1	4	2	4
15	United Kingdom	14			11	1	2
16	Chile	14	5	2	1	2	4
17	Ecuador	10	1		2	3	4
18	Philippines	9		2	2	1	4
19	Uruguay	9	2	1	1	1	4
20	Germany	6			6		
21	Costa Rica	5		3	2		
22	Canada	4	1				3
23	Denmark	4			4		
24	Portugal	4		1	3		
25	Panama	2			2		
26	Vietnam	2					2
27	Polynesia	2			2		
28	Greece	2				1	1
29	Argentina	2		1		1	
30	Israel	2	1				1
31	New Zealand	2			2		
32	Hong Kong	2			2		
33	Japan	1	1				
34	Nicaragua	1					1
	<b>Grand Total</b>	<b>2427</b>	<b>400 (17%)</b>	<b>391 (16%)</b>	<b>599 (25%)</b>	<b>322 (13%)</b>	<b>715 (29%)</b>

Source: Callao 2015 database

## 7.b.ii. By exporter

When looking at the same dataset by exporter, we also find that almost all are using mid- and high-risk GTFs for their

timber exports to the world. Of the 67 exporters that appear in the Callao 2015 dataset, 84% are exporting mid- or high-risk timber. See Table 11.

**Table 11: Choosing papers? Exporters and destinations of illegal and high-risk timber**

	Exporter	#GTF	Red GTF		Green GTF		# Low risk	# Mid risk	# High risk	China		Mexico		Dominican Republic		U.S.		E.U.		Others	
			Red	Green	Red	Green				Red	Green	Red	Green	Red	Green	Red	Green	Red	Green	Red	Green
1	Maderera Bozovich SAC	419	62	76	94	88	99	50%	50%	67%	33%	30%	70%	33%	67%	14%	86%	71%	29%		
2	Inversiones La Oroza SRL	271	57	38	39	52	85	100%		96%	4%	45%	55%								
3	Peruvian Flooring SAC	219	5	26	159	15	14	16%	84%												
4	Inversiones Técnicas Maderables SAC	112	4	46	34	10	18							8%	92%						
5	Consorcio Maderero SAC	97	17	3	2	5	70	89%	11%	50%	50%										
6	Maderera Rio Acre SAC	90			88		2														
7	Negociación Maderera Travi Satipo SRL	71		40	2	29								100%	100%					100%	
8	Maderera Pacifico International SRL	68	36	16	3	5	8	69%	31%												
9	Maderera Dialis EIRL	67	8		4	5	50	100%													
10	Maderera Cinco Estrellas SAC	65	34	2		7	22	94%	6%												
11	JR Muye Investment SAC	63	16	7		3	37	70%	30%												
12	Industria Forestal Huayruro SAC	51	4	40	1		6	100%								12%	88%			100%	
13	Hermanos Forestal SAC	45	20				25	100%													
14	E & J Matthei Maderas del Peru SA	45	11	3	17	2	12									100%			75%	25%	
15	Logistica Maderera Selva SCRL	45	7	1	2	4	31	88%	12%												
16	Lumat Maderas SAC	41	2	9	4	2	24			14%	86%			33%	67%					100%	
17	Maderap SAC	40	12	3	2	13	10	80%	20%												
18	Industrias Madex EIRL	39	13	5		11	10												72%	28%	
19	Arbe Lumber SAC	38	2	3	15	6	12	40%	60%												
20	Aserradero Espinoza SA	37			37																
21	Grupo Vargas Negocios Amazonicos SAC	31	1	3	9		18	100%								100%				100%	
22	SUTAY Company SRL	30	13	2	3		12	87%	13%												
23	Corporacion Maderera Loreto SAC	27	7	3	4	4	9					100%		63%	37%						
24	Peruvian Woods Company EIRL	27	2	8	7	4	6					100%	25%	75%						100%	
25	Olinda Shuña Perez	23	5	6		5	7	45%	55%												
26	Corporacion Industrial Forestal SAC	25	11			10	4									100%					
27	Corporacion Forestal Claudita SAC	21			21																
28	IMK Maderas SAC	20			6	3	11														
29	Inversiones WCA EIRL	20	5			3	12												100%		
30	Maderera Vulcano SAC	20	1	5	4	3	7	100%						100%				100%			
31	KMU Peru SAC	19	3	8	3	1	4												27%	73%	
32	Industrial Ucayali SAC	17			7	1	9														
33	Casa Ideal Constructores SAC	17	3	1	2	7	4	75%	25%												
34	Tender SAC	16	1	5		3	7									17%	83%				
35	King Forest SAC	16		9		1	6											100%			
36	Santa Angela Group SAC	14	3	7	2		2	60%	40%							100%					
37	Industria Forestal Iquitos SRL	12	1	1			10							50%	50%						
38	Aserradero Denis SAC	12	1		2	3	6	100%													
39	Peruvian International Trading Co., Ltd.	11			10	1															
40	Podium Forestal SAC	10	6	2			2	75%	25%												
41	International General Trade SAC	10		1		3	6									100%					
42	Weiman SAC	9	6		2	1		100%													
43	Super Pisos SA	9			2		7														
44	Global Wood SAC	8		4	4					100%								100%			
45	LH Timber Company SAC	7	3				4	100%													
46	Aserradero Victoria SAC	6				2	4														
47	Comercial Maderera del Cuadro SAC	6					6														
48	Comercio Internacional Amazonico EIRL	6	3			1	2	100%													
49	Maderera DGP SAC	6	4				2									100%					
50	Hongxing SAC	5		3		1	1			100%						100%					
51	DMEXP SAC	5			1		4														
52	NCS American Forestal SAC	5	2				3	100%													
53	Inversiones de la Selva Peruana Nathaly SAC	4		4						100%											
54	Enterprise Forestal e Inmobiliaria SAC	4	1		2		1													100%	
55	Pacific Wood SAC	4			4																
56	Grupo WAYUAN SAC	4				3	1														
57	International Santa Fe SRL	4	1	1		1	1	50%	50%												
58	Corporacion Tori SAC	2				1	1														
59	Green Gold Forestry Peru SAC	2	2															100%			
60	Global Wood Company SAC	2	1			1					100%										
61	Inversiones Generales Ximjolo SAC	2				2															
62	CKD Trading SAC	1	1													100%					
63	King Lumber Company SAC	1			1																
64	Triplay Iquitos SAC	1					1														
65	Metals Precious SAC	1	1								100%										
66	Ego Wood SAC	1	1																	100%	
67	LOEB & Ximena EIRL	1	1													100%					
Grand Total		2427	400	391	599	322	715	70%	30%	73%	27%	31%	69%	30%	70%	16%	84%	53%	47%		
% out of total		100	17	16	25	13	29														

Source: Callao 2015 database



### 7.b.iii. Destination: United States

Focusing specifically on the exporters sending timber to the U.S. market – where recently the U.S. Trade Representative blocked Peruvian exporter Inversiones La Oroza because there was evidence of significant volumes of illegal timber in its chain of custody<sup>235</sup> – we can also observe high percentages of mid- and high-risk papers accompanying the timber to a destination that has (i) a specific law that makes it illegal to import illegally logged timber, irrespective of the papers that may accompany the timber, and (ii) a bilateral trade agreement that can bring consequences to all the other productive sectors if the Peruvian government cannot fulfil its commitment to deal with its illegal timber exports. See Tables 12-A and 12-B.

### 7.b.iv. Inversiones La Oroza and other exporters involved in the Yacu Kallpa illegal trade

According to the Callao 2015 data, Inversiones La Oroza – the same Peruvian exporter now banned from the U.S. market for three years due to official evidence about the high levels of illegal origin of its timber – exported from Callao to at least six countries. These shipments were in addition to their exports to the U.S. and Mexico via the Yacu Kallpa route described in Chapter 4. See Table 13.

Other companies with high percentages of illegal timber coming out of Iquitos on the Yacu Kallpa were also consistently exporting from Callao, with high levels of verified illegal origin and/or supporting their shipments with papers that EIA classifies as mid- or high risk.

While this report was in its final stages of preparation, the international NGO Global Witness released an investigative briefing that included undercover videos where representatives of three Yacu Kallpa exporters openly acknowledged that for years now they have been aware of the illegal origin of the products they trade.<sup>236</sup> Out of the three exporters exposed by Global Witness – Inversiones WCA, Corporación Industrial Forestal and Sico Maderas – the first two also appear in the Callao 2015 database with questionable GTF papers. As established in Chapter 2, the Peruvian law states that it is illegal to trade timber if one has evidence or reasons to believe that the product might have an illegal origin. See Tables 14 and 15.

### 7.b.v. The Peru – Mexico trade

While Mexico is still debating a new forest law that could include a provision to make it illegal to import illegally harvested timber products (see Box 8), EIA's analysis of the Callao 2015 dataset provides worrisome information regarding the legal situation of the products according to the laws of the country of origin. As Tables 16 and 17 show, *every* exporter and *every* importer in the Peru – Mexico commercial exchange have traded either timber classified as red by the Peruvian oversight body Osinfor, or as “high risk” by EIA's classification in cases where exporters did not provide all the relevant data.

### 7.c. The minimal Callao 2016 data

Sometime between January and September 2016, Serfor modified the format for the *Actas de Inspección*, and, at least between 6 September and 7 October 2016, collected new data (see Figure 12).<sup>237</sup> Using the new form, however, meant that most of the key pieces of data – the ones that made possible Operation Amazonas 2014 and 2015 as well as the 2015 Callao data analysis – were missing. With this Callao 2016 data it is

impossible to link shipments back to the point of harvest in order to verify legal origin. Why would the National Forest Authority drastically change the form in this way? EIA tried to get a clarification, but received no response.<sup>238</sup>

The *Actas* form used until the end of 2015 included specific cells for the different pieces of relevant data, such as: exporter, importer, country of destination, species – including volume, number of packages, and FOB value for each case, container number, and GTF numbers. Under the “observations” cell it included the unique code for the associated customs document (DUA or DAM).

The new form used for the 23 *Actas* from wood products inspections conducted in 2016 – according to the official response from Serfor to EIA – have far fewer data cells: only for the location, date, and time of the inspection, followed by several lines for the inspector to fill in whatever he or she considers appropriate. See Table 18.

Therefore, out of the 23 *Actas* received for 2016:

- None has information about country of destination;
- 21 do not provide names of exporters or importers. Only one has the name of an exporter and only one has the name of an importer, but neither of these have GTFs or point of harvest information;
- None has information about the FOB value for the shipment;
- Only 15 include a number for the container;
- Only three out of the 23 include information about the POA within the point of harvest (key data to verify legal origin in SIGO), but none of those POAs have been verified by Osinfor;
- Three *Actas* have no information at all about point of harvest.

See Table 18 for a summary of the information collected. Given that there is no way to verify the legal origin for any of the timber exported with these *Actas* – since either there is no information about the POA, the identified POA has not been supervised by Osinfor, or there is no information about the point of harvest – only a risk assessment can be done. Using the criteria laid out in 7.b. above (Table 9), 56.5% of the 2016 *Actas* include timber with mid- (1) or high risk (11) for illegal origin.

One other subtle but important modification to the *Acta* format is that the 2016 documents don't have a unique *Acta* number, which makes it very difficult to find this document in the future or to keep track of it. Further, since there are no correlative numbers it is impossible to know how many inspections were conducted in total, and it would be impossible to notice if any *Actas* were somehow removed from the records.

The size of the sample and the lack of key information cells make this more recent official data irrelevant to verify legal origin for the timber being exported from Peru to the rest of the world. In fact, we cannot even tell where in the world it's going. And according to Serfor's official response to EIA, the data situation for 2017 is even worse.

**Table 12-A: Exporters of low, mid, and high-risk timber to the U.S.**

Exporters	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
Inversiones Tecnicas Maderables SAC	112	4	46	34	10	18
Corporación Industrial Forestal SAC	25	11			10	4
Lumat Maderas SAC	22	1	2		1	18
Maderera Bozovich SAC	22	2	4	6	2	8
Corporación Maderera Loreto SAC	17	5	3	4	2	3
Tender SAC	16	1	5		3	7
Santa Angela Group SAC	8		5			1
Maderera DGP SAC	6	4		2		2
IMK Maderas SAC	4					4
International General Trade SAC	3		1		1	1
Grupo Vargas Negocios Amazónicos SAC	3		2			1
Corporación Forestal Claudita SAC	3			3		
King Forest SAC	2					2
Hongxing SAC	2		2			
Inversiones Generales Ximjolo SAC	2				2	
Aserradero Espinoza SA	1			1		
CKD Trading SAC	1	1				
LOEB & Ximena EIRL	1	1				
Negociación Maderera Travi Satipo SRL	1		1			
<b>Grand Total</b>	<b>251</b>	<b>30</b>	<b>71</b>	<b>50</b>	<b>31</b>	<b>69</b>

Source: Callao 2015 database

**Table 12-B: Importers of low, mid, and high-risk timber to the U.S.**

Importers to U.S.A.	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
Oregon Canadian Forest Products, INC.	68	3	24	18	6	17
Industrial Pine Products, INC.	44	1	22	16	4	1
Popp Forest Products, INC.	23	7	3		9	4
BTP, INC.	22	2	4	6	2	8
Robinson Lumber Company INC.	22	1	2		1	18
Thompson Mahogany Company	10	3	2	4		1
Downes y Reader Hardwood Co., INC.	8	4			2	2
Rockland Wood Products LLC	8		5	2		1
Fran Wood International INC.	6		1		1	4
Montimber International LLC	6	4				2
Tradelink Wood Products INC.	5	1	1			3
Sabra International, INC.	4		2		2	
INTEC - Continental Hardwoods, LLC	3	1			2	
International Hardwoods of MIAMI	3			3		
Beacon Hardwoods LLC	2		2			
Global Gold Forest	2				2	
International Hardwoods	2		1			1
M. Boehlke Venner CORP	2					2
Nater Wood	2	1				1
North American Wood Products LLC	2	1		1		
Timber Rex Aps	2					2
DBA AHC Craig Imports	1					1
Golden Leaf Timber CO, INC.	1		1			
Huntersville Hardwoods, INC.	1					1
Shinui Builder Lake Meril LLC	1	1				
SITCO Lumber CO	1		1			
<b>Total General</b>	<b>251</b>	<b>30</b>	<b>71</b>	<b>50</b>	<b>31</b>	<b>69</b>



**Table 13: Inversiones La Oroza exports, Callao 2015 Database**

Destination	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
Dominican Republic	176	25	31	21	50	49
Mexico	60	27	1	2		30
France	20		5	15		
Spain	8	1	1	1	2	3
China	4	4				
Canada	3					3
Grand Total	271	57	38	39	52	85

Source: Callao 2015 database

**Table 14: Inversiones WCA exports, Callao 2015 Database**

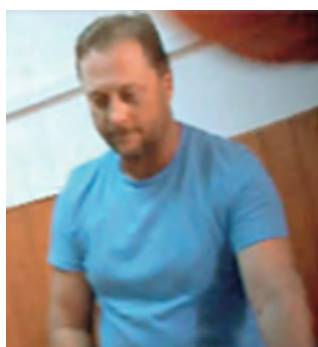
Destination	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
Mexico	12				1	11
Chile	8	5			2	1
Grand Total	20	5	0	0	3	12

Source: Callao 2015 database

**Table 15: Corporación Industrial Forestal exports, Callao 2015 Database**

Row Labels	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
U.S.	25	11			10	4
Grand Total	25	11	0	0	10	4

Source: Callao 2015 database



From left to right: Dante Zevallos from Sico Maderas, William Castro from Inversiones WCA, and Adam Andrews from Corporación Industrial Forestal. © Global Witness.

**Table 16: Exports to Mexico, Callao 2015 database**

Peruvian exporter	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
Maderera Bozovich SAC	109	20	10	18	24	37
Inversiones La Oroza SRL	60	27	1	2		30
Lumat Maderas SAC	16	1	6	3	1	5
Inversiones WCA EIRL	12				1	11
Consorcio Maderero SAC	7	1	1			5
International General Trade SAC	7				2	5
Peruvian Woods Company EIRL	3		1			2
Global Wood Company SAC	2	1			1	
Corporación Maderera Loreto SAC	2					2
Super Pisos SA	1					1
Metals Precious SAC	1	1				
Grand Total	220	51	19	23	29	98

Source: Callao 2015 database

**Table 17: Imports to Mexico, Callao 2015 database**

Mexican Importer	# GTF	# Red	# Green	# Low Risk	# Mid Risk	# High Risk
Bozovich S de RL de CV	109	20	10	18	24	37
Imperial Herrajes y Maderas SA de CV	26	10				16
Maderas y Materiales JR SA de CV	22	4	7	3	1	7
Triplay y Maderas de Importación SA de CV	13	7	1			5
Megamaderas SA de CV	10				1	9
Maderas La Laguna SA de CV	8			2		6
Grupo Maderero Najal SA de CV	7	1	1			5
TRUPER SA de CV	7				2	5
CG Grupo Forestal SA de CV	5	4				1
Industrias Forestales CG SA de CV	5	3				2
Grupo Tenerife SA de CV	3					3
Maderas SAFF S.L.	2					2
Maderas y Emchapados de Monterrey SA de CV	2	1			1	
JIT Importaciones y Exportaciones SA de CV	1	1				
<b>Grand Total</b>	<b>220</b>	<b>51</b>	<b>19</b>	<b>23</b>	<b>29</b>	<b>98</b>

Source: Callao 2015 database





**Table 18: Summary of 2016 Acta port inspection data collected.**

Note that in 2015, over 900 inspections of timber exports were done. In 2016, according to the data received from EIA's information request, there were only 23.

Acta	# Low Risk GTFs	# Mid Risk GTFs	# High Risk GTFs	Acta Number Declared?	Destination Declared?	Exporter Declared?	Importer Declared?	FOB Value Declared?	DUA # Declared?	POA Declared?
1		1								1
2	1									
3	1									
4	1									1
5	1									
6	1									
7	1									
8			1							
9			1							
10			1							
11			1							
12			1						1	
13	1									
14			1							
15			1				1		1	
16			1			1				
17	1									
18	1									
19			1							
20	1									
21			1							
22			1							
23	1									1
<b>Grand Total</b>	<b>11</b>	<b>1</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>3</b>



Figure 12: Recent changes in Actas port inspection paperwork

PERU    

"Defensa de las Personas con Discapacidad en el Perú"  
"Año de la Promoción de la Industria Responsable y del Compromiso Ciudadano"

ACTA DE INSPECCIÓN OCULAR DE EMBARQUE N° 382 -2014-TP

En Callao  
el 24 de Agosto del 2014, a las 11:10 Horas, se procedió a la inspección ocular de un embarque de TABLEROS DE SHIMUAYUAYO Y ESTOHAQUE

☒ Exportación ☐ Importación ☐ Re-exportación

I. DATOS GENERALES

Exportador: LOGISTICA ANDARCA SIVA S.C.A.B. P. A. N° 4108291000  
Importador: SHANSHI EARTH IMPACT S EXPORT CO. LTD País CHINA  
PERMISO N° ESTAMPILLA N° Fecha Exp. 10/08/2014  
ESPECIES DE Flora Silvestre incluidas en los Apéndices CITES: si ☐ no ☒

II. RESULTADOS

Se constató que el embarque inspeccionado corresponde a la(s) siguiente(s) especie(s):

1) Cassipouira alata Volumen 5.132m³ Peso — Cantidad 79m³ FOB 13,973.75  
2) Hydrocotyle batianensis Volumen 13.512m³ Peso — Cantidad 81m³ FOB 13,408.00  
3) — Volumen — Peso — Cantidad — FOB —

CONTENEDOR N° UETU 230132-1, CBHU 402628-8  
DFSL 295285-0  
GTF: 013-152018, 013-152021, 013-152022, 013-152019

III. OBSERVACIONES Qu a 106049

IV. DATOS DEL INSPECTOR

Inspector SERFOR-ATFS-Lima/S. Callao/T. P.: Olivero Bravo Alvarado  
Siendo las 12:10 horas, se da por concluida la inspección y en señal de conformidad firmamos a continuación:

POR SERFOR-ATFS-Lima/S. Callao/T. P.





INSPECTOR Olivero Bravo Alvarado  
D.N.I. N° 1060151  
Puerto de Exportación Callao

USUARIO —  
Firma del usuario Representante —  
Nombres y Apellidos —  
D.N.I. N° —  
Tel. —  
Agencia —

19/02/16

19/03/16

Acta format prior to late 2015

PERU    

ACTA DE CONSTATAción DE PRODUCTOS FORESTALES Y DE FAUNA

SILVESTRE N° 008 -2016-TP

En Callao TP ubicado en el Distrito y provincia del Callao  
el 04 de Octubre del 2016, a las 12:00 Horas, se procedió a la constatación de Producto forestal maderable de la especie Shimuayuyo compuesto por 24 preguntas m. maderable en forma de tablero 23 preguntas en tablero. Confirma las GTF por emitidas por el GOB. Regional de Ica y el producto es de propiedad de T. Moya Inhuatanta SAC m. maderable. CBHU 356160-3, CSW 187851-4. Según GTF. Hacen un volumen de 48.673m³

Siendo las 12:10 horas, se da por concluida la constatación y en señal de conformidad firmamos a continuación:

POR SERFOR-ATFS-Lima/P.C Callao/T. P.

INSPECTOR —  
D.N.I. N° —  
Puerto de Exportación —

USUARIO —  
Firma del usuario Representante —  
Nombres y Apellidos —  
D.N.I. N° —  
Tel. —  
Agencia —

Acta format since late 2015

**As a result of this step backwards in terms of data collection and transparency, there is no credible way for the Peruvian authorities to demonstrate whether things have improved from the situation documented for 2015. If anything, the steps towards opacity suggest that there are no improvements to show.**

#### 7.d. What to make of these findings?

The analysis of the 2015 Callao data confirms that illegal timber trade is not a minor issue and is still rampant. Regrettably, we cannot conduct a 2016 or 2017 data analysis to see if the situation has changed, since the data available for 2016 is missing key pieces and there is no data available for 2017.

The Callao 2015 database shows that, for the cases where all the data is available – in summary, when the GTF declares a point of harvest and a POA/zafrá has been supervised by Osinfor – 51% of the documents used to move the timber

reveal the laundering of illegally-logged timber: the paperwork was based on fake information and the illegal product was exported, as if legal, to 18 countries. Beginning with the country receiving the largest amount of fraudulent paperwork and moving down the list, we find: China, Dominican Republic, Mexico, U.S., Cuba, Puerto Rico, Australia, Chile, Taiwan, France, Spain, South Korea, Uruguay, Belgium, Canada, Israel, Japan and Ecuador.

When we extend this analysis and apply the risk categories developed by EIA, we observe that not even one out of the 34 countries that appear as a destination for Peruvian timber in the Callao 2015 dataset has all its timber in green. A large percentage of the countries receive the majority of their timber in red, and just a few show only low-risk timber.

While almost all importing countries are receiving illegal Peruvian timber, some receive proportionally more of it than others. One observation supported by this data, as mentioned above, is that the countries with stronger demand-side policies are receiving lower numbers of high risk papers associated with their imports. It might be that exporters are beginning to use the tools at hand, such as SIGO, to selectively choose cleaner timber to send to Europe and U.S. buyers where due diligence or due care requirements exist. However, it is also possible that what is being selected may not be “cleaner timber” but only “cleaner papers” – or at least documents that are untraceable back to a supervised

point of harvest. The latter could also explain the combination of this pattern with (i) the high level of unsupervised sources and (ii) exporters' recent insistence that traceability is not possible.

Indeed both the 2015 Yacu Kallpa data and the 2015 Callao data show increased export of timber from sources with less scrutiny – primarily local forests, but also private properties and complementary plans from Brazil nut concessions, all of which have different administrative procedures and governing regulations that make transparency more complex, and are less likely than concessions and native communities to be reported to the national authorities. While data is incomplete, we know that large amounts of timber are being declared as extracted from these sources.

For example, a CIFOR study for 2009-10 found that the total volume of wood harvested in Brazil nut concessions in Madre de Dios department was greater than what came from timber concessions.<sup>239</sup> In Operation Amazonas 2015, 42% by volume of all the timber in the analyzed shipments came from local forests, almost equal to concessions (43.8%) and far more than from native communities (14.3%). (At that time, Osinfor had little effective oversight in local forests, please see Box 5 for a detailed explanation.) Plantations and land use change permits are the latest paperwork sources on the rise (see Box 5).

EIA cannot emphasize enough that lack of information does not mean low risk – in fact, it is exactly the opposite. Points of harvest cannot be verified when the regional government does not report their approval to Osinfor to begin with, a legal requirement<sup>240</sup> that is consistently flouted. In Operation Amazonas 2014, 76.5% of the points of origin did not exist in Osinfor's database, and in Operation Amazonas 2015 almost none were being reported.<sup>241</sup> Meanwhile, when they *are* inspected, local forests consistently demonstrate the highest

levels of illegal logging, both in Operation Amazonas and the Callao data. For the 2015 Callao data, out of the 125 GTF for local forests that were supervised, 120 were in the red list. For the 2015 Yacu Kallpa shipments, 45 of the 49 local forests providing GTF paperwork were on the red list and three of the remaining four hadn't been supervised.<sup>242</sup>

It is not clear how Serfor chose which export shipments to sample for the 2015 Callao dataset; based on comparison with Sunat trade data, as mentioned, it appears to be roughly 41% of Peru's exports in 2015. When EIA asked for clarification on the methodology used to define the sample, we did not receive a response. But what is clear is that the problems documented by EIA in *The Laundering Machine* and by both Operation Amazonas 2014 and 2015 are ongoing and larger than we initially estimated them to be. They are not limited to CITES species nor to exports from Iquitos on the Yacu Kallpa. They involve all species, all ports, and all destination countries.

This does not mean that every timber producer or exporter should be thrown into the same basket. There seem to be some companies trying to do things right in a very complex governance environment. However, this analysis does show that currently the only way to have real confidence in the timber coming from Peru is to be able to cross-reference point of harvest information with field verifications conducted by an independent entity such as Osinfor – as long as it remains independent and credible, of course.

To this end: since 2014, Osinfor has been sending official letters to the exporters warning them about high levels of documented illegality and timber laundering and offering to go to the field to supervise any logging contract for which company is interested in obtaining chain of custody information before purchase or export (see Figure 2). As of mid-October 2017, no exporter had asked Osinfor to verify anything.<sup>243</sup>





© EIA

**T**he story of systematic illegality told in this report – in both the 2015 Yacu Kallpa shipments and a cross-section of 2015-16 export data from the port of Callao – is not easy to hear. But the reality is, every credible analysis of official data in the last five years shows that a high percentage of the timber leaving Peru continues to be illegal. For domestic markets, the situation is almost certainly worse.<sup>244</sup> Meanwhile, buyers in the U.S., China, Mexico, Australia, the E.U., and other key consumer countries continue to fuel corruption, environmental damage, and human rights abuses by demanding timber without demanding legality.

Yet this story is also about successes. Peru has a unique model of independent oversight via Osinfor and its innovative tools, Sisfor and SIGO, which provide exporters and importers key information to identify and verify legal sources of timber products. Operation Amazonas and subsequent actions have shown the enforcement potential that comes from data transparency and institutional collaboration between Peruvian institutions such as Sunat, Osinfor, and FEMA, and with international enforcement authorities in importing countries.

As it confronts the ongoing reality of illegal timber exports, Peru's forest sector is at a crossroads. Its institutions and industry can build on the methodologies and findings revealed by Operation Amazonas to support strategic enforcement, increase transparency, and make it truly possible to verify legal timber origin. Or they can resist change, blame the messenger, and attempt to maintain an opaque status quo. Will we see a process of coming clean, or more of the spin cycle?

Recent developments are troubling. Over the last two years, key players in the timber industry have focused their energies not on improving systems and increasing transparency, but on punishing high-level reformers, weakening enforcement tools

and reducing information requirements. The sector's primary regulatory agency, Serfor, and Peru's Ministry of Foreign Trade, Mincetur, have enabled industry's bad habits and undermined reform by denying the problem and defending illegal actors to consumer country enforcement officials. Peru's exporters complain that they are losing US\$140 million in sales yearly due to "bad publicity surrounding the crackdown"<sup>245</sup> – ignoring the fundamental fact that the predominance of falsely labelled, illegal product in the market is the real issue to address.

### **Why reduce transparency even further?**

Peru's own laws and several of its key export markets now insist on verification of legal origin. If exporters cannot provide meaningful documents that show a legal point of harvest for their timber products, how will importers from the U.S., Europe, Australia, or Japan conduct the due diligence required by their national laws? Given a strict implementation of demand side laws, Peruvian timber runs the risk of losing its prime international markets. A preview of exactly this occurred in October 2017 when the United States banned imports from Inversiones La Oroza for three years over ongoing legality concerns.<sup>246</sup>

Yet recent statements made by the industry and Serfor in response to proposed modifications to customs paperwork assert that it's impossible to trace wood products back to their points of harvest, and that this has never been done.<sup>247</sup> Given the international legal and market context, why would the Peruvian timber industry and its forest authority want to risk their best markets by eliminating point-of-harvest information from GTFs, cutting back on port inspection procedures, and making it virtually impossible to trace the origin, legal or illegal, of any wood products at all?

## Transparency is the best business model

Operation Amazonas and subsequent U.S. enforcement actions over the last two years have brought out uncomfortable truths and forced the forest sector to declare that Peru's existing system does not, and never has, traced most wood products back to the forests. Moving beyond this statement towards meaningful change is possible, but a new mindset is needed.

The sector needs to accept that more traceability and transparency is good for its long-term prospects. Its current argument boils down to – “we mix wood from many different origins, so we can't report any of those origins. Just take our word for it, it's all legal.” But upon what grounds should buyers trust these promises when Osinfor's data continues to show that more than 70% of the points of harvest it supervises have serious legal infractions?<sup>248</sup> When there is no authority controlling any of the timber coming from land use change authorizations, plantations on private lands, or other “administrative act” sources that serve largely as laundering machines? When nobody is controlling the operations books or GTF issuing procedures in the sawmills through which both legal and illegal timber pass? When MC-SNIFFS remains largely non-operational? When regional government information systems are utterly disconnected from the national agencies whose role is to provide oversight?

The industry argues that it is not economically viable to trace the origin of products of secondary and tertiary transformation. But in the high-risk context of Peru's forests, how can we not expect that companies adjust their existing production processes to make traceability more feasible and cost-effective? How can we not expect processing facilities and exporters to work constructively with Serfor, Sunat, and Osinfor in creating a declaration process that can be integrated into their systems for transparent reporting of all timber harvest sources?

It is not EIA's role to define the technical details of a traceability system for private companies. It is EIA's responsibility to point out that official data, investigations, and companies' own statements show that while the current system in Peru has the capacity to prevent the trade of illegally logged timber, it is not being efficiently used to verify legal origin, much less traceability back to source, for almost any



Packets of timber from the final voyage of the Yacu Kallpa. © Yacu Kallpa Crew

***“Good faith” is not a legitimate defense when everyone knows the system is corrupt, and knowingly declaring fraudulent information is not acceptable business-as-usual.***

wood product currently exported – in contravention of Peru's own laws and key consumer country requirements.

Traceability is already the norm for industries where human health concerns dictate, such as dairy products or pharmaceuticals. It is becoming standard practice across a wide variety of sectors for both market and regulatory reasons, as consumer interest, voluntary commitments, and legal requirements make it necessary for businesses to disclose information about labor conditions and environmental impacts. New tools and new examples of companies implementing physical product traceability and publicly-available supply chain data abound.<sup>249</sup> In Peru, for example, the timber industry might be able to learn from the experiences of its counterparts in coffee or asparagus industries.<sup>250</sup> This kind of forward-looking approach will ultimately benefit Peruvian companies' own supply chain management as well as their clients.

### The time is now

In November 2017, a week before the release of a Global Witness expose showing that multiple timber exporters knew perfectly well they were trading illegal, laundered timber, and that the whole system functioned that way, a reporter for Peru's newspaper of record, *El Comercio*, interviewed Luis Angel Jurado Pomansunco, manager of Inversiones La Oroza, the exporter now banned from U.S. markets for three years due to its own illegal timber. He remarked that the company has been working since 2004 on a “good faith” basis, “with documents verified and stamped by the regional authority”, and had been “surprised” by their vendors. He added, “if it is as Osinfor puts it, that 90% of the wood from logging contracts is illegal, then all Peruvian timber exporters should be sanctioned.”<sup>251</sup>

That may be the case. Because “good faith” is not a legitimate defense when everyone knows the system is corrupt, and knowingly declaring fraudulent information is not acceptable business-as-usual. Transforming production processes may require time and investment. But “we don't want to do this” is not the same as “we cannot do this”. Implementing a policy to declare all points of origin for a batch of wood products could be done starting tomorrow – and is, actually, a requirement of Peruvian law already. Peruvian industry can choose to evolve, and its regulatory agencies must support that evolution.

This is a moment of truth for Peru's fight against illegal logging, timber laundering, and associated trade. A decade of investments and institutional capacity building have brought Peru to a point where the technical tools exist to verify legal origin, and where there are Peruvian agencies with the desire and the means to investigate crimes and enforce the law. Will the current government capitalize on this moment of change? Or will it give in to entrenched interests with short-term profit motives at the expense of its irreplaceable national patrimony, its forests, and the people who live in and depend upon them?





## 9. RECOMMENDATIONS

© EIA

### To the Peruvian government:

*Implement the unilateral actions already laid out in the November 2016 Joint Statement of the Meetings of the Peru - United States Environmental Affairs Council, Environmental Cooperation Commission and Sub-Committee on Forest Sector Governance. The text of the agreed-upon actions is as follows:*

- “Amend export documentation requirements by the end of the first quarter in 2017 to include additional information to improve traceability throughout the supply chain;
- “implement the National Information System on Forest and Wildlife – Control Module (SNIFFS-MC) [sic] in the Amazon corridor (Loreto, Ucayali, Huanuco and Lima) by the end of the first quarter of 2017 and continue to enrich information in the system, and advance its progressive implementation in 2017;
- “implement measures to promote legal trade of timber products through: 1) risk-based measures for prevention and timely detection of illegally harvested timber, including inspections by Osinfor prior to commercialization for export, and 2) promoting the use of voluntary mechanisms for improving due diligence in the exports of timber products, such as the National Pact for Legal Timber and inspections by Osinfor upon request prior to commercialization for export;
- “improve the accuracy of annual management plans, including by strengthening the capacity of regional governments to conduct visual inspections prior to POA approval, and ensuring that forest regents are promptly removed from the national registry of regents for wrongdoing in accordance with Peruvian legislation;
- “take measures to ensure that regional governments promptly transfer annual operating plans to the appropriate authorities in accordance with Peruvian legislation;

- “determine the responsibilities of those involved in the timber shipment subject to the verification and impose sanctions, in accordance with Peruvian legislation.”

*Implement additional measures to increase traceability and transparency in timber supply chains in order to build credibility for Peruvian wood products and allow for effective compliance and enforcement*

- Amended export documentation must require declaration of the full set of relevant GTFs associated with the mixed raw materials that went into a given batch of wood product; the GTFs issued by logging contract holders should accompany those issued by centers of transformation.
- Conduct Prior Visual Inspections in timber export ports for as many shipments as possible, not only CITES species, collecting the data necessary to facilitate traceability as per *Acta de Inspección* formats prior to their 2016 modification.
- Peru must implement traceability and legal origin standards for its domestic markets too, as is already defined by its laws and regulations. All public bidding processes to acquire timber and wood products, at the national and regional levels, must demand that suppliers document legal origin.

*Implement additional measures to strengthen systematic oversight in the forest*

- Strengthen regional government and national government oversight of local forests, Brazil nut concessions, land use change authorizations, and other types of logging permits that are currently serving largely as laundering machines.
- Seek to conduct both prior inspections and follow-up visits to a strategic sample of logging contracts, to reduce opportunity for fraud.

- Invest in improvements to sawmill / primary processing center procedures as well as oversight and verification of their legally-required operational books.
- Protect Osinfor's independent status and expand its remit to enable supervisions of harvesting sites approved through "Administrative Acts" such as land use change, as well as to enter and inspect centers of transformation.
- Provide adequate funding to Osinfor to increase field inspectors and field visits. Ensure the safety of field staff from Osinfor, Serfor, and regional government forest authorities working under dangerous conditions, as well as medical insurance to deal with diseases and infections caught in the field.

#### *Implement additional measures to support strategic enforcement and prosecution*

- Determine the responsibilities of those involved in illegal timber shipments verified by Operation Amazonas 2014, Operation Amazonas 2015, and the 2015 Callao dataset analysis, and impose sanctions, in accordance with Peruvian legislation.
- Focus greater control and enforcement efforts on sawmills and production centers.
- Focus investigations and enforcement on those individuals and companies that finance illegal logging, not only small and informal operators.
- Encourage inter-institutional coordination and information sharing among Serfor, Osinfor, Sunat, Prosecutor's Office, Minam's Procuraduría, and regional governments, emulating the successful example of Operation Amazonas.
- Address the "drawback" tax fraud problem that has allowed exporters to receive millions of dollars as cash export incentives for exporting illegally-logged timber, and start prosecutions or other pertinent investigations.
- For effective prosecutions, the Peruvian government should evaluate creating the figure of superior prosecutors specialized in environmental issues, since many legal cases get stuck when they reach prosecutors who do not understand the issues.
- Prosecutors and judges require support from expert witnesses in environmental topics who could provide the required evidence to follow up on cases.

#### *Encourage and replicate successful models*

- Invest in building the capacity of indigenous communities, *campesino* communities, and local governments to conduct or oversee legal logging in their territories, including the training to negotiate fair contracts with third-party loggers that do not leave communities responsible for illegal activities.
- Scale up the debt-for-conservation swap program that reduces native communities' Osinfor debts in exchange for forest protection agreements.
- Disseminate and inform forest sector participants (particularly indigenous and *campesino* communities, local governments and population centers, and private forest land owners) about the new Forest Law and its regulatory requirements.

- Increase finance mechanisms and technical support to make it possible for small and medium actors to formalize their businesses and operations.
- Promote and disseminate research about forest dynamics under logging and active management. Incentives could be provided to promote research aligned with research priorities identified by Serfor.

#### **To the U.S. government:**

- Follow up consistently with Peruvian counterparts to ensure implementation of the points agreed to during 2016 bilateral meetings.
- Investigate and prosecute cases under the Lacey Act against traders who have bought and sold illegal Peruvian timber knowingly or through lack of due care.
- Request additional audits under the U.S.-Peru TPA Forest Annex of operators with a proven history of exporting illegal timber.
- Insist that the MC-SNIFFS provide traceability back to point of harvest, as negotiated and agreed upon over the past ten years. Also insist that MC-SNIFFS be open to the public – with potential specific restrictions for commercial confidential information – as was announced at the start of its development.
- Maintain bilateral customs collaboration to be able to detect illegal timber trade as soon as possible and make sure that illegal products do not find their way to the U.S. markets, either directly from Peru or through intermediary countries such as Mexico or the Dominican Republic.

#### **To E.U. governments and E.U. Competent Authorities:**

- Pressure Peru to require declaration of point(s) of harvest and scientific names for all timber species, not only CITES species, on customs export paperwork (DAM).
- Advise importers in respective countries that Peru is a high-risk source country for which information back to point of harvest is required, and that importers should not rely only on "good faith" assurances but rather exercise strong independent due diligence measures (as per below).
- Review donor programs to ensure that foreign aid is funding efforts to meaningfully clean up timber supply chains.

#### **To importers in U.S., E.U., China, Mexico, Dominican Republic, Australia and other importing countries:**

- Request point of harvest information for all Peruvian timber, and avoid buying timber from any sources where pre- or post- harvest inspection reports are not required or cannot be obtained.
- Always conduct cross-checks with Osinfor's SIGO database, or directly solicit help from Osinfor when such data is not available. For due diligence processes, not being on the SIGO red list does not necessarily mean legal origin. Not appearing in the SIGO green list is already a risk of illegal origin.
- Any new timber from points of harvest with multiple previous POAs on the red-list must be considered high risk, at least until new field verifications document a sustained change.



- Do not assume that FSC certification provides a guarantee of legality or chain of custody, given its inadequate approach to traceability in this high-risk context.

investigations and sanction those forest engineers who have been consistently producing or validating fake forest inventories.

#### To Peruvian industry:

- Invest in improving systems for timber traceability and legal sourcing.
- Trade associations should support efforts to build the traceability, transparency, and credibility that the Peruvian timber sector urgently needs to maintain its international markets.
- Work with indigenous federations and communities to build new sourcing models that do not exploit communities and leave them with unpayable debts.
- The Peruvian professional association must open

#### To civil society in Peru and internationally:

- Help to develop and promulgate models of traceability and supply chain management that are adequate for the challenges of a high-risk environment, and will not enable illegal timber to be laundered into supply chains with a seal of approval.
- Join demands for greater transparency and public availability of forest sector information.
- Support legitimate local community forestry and indigenous forest monitoring and training initiatives, including the *Veedurías* active throughout the country.



50% of the forest area in Peru is in the hands of native communities. Securing their land tenure is a critical part of protecting the Peruvian Amazon. Indigenous federations across the Amazon have also established capacity building and vigilance programs to improve communities' abilities to monitor their territories and negotiate with loggers and other outside interests. © EIA

# TERMS USED FREQUENTLY IN THIS REPORT

**DAM or DUA:** *Declaración Única de Aduanas* / Single Customs Declaration: The official form for exports from Peru, which includes data such as exporter, destination, HS code, and merchandise description.

**Forest Annex or Forest Governance Annex:** Annex 18.3.4 of the U.S.-Peru Trade Promotion Agreement (TPA), “Annex on Forest Sector Governance”, signed in 2007.

**HS or HTS code:** The Harmonized System (HS) of tariff nomenclature is an internationally standardized system of names and six-digit numbers to classify traded products, administrated by the World Customs Organization and used by Peru. The Harmonized Tariff Schedule (HTS) of the United States is a 10-digit system administered by the U.S. International Trade Commission. The first six digits are identical to those used in the HS system. Chapter 44 covers most non-furniture wood products, while Chapter 94 includes furniture.

**Interagency Committee on Trade in Timber Products from Peru:** Committee formed to oversee issues related to implementation of the U.S.-TPA Forest Annex. composed of representatives of the Departments of State, Justice, the Interior, and Agriculture, and the Office of the USTR which serves as chair. Representatives of the Department of Homeland Security and the United States Agency for International Development participate on the Committee as observers.

**PAU:** *Procedimiento Administrativo Único* / Single administrative procedure. A PAU is initiated when an Osinfor field supervision indicates likely legal infractions. Administrative investigation carried out to determine administrative responsibilities of a logging title holder. Through this process, Osinfor may determine any infractions, impose sanctions or corrective measures, and demand the forfeiture of rights regarding use of forest resources.

**Enabling title / *Título habilitante* / Logging contract:** a contract between the state and another entity granting rights to harvest timber over a given time period, with specific obligations.

Enabling titles can be granted to individuals (private properties), to native communities, to municipal governments (local forests), or to private sector (concessions). Forest and Wildlife Law 29763 defines the parameters, obligations, and timeframes for each type of contract. EIA uses the term “logging contract” or “timber harvesting contract” in this report.

**POA and *zafra*:** *Plan Operativo Anual* / Annual Operating Plan. As defined under Forest Law 27308, a one-year plan for logging a specific parcel within the larger area of a given *título habilitante*. The one-year period is called a *zafra*, and may not correspond to the calendar year. Note that under the new Forest Law 29763, in force since 1 October 2015, Operating Plans are no longer necessarily “Annual” but can cover a period between one and three years.

**Point of harvest:** For ease of understanding, EIA uses the term “point of harvest” to refer to an approved logging site within the area under a logging contract. Technically speaking, the term refers to the annual harvest parcel of the POA approved for a given *zafra* in a specific enabling title (*título habilitante*).

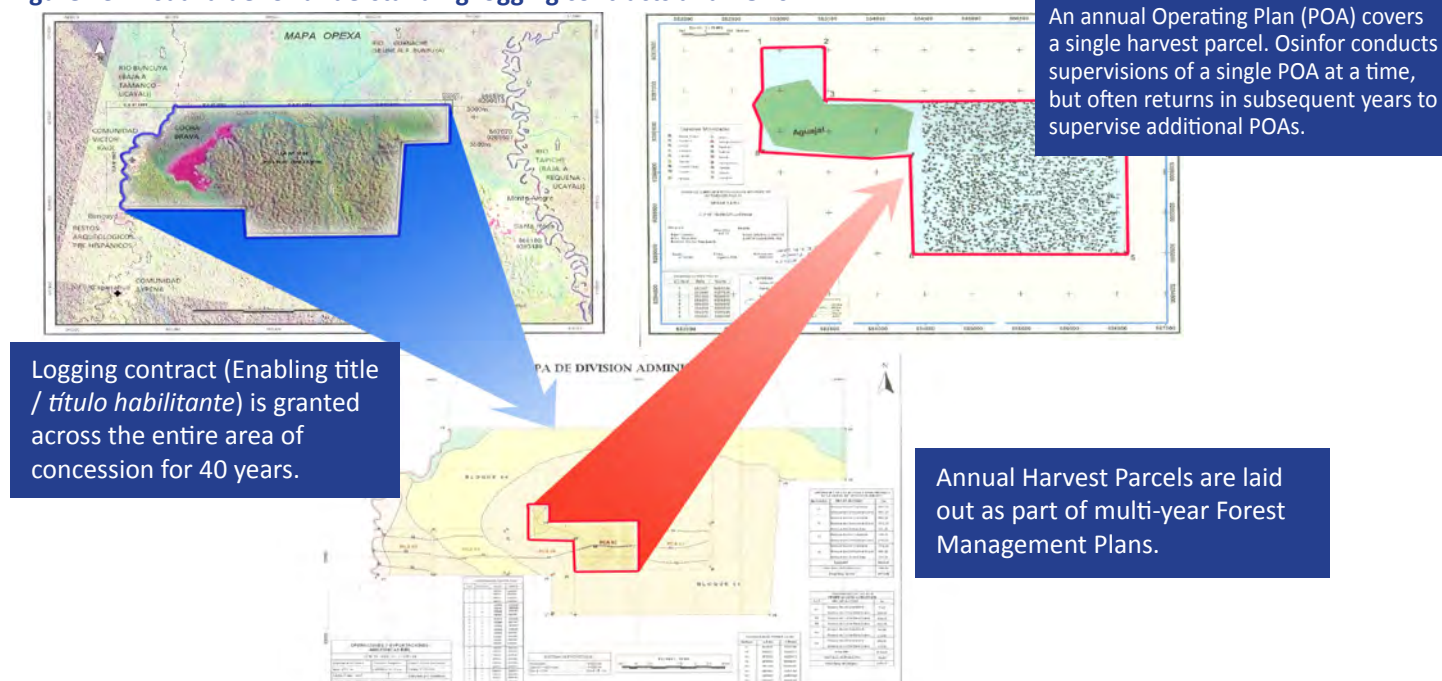
**SIGO:** *Sistema de Información Gerencial de Osinfor* / Osinfor Management Information Sytem. Database containing legal status and results of all the supervisions conducted by Osinfor. Users can generate statistical reports and check “red” and “green” lists in which enabling titles are listed based on whether they have been subject to legal sanctions as results of a supervision.

**Transparency and Access to Public Information Law / *Ley de Transparencia y Acceso a la Información Pública N.***

**27806:** Any “access to information requests” referred to in this report were submitted under this law, which regulates government transparency and the fundamental right of access to information as determined by the Constitution of Peru.

**Acta / Visual Shipment Inspection Note / *Acta de Inspección Ocular de Embarque*:** Official minutes of a port inspection that may be conducted by Serfor officials in port before a shipment

**Figure 13: Visual aide for understanding logging contracts and POAs**





# LIST OF ACRONYMS

**ADEX:** *Asociación de Exportadores y Importadores* / Exporters and Importers Association (trade association with wood products committee)

**CITES:** The Convention on International Trade in Endangered Species

**DGFFS:** *Dirección General Forestal y de Fauna Silvestre* / General Directorate of Forests and Wildlife. The national forest authority from 2008-2014.

**FEMA:** *Fiscalía Especializada en Materia Ambiental, del Ministerio Público* / Environmental Prosecutor, within Public Ministry. Office at national and regional levels.

**FOB:** Free on Board. Trade term referring to shipping where seller pays for transportation to port of shipment and loading costs. Buyer pays for onward costs of cargo, insurance, unloading, and transport to final destination.

**GTF:** *Guía de Transporte Forestal* / Forest Transport Guide

**HSI:** Homeland Security Investigations. Investigative arm of the U.S. Department of Homeland Security.

**Minagri:** *Ministerio de Agricultura y Riego* / Ministry of Agriculture and Irrigation

**Mincetur:** *Ministerio de Comercio Exterior y Turismo* / Ministry of Exterior Commerce and Tourism

**MC-SNIFFS:** *Módulo de Control – Sistema Nacional de Información Forestal y de Fauna Silvestre* / Control Module of

the National Forestry and Wildlife Information System

**Osinfor:** *Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre* / Agency for Supervision of Forest Resources and Wildlife

**PCM:** *Presidencia del Consejo de Ministros* / Presidency of the Council of Ministers

**PRODUCE:** *Ministerio de Producción* / Ministry of Production

**Serfor:** *Servicio Nacional Forestal y de Fauna Silvestre* / National Forest and Wildlife Service

**Sisfor:** *Sistema de Información Geográfica de Supervisiones Forestales* / Geographic Information System for Forest Supervision

**SNI:** *Sociedad Nacional de Industrias* / National Society of Industries (trade association)

**Sunat:** *La Superintendencia Nacional de Aduanas y de Administración Tributaria* / National Customs and Tax Administration Agency

**U.S.-Peru TPA:** Trade Promotion Agreement between U.S. and Peru, ratified in 2007

**TPP:** Trans- Pacific Partnership (trade agreement)

**USTR:** United States Trade Representative

- 12 See e.g. Mejía E, Cano W, de Jong W, Pacheco P, Tapia S y Morocho J. (2015). Actores, aprovechamiento de madera y mercados en la Amazonía peruana. Documentos Ocasionales 145. Bogor, Indonesia: CIFOR.; Environmental Investigation Agency (2012). The Laundering Machine: How fraud and corruption in Peru's concession system are destroying the future of its forest.; Pautrat, L. and I. Lucich (2006). Análisis Preliminar sobre Gobernabilidad y Cumplimiento de la Legislación del Sector Forestal en el Perú. World Bank Group.
- 13 Thirteen regions have not yet fully devolved forest-related functions and continue to have a Technical Administration (ATFFS) that reports directly to Serfor at the national level rather than the Regional Governments. The largest Amazon jungle regions – Iquitos, Ucayali and Madre de Dios – are fully devolved, but Cusco, Selva Central and Puno still have ATFFS offices.
- 14 Supreme Decree 014-2001-AG approving the regulations for Forestry and Wildlife Law 27308.
- 15 Then-president Allan Garcia used the US-Peru TPA as a pretext to issue 99 controversial Legislative Decrees, including at least nine that affected indigenous peoples' lands and were formulated without any prior consultation as required by ILO Convention 169. Indigenous protests and blockades across the country culminated with a violent clash between police and protesters in Bagua that left 33 people dead and 200 injured. The administration subsequently established dialogue tables and committed to a more participatory process for the next version of the Forest Law.
- 16 Ministerial Resolution No. 424-2014-MINAGRI was passed in July 2014 dissolving DGFFS and transferring authority to Serfor.
- 17 Under the new Forest Law 29763, these are simply called Operating Plans and may cover up to three years.
- 18 Supreme Decree 018-2015-MINAGRI, Article 172.
- 19 Cases have been documented where logging operators use forged signatures or cut and insert an unknowing forester's signature from other documents. Forestry consultants, until October 2015, were not responsible for implementation of a POA, although they could be held accountable for falsified information like invented trees. The new figure of Regents, however, as created and defined by the new Forest Law 29763 and its regulations, are legally responsible for the implementation of the POA.
- 20 Mejía et al. (2015).
- 21 CCTV America (24 Oct 2014). Indigenous groups fight illegal logging in Peru [video file]. <https://www.youtube.com/watch?v=gUQCWegS7C8&feature=youtu.be>
- 22 Abeshouse, B. and L. Del Valle (12 August 2015). People and Power: Peru's Rotten Wood. Al Jazeera [article and video file]. <http://www.aljazeera.com/programmes/peopleandpower/2015/08/peru-rotten-wood-150812105020949.html> ; timber price assumed at 1.8 soles/board foot.
- 23 Mejía et al. (2015), p.55.
- 24 Ibid, Resumen Ejecutivo.
- 25 Presidencia Ejecutiva, Osinfor (25 February 2014). Letter to Erik Fischer Llanos, President of the Timber Committee at the Peruvian Association of Exporters, ADEX. Ref: Información sobre comprobación de origen de manejo responsable de productos provenientes del bosque. Available in this report's online reference materials.
- 26 Osinfor. SIGO-SFC database accessed 28 Sep 17, using complete data through 2016. <http://observatorio.osinfor.gob.pe:96/Home/Reportes/9>
- 27 Conversion factor of 220 board feet/m<sup>3</sup>, 1.8 soles /board foot. Adopted from: Osinfor (26 Junio 2016). Suplemento Especial. <http://www.osinfor.gob.pe/publicaciones/suplemento-especial-del-osinfor-en-el-diario-el-peruano-junio-2016/>
- 28 García Delgado, F. (15 Sep 2016). Osinfor: 80% de inspecciones contra tala ilegal irregulares. El Comercio. <http://elcomercio.pe/peru/osinfor-80-inspecciones-tala-ilegal-irregulares-259137>; corroborated by EIA in SIGO-SFC accessed 29 Sep 2017: PAUs were initiated in 3778 of 4862 supervisions (78%). SIGO does not include statistics regarding the percentage of PAUs that were archived after investigation, rather than ending with sanctions for the logging contract holders; in Operation Amazonas 2014, less than 2% were archived.
- 29 Forest and Wildlife Law 29763 defines what constitute títulos habilitantes.
- 30 Legislative Decree 1085, Article 13, states that 50% of stumpage fees go to Osinfor after application of the Ley de Canon N. 27506, which directs 50% of natural resource revenues to the central treasury.
- 31 Oficio N. 198-2017-Osinfor/05.2.5-RAIP. Official response by Osinfor to EIA's Access to information request. Available in this report's online reference materials.
- 32 Osinfor (26 Junio 2016), Suplemento Especial.
- 33 Osinfor (2017). Conservación de Bosques, un mecanismo de canje de deuda para las comunidades nativas y campesinas. <http://www.osinfor.gob.pe/publicaciones/conservacion-de-bosques-un-mecanismo-de-canje-de-deuda-para-las-comunidades-nativas-y-campesinas/>
- 34 Solis, D. (10 October 2016). Impacto de las supervisiones de las concesiones forestales maderables sobre el cumplimiento de la Ley Forestal en el Peru: Informe Final. CIES [Consortio de investigación económica y social] y Instituto del Perú de la Universidad San Martín de Porras.
- 35 Popp Forest Products, see Chapter 4.d. of this report; U.S. Department of the Interior v. Three Pallets of Tropical Hardwood (Crouch), INV No. 2009403072 (Office of the DOI Solicitor June 22, 2010). (Decision in Response to Petition for Remission). In June 2009, agents of the U.S. Fish & Wildlife Service seized three pallets of tropical hardwood as they entered the Port of Tampa, Florida from Iquitos, Peru. The pallets contained decorative woods including tigrillo (*Swartzia arborescens*), palisangre (*Brosimum rubescens*), and tigre caspi (*Zygia cataractae*). Agents confiscated the wood on grounds that the shipment violated the Lacey Act's declaration requirements, based on evidence that the exporter was using stolen and forged documents. The FWS Agents were acting on information from a Peruvian business owner, who learned that his business had been used as a front to fraudulently ship the wood in question. The U.S. importer filed a petition for remission of the wood, but the Solicitor's office found that Mr. Crouch, owner of Cocobolo, Inc., failed to take reasonable steps to comply with the regulations and ensure that the shipment was authorized by an export permit that properly documented the required information and was declared appropriately under the Lacey Act upon arrival into the United States. Evidence that the tropical hardwood was stolen to begin with, using forged documents led the Solicitor's Office to conclude that the exporter did not have legal title to the shipment.
- 36 Application for a Search Warrant filed 6/6/16 in U.S. District Court for the Southern District of California, In the Matter of the Search of Global Plywood and Lumber, Inc. Case 3:16-mj-01610-MDD, Document 1. Available in this report's online reference materials.
- 37 EIA (5 November 2015). EIA recognizes new commitment to shut down trade in stolen resources; Does not support TPP due to overall threats to environment. <https://eia-global.org/press-releases/eia-releases-statement-on-tp>
- 38 US-Peru Trade Promotion Agreement, Chapter 18, Annex 18.3.4 on Forest Governance, paragraph 1. [https://ustr.gov/sites/default/files/uploads/agreements/fta/peru/asset\\_upload\\_file953\\_9541.pdf](https://ustr.gov/sites/default/files/uploads/agreements/fta/peru/asset_upload_file953_9541.pdf)
- 39 Ibid, paragraphs 6-12.
- 40 See e.g. Goncalves, M.P. et al. (2012). Justice for forests: improving criminal justice efforts to combat illegal logging. The World Bank.; EIA (2012); Abeshouse and Del Valle (2015).



- 41 Presuntos taladores ilegales echaron a indígenas asháninkas de sus territorios ancestrales (6 February 2017). Actualidad Ambiental. <http://www.actualidadambiental.pe/?p=43049>
- 42 Survival International (31 March 2014). Uncontacted Indians ‘abandoned to their fate’ as loggers and drug smugglers invade. <http://www.survivalinternational.org/news/10118>
- 43 Mejía et al. (2015).
- 44 EIA (2012).
- 45 Bedoya Garland, E. & A. Bedoya Silva-Santisteban (2005). Trabajo Forzado en la Extracción de la Madera en la Amazonia Peruana. International Labour Organization. [http://www.ilo.org/global/topics/forced-labour/WCMS\\_143197/lang-es/index.htm](http://www.ilo.org/global/topics/forced-labour/WCMS_143197/lang-es/index.htm)
- 46 EIA (2012).
- 47 Abeshouse, B. and L. Del Valle (12 August 2015), Al Jazeera
- 48 Letter to Minister of Agriculture, Minister of Environment, and Director of Serfor from 75 scientists. Ref: Pronunciamento sobre la categorización de especies de Shihuahuaco (29 November 2016). Available in this report’s online reference materials.; Ramos, A. (25 November 2016). Yendose por las Ramas. Hildebrandt en sus 13, p.31.
- 49 Barber, C., et al. (2014). Roads, deforestation, and the mitigating effect of protected areas in the Amazon. Biological Conservation 177: 203-209.
- 50 El deficiente control en los ríos facilita tala ilegal (30 October 2015). El Comercio. <http://elcomercio.pe/sociedad/peru/deficiente-control-rios-facilita-tala-ilegal-noticia-1852144> ; Collyns, D. (7 September 2015). Aerial pictures reveal rampant illegal logging in Peru’s Amazon forest. The Guardian. <https://www.theguardian.com/environment/2015/sep/07/aerial-pictures-reveal-rampant-illegal-logging-in-perus-amazon-forest>
- 51 Ministerio de Ambiente (2016). Tercera Comunicación Nacional de Perú a la Convención Marco de las Naciones Unidas Sobre Cambio Climático, pág. 112. <http://www.minam.gob.pe/wp-content/uploads/2016/05/Tercera-Comunicaci%C3%B3n.pdf>
- 52 Baccini, A. et al. (28 September 2017). Tropical forests are a net carbon source based on aboveground measurements of gain and loss. Science. DOI: 10.1126/science.aam5962
- 53 Pearson, T.R.H. et. (2017). Greenhouse gas emissions from tropical forest degradation: an underestimated source. Carbon Balance Management 12:3. DOI 10.1186/s13021-017-0072-2
- 54 Cerdán, C. (2007). La Tala ilegal de caoba (*Swietenia macrophylla*) en la amazonía peruana y su comercialización al mercado exterior. AIDESEP.
- 55 Pautrat and Lucich (2006).
- 56 In 2012, exports of mahogany and cedar totaled 840,618m3 according to data from CITES permits (obtained from an information access request to Serfor), worth US\$1,154,980 according to exporter declarations (Sunat public database). This amounts to 0.6% of total wood product exports, or 0.9% of the four tariff categories in which export of these species requires a permit (4403, 4407, 4408 and in the case of mahogany 4412 as well). In 2015 the figure was even lower: mahogany and cedar exports totaled 307,836 m3, worth US\$613,260 according to exporter declarations. This amounts to 0.4% of total wood product exports, or 0.7% of the relevant tariff categories. EIA analysis.
- 57 Letter from Andrea Johnson, Director of Forest Campaigns, and Julia Urrunaga, Director of Peru Programs, Environmental Investigation Agency, to Ron Kirk, US Trade Representative (17 April 2012). Available in this report’s online reference materials.
- 58 Letter from Ron Kirk, US Trade Representative, to Alexander von Bismarck of the Environmental Investigation Agency (6 December 2012). Quotes from pages 1 and 7 respectively. Available in this report’s online reference materials.
- 59 Ibid, Annex II, “Actions to Address Challenges Identified.”
- 60 The module referred to for years as the “SNIC”, was envisioned as one component of a larger “National Forestry and Wildlife Information System” (SNIFFS). The SNIC has now been re-christened MC-SNIFFS to indicate that it is the “Control Module” (Módulo de Control in Spanish) for this as-yet-nonexistent larger information system. See <http://www.serfor.gob.pe/centro-de-informacion/sistema-de-informacion>
- 61 Froman (2016), USTR [blog].
- 62 President of the Cabinet of Ministers. Gobierno evalúa medidas complementarias para conservar los recursos forestales del país. Press release (12 April 2012). <http://www2.pcm.gob.pe/Prensa/ActividadesPCM/2012/Abril/12-04-12.html>
- 63 President of the Peruvian Cabinet of Ministers, Oscar Valdés; Minister of Agriculture, Luis Ginocchio; and President of Osinfor, Rolando Navarro.
- 64 481-2013-AG-DGFFS (11 April 2013); 002-2013-Osinfor/06.1-06.2 (10 May 2013), Oficio N. 105-2014-Osinfor/01.1 (8 May 2014). Available in this report’s online reference materials.
- 65 Idem.
- 66 EIA (June 2015). Implementation and enforcement failures in the US-Peru Free Trade Agreement allows illegal logging crisis to continue. Briefing paper.
- 67 Ibid.
- 68 Bajak, F. (18 April 2017). AP Investigation shows Peru backsliding on illegal logging. Associated Press. <https://www.apnews.com/8f4d73bdc605446c9c64bc2aedf7aa31>
- 69 Presidencia Ejecutiva, Osinfor letter to Erik Fischer Llanos, President of the Timber Committee at the Peruvian Association of Exporters, ADEX (25 Feb 2014). Available in this report’s online reference materials.
- 70 Oficio No. 192-2017-Osinfor/05.2.5-RAIP (17 October 2017). Official response by Osinfor to EIA’s Access to information request. Available in this report’s online reference materials.
- 71 The following articles were sources for this Box: Zarate, J. (1 September 2015). El hombre que eligió el bosque y lo asesinaron. Etiqueta Negra. <http://especiales.univision.com/desigualdad/cultura/articulo/el-hombre-que-eligio-el-bosque-y-lo-asesinaron/240> ; Castañeda, G. (10 September 2014). Quizás nunca escuchaste de Edwin Chota pero el asesinato de este líder asháninka ha conmovido al mundo. Utero. <http://www.uterop.com/2014/09/10/quizas-nunca-escuchaste-de-edwin-chota-pero-el-asesinato-de-este-lider-ashaninka-ha-conmovido-al-mundo/> ; Luna Amancio, N. (10 December 2014). Cuatro viudas contra el tráfico de madera. Ojo Público. <http://ojo-publico.com/16/el-millonario-negocio-del-trafico-de-madera>; Collyns, D. (9 September 2014). Illegal loggers blamed for murder of Peru forest campaigner. The Guardian. <https://www.theguardian.com/world/2014/sep/09/illegal-loggers-blamed-for-of-peru-forest-campaigner> ; Zarate, A. and W. Neuman. (10 September 2014). Peru investigates the killing of an environmental advocate. New York Times. <https://www.nytimes.com/2014/09/11/world/americas/peru-investigates-the-killing-of-an-environmental-advocate.html> ; Wallace, S. (12 September 2014). Quadruple homicide in Peruvian Amazon puts criminal logging in spotlight. National Geographic. <https://news.nationalgeographic.com/news/2014/09/140911-peru-amazon-illegal-logging-chota-alto-tamaya/> ; BBC News. (9 September 2014). Four Peruvian anti-logging activists murdered. <http://www.bbc.com/news/world-latin-america-29119833> ; Democracy Now (11 December 2014). Peru’s Deadly Environment: Host Nation of U.N. Summit is Among Most Dangerous for Land Defenders. [https://www.democracynow.org/2014/12/11/perus\\_deadly\\_environment\\_host\\_nation\\_of](https://www.democracynow.org/2014/12/11/perus_deadly_environment_host_nation_of)

- 72 International Labor Organization (11 June 2016). Informe del Director General: Tercer informe complementario: Informe del Comité establecido para examinar la reclamación en la que se alega el incumplimiento por el Gobierno del Perú del Convenio sobre pueblos indígenas y tribales, 1989 (núm. 169), presentada en virtud del artículo 24 de la Constitución de la OIT por la Confederación Sindical Internaional (CSI), la Confederación Sindical de Trabajadores y Trabajadores de las Américas (CSA), y la Central Autónoma de Trabajadores del Perú (CATP). GB.327/INS/5/3, Consejo de Administración, 327ª reunión, pp. 12-18.
- 73 Zarate (2015), Utero.pe
- 74 Nada impedía a Ucayali darle a Saweto su título de tierra (24 September 2014). Interview with Fabiola Muñoz. El Comercio. <https://elcomercio.pe/peru/ucayali/impedia-ucayali-darle-saweto-titulo-tierra-367343>
- 75 Bajak (18 April 2017), Associated Press.
- 76 ElianeFernandez (8 April 2013). Entrevista con Edwin Chota [video file]. <https://youtu.be/d6xcXPTlosw>
- 77 Velez, A. and J. Ortiz (11 Nov 2016). Voces Indígenas: Siete mujeres hablan sobre las amenazas y retos frente a la defensa de sus territorios. Mongabay. <https://es.mongabay.com/2016/11/voces-indigenas-siete-mujeres-hablan-las-amenazas-retos-frente-la-defensa-territorios/>
- 78 Ministerio Público, Fiscalía de la Nación. Quiénes somos. <http://www.mpf.n.gob.pe/?K=138>
- 79 Romero, G. (October 2014). Sunat: Control Aduanero y la Operación Amazonas. [Power point slides].
- 80 World Customs Organization (October 2014). Illicit trade in timber: an outline of the problems facing Peru. WCO News 75: 34-36.
- 81 Ibid, p.35.
- 82 Ibid, p. 36.
- 83 Osinfor (June 2016). Resultados de la supervisiones y fiscalizaciones efectuadas por el Osinfor en el marco del Operativo Internacional “Operación Amazonas 2015”, p. 61-63.
- 84 Ibid. Note that shihuahuaco is often referred to by its botanical synonym, Coumarouna odorata or C. micrantha
- 85 World Customs Organization (October 2014), p.36.
- 86 Idem.
- 87 peruvianamazonline.com.pe Note that the website has now been taken down. See screenshots in this report and at this report’s online reference materials.
- 88 Call sign V7C08; IMO# 9161170; port of register, Majoro, Marshall Islands.
- 89 Yacu Kallpa 2015 database.
- 90 Puerto Rico’s land area is 886,800 ha. [https://en.wikipedia.org/wiki/List\\_of\\_U.S.\\_states\\_and\\_territories\\_by\\_area](https://en.wikipedia.org/wiki/List_of_U.S._states_and_territories_by_area)
- 91 Wood density data has a range for each species depending on age, sample size, location, etc. EIA used figures from both academic and commercial sources depending on species, primarily <http://www.iiap.org.pe/Upload/Publicacion/CDinvestigacion/inia/inia-p4/inia-p4.htm#TopOfPage> ; <http://www.bozovich.com/especie.php?id=2> ; <http://www.maderasperu.com/> ; [www.peruforestal.org/](http://www.peruforestal.org/) . All timber declared “Virola” was assumed to be V. sebifera due to lack of species-level information in PIERS data.
- 92 Arce Baca, J. (2006). Avances hacia un manejo forestal sostenible en concesiones con fines maderables: Estudio de caso en el Departamento de Ucayali, Amazonia Peruana. Tesis de Magister Scientiae, CATIE, Turrialba, Costa Rica, p.85.
- 93 Ibid., p. 87.
- 94 Sunat data. [http://www.aduanet.gob.pe/cl-ad-itconsultadwh/ielTS01Alias?accion=consultar&CG\\_consulta=2](http://www.aduanet.gob.pe/cl-ad-itconsultadwh/ielTS01Alias?accion=consultar&CG_consulta=2)
- 95 Second complementary disposition of the Regulations to Legislative Decree 1085.
- 96 Osinfor (October 2015). Resultados de las supervisiones y fiscalizaciones efectuadas por el Osinfor en el marco del Operativo Internacional “Operation Amazonas 2014”, p.9 and p.48.
- 97 Yacu Kallpa 2015 database.
- 98 Osinfor (June 2016), p.53.
- 99 Yacu Kallpa 2015 database.
- 100 Osinfor (June 2016), Table 18.
- 101 Informe No. 007-2015-Osinfor/06.2.1 (13 April 2015). Informe complementario sobre el análisis de las autorizaciones para el aprovechamiento forestal en plantaciones forestales otorgados en la provincia de Ucayali, Región Loreto durante el año 2014, en marco de la Resolución Jefatural N. 113-2003-INRENA. Available in this report’s online reference materials.
- 102 Regional Government of San Martin. Resolución Gerencial N. 005-2017-GRSM/ARA. Moyobamba, 27 April 2017.
- 103 Osinfor (October 2015), p.9 Office of the United States Trade Representative (February 2016). USTR requests Peru timber verification. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/february/ustr-requests-peru-timber>
- 104 Interagency Committee on Trade in Timber Products from Peru (17 August 2016). Statement Regarding July 2016 Timber Verification Report from Peru. <https://ustr.gov/sites/default/files/Timber-Committee-Report-8172016.pdf>
- 105 Partidas SUNARP: Oroza Wood SAC: partida 11010017, Oficina Registral Iquitos; Inversiones La Oroza: partida 11009316, Oficina Registral Iquitos
- 106 Directorial Resolution 149-2011-Osinfor-DSCFFS
- 107 Informe No. 013-2016-Osinfor/01.1.1 (3 June 2016). Asunto: Resultados de supervisión y fiscalización de títulos habilitantes y planes de manejo forestal comprendidos en la solicitud de verificación realizado por los EE.UU., en el marco del compromiso asumido n el Acuerdo de Promoción Comercial Perú – Estados Unidos. Obtained by EIA as Annex to another document in response to information request under Peru’s Transparency Law. Available in this report’s online reference materials.
- 108 Interagency Committee on Trade in Timber Products from Peru (17 August 2016). Note that according to the statement, “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.”
- 109 Joint Statement of the Meetings of the Peru - United States Environmental Affairs Council, Environmental Cooperation Commission and Sub-Committee on Forest Sector Governance (4 November 2016). <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/november/joint-statement-meetings-peru-us>
- 110 Abeshouse and Del Valle (12 August 2015), Al Jazeera.
- 111 Yacu Kallpa 2015 database.
- 112 Olsen, L. (6 December 2015), Houston Chronicle.
- 113 Informe 069-2016-Serfor/DGGSPFFS-DCGPFFS. Ref: Revisión y cruce de información de G.T.F. – Primer embarque “Yacu Kallpa” (18 February 2016). Available in this report’s online reference materials.



- 114 Olsen, L. (19 January 2017). Stolen Amazon Wood Destroyed in Unusual U.S. Settlement. Houston Chronicle. <http://www.houstonchronicle.com/news/houston-texas/houston/article/Stolen-Amazon-wood-destroyed-in-unusual-U-S-10870538.php>
- 115 Natural Resources Defense Council (5 April 2006). Press Release. U.S. Hardwood companies importing Peruvian mahogany in violation of federation and international law, native and conservation groups charge. Available at <https://www.nrdc.org/media/2006/060406-1>
- 116 Bajak (18 April 2017), Associated Press.
- 117 FSC public certificate search accessed 6 October 2017. <https://info.fsc.org/details.php?id=a023300000VG2AzAAL&type=certificate#result>
- 118 Collins (7 September 2015), The Guardian.
- 119 Legislative Decree 1220. <http://sinia.minam.gob.pe/normas/decreto-legislativo-que-establece-medidas-lucha-contrata-ilegal>
- 120 Victor Medina (15 October 2015). Tubino expone ante el Pleno Problemática Forestal Región Ucayali [video file] <https://www.youtube.com/watch?v=BZAmxyA7fyQ> ; Rivadeneyra, D. (2 December 2014). Amado Romero, dueño de una concesión forestal donde la minería ilegal impera. La Republica. <http://larepublica.pe/02-12-2014/amado-romero-dueno-de-una-concesion-forestal-donde-la-mineria-ilegal-impera>
- 121 Derechos, Ambiente y Recursos (15 December 2015). Congreso en contra de la lucha frente al cambio climático y tala ilegal. <http://www.dar.org.pe/noticias/congreso-en-contrade-la-lucha-frente-al-cambio-climatico-y-tala-ilegal/>
- 122 According to port sources, the Yacu Kallpa left the port on December 2<sup>nd</sup>, but according to Sunat data, the vessel left on November 27<sup>th</sup>
- 123 Acta de incautación; Luna Amacio, N. (2 December 2015). Operación Amazonas: La historia del mayor decomiso de madera de origen ilegal. Ojo-Público. <http://ojo-publico.com/132/operacion-amazonas-la-mayor-incautacion-de-madera-de-origen-ilegal> ;
- 124 Ibid.
- 125 Trafico Gigantesco (3 December 2015). Caretas, pp. 38-39 y 94. <http://www2.caretas.pe/Main.asp?T=3082&id=12&idE=1237&idSto=369&idA=73920#.WSMuauvhDIU>
- 126 Luna Amacio (2 December 2015), Ojo-Público.
- 127 Acta fiscal de custodia temporal de productos forestales maderables con decomiso especial conforme al Decreto Legislativo 1220. Signed by FEMA Loreto prosecutor, Pablo Cesar Ormeño Quiroz, “Capitán de Travesía” and Manager for Agencia Naviera Maynas SA, Carlos Alberto Scarpatti Espinoza, “Capitán de Travesía” for the vessel Yacu Kallpa, Julio Cesar Cardenas Ferreyra, and others (November 27, 2015). Scarpatti and Cardenas assumed legal responsibility for bringing the seized timber back to Iquitos in about 60 days. Available in this report’s online reference materials.
- 128 Carga de profundidad (21 January 2016). Caretas, pp. 32-33. <http://www2.caretas.pe/Main.asp?T=3082&id=12&idE=1243&idSto=369&idA=74305#.WSMvlevhDIU>
- 129 Yacu Kallpa, Asunto pendiente (letter to editor, printed in 22 September 2016 edition). Caretas, pp. 6-7. <http://www2.caretas.pe/Main.asp?T=3082&S=&id=12&idE=1278&idSto=73&idA=76793#.WbyhftOGPow> ; Empresa niega que tripulación peruana esté abandonada en México (26 feb 2016), El Comercio. <https://elcomercio.pe/mundo/actualidad/empresa-niega-tripulacion-peruana-abandonada-mexico-211718>
- 130 EIA (28 August 2016). Timber Verification Findings Corroborate Years of Evidence of a Persistent Pattern of Illicit Trade. <https://eia-global.org/press-releases/us-government-report-confirms-imports-of-illegal-timber-from-peru>
- 131 18 marinos peruanos llevan abandonados casi un mes en un puerto de México (24 February 2016). RPP Noticias. <http://rpp.pe/peru/actualidad/18-marinos-peruanos-llevan-abandonados-casi-un-mes-en-un-puerto-de-mexico-noticia-940785> ; Mijangos, B. (24 February 2016). Consulado de Perú en México sin responder a demandas marineros. Hoy Tamaulipas. <http://www.hoytamaulipas.net/notas/212401/Consulado-de-Peru-en-Mexico-sin-responder-a-demandas-de-marineros.html>
- 132 Meza, A. (26 February 2016). Regresan a Peru marineros varados en Tampico. Milenio.com [http://www.milenio.com/politica/marineros\\_Peru\\_0\\_690531255.html](http://www.milenio.com/politica/marineros_Peru_0_690531255.html)
- 133 Hernandez, Priscila y N. Luna Amancio. (30 October 2017). Ojo Público – Connectas – W Radio. From South to North: the Amazon timber trafficking trail. Ojo-Público. <https://ojo-publico.com/especiales/madera-ilegal/from-south-to-north-the-amazon-timber-trafficking-trail/> ; Transnational lobbies and weak regulations. October 30, 2017. <https://ojo-publico.com/especiales/madera-ilegal/transnational-lobbies-and-weak-regulations/> ; The Odyssey of the Yacu Kallpa. October 30, 2017. <https://ojo-publico.com/especiales/madera-ilegal/the-odyssey-of-the-yacu-kallpa/> ; Fiscalía Ambiental: “Vamos a denunciar a todos los que resulten responsables por devolver la madera”. <https://ojo-publico.com/525/mexico-no-tenia-derecho-entregar-esa-madera-ilegal>
- 134 Luna Amancio, N. (8 May 2017). Juez admite acción de amparo de maderera y ordena devolución de carga de origen ilegal. Ojo-Público. <https://ojo-publico.com/425/juez-admite-accion-de-amparo-de-maderera-y-ordena-devolucion-de-carga-de-origen-no-legal>
- 135 Letter from Alejandro Ruíz Robles, member of the Mexico-Peru Chamber of Commerce, addressed to Jaime Sparks De las Casas, Minister of Foreign Affairs of Peru (27 October 2015). Available in this report’s online reference materials.
- 136 Letter from the Jorge Almada Nagy, President of IMEXFOR addressed to Mr. Nava Aguilera, Tampico’s Port Management Authority (9 October 2015). Available in this report’s online reference materials.
- 137 Official correspondence from the Minister Counselor Elizabeth Gonzalez Portuas addressed to Ricardo Treviño Chapa, General Customs Administrator of Mexico’s Ministry of Finance (12 October 2015). Available in this report’s online reference materials.
- 138 Email from Minister Counselor Elizabeth González Porturas to Eduardo Guilfo. Reference: “Carga retenida proveniente del Perú” (19 October 2015).
- 139 The detention was based on an international cooperation request from the Peruvian government.
- 140 Hernandez, P. and N. Luna Amancio (30 October 2017), Ojo-Público
- 141 Trafico Gigantesco (3 December 2015). Caretas, p. 38-39, 94.
- 142 Trabajadores madereros defienden la tala ilegal y se enfrentan a la policía (3 December 2015). La Republica. <http://larepublica.pe/politica/900574-trabajadores-madereros-defienden-la-tala-ilegal-y-se-enfrentan-a-la-policia>
- 143 See discussions at <https://www.facebook.com/ParoForestalUcayali>
- 144 Olsen (19 January 2017), Houston Chronicle.
- 145 Yacu Kallpa 2015 database.
- 146 U.S. Department of Justice (18 January 2017). Justice Department reaches agreement to ensure destruction of timber believed to have been harvested in violation of Peruvian law. Press release. <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-ensure-destruction-timber-believed-have-been-harvested>
- 147 Olsen (19 January 2017), Houston Chronicle.
- 148 Policía Perú (22 April 2016). Ucayali: Desarticulan organización criminal ‘Los Patrones de Ucayali’ dedicada a la tala ilegal de madera. Press release. <http://policia Peru.tumblr.com/post/143245483238/ucayali-desarticulan-organizacion-C3%B3n-criminal-los>
- 149 Idem.

- 150 Law 30077 Against Organized Crime
- 151 Perú: Cae banda enviaba madera ilegal a China, México y EEUU (22 April 2016). Associated Press. <http://noticias.terra.com.mx/mundo/peru-cae-banda-enviaba-madera-ilegal-a-china-mexico-y-eeuu,ac63e6ca4867dd89a28ca581f1fb636ciet9jdod.html>
- 152 MININTER (13 July 2017). Organización criminal “Los Castores de la Selva Central” operaba en Junín, Ucayali y Lima, donde ejercía la tala y comercio ilegal de madera. Press release N° 936 – 2017. <https://www.mininter.gob.pe/content/presentan-resultados-de-megaoperativo-que-desbarat%C3%B3-mafia-maderera>
- 153 Tarabochia, M. L (14 July 2017). Detienen a clan familiar dedicado a la tala y comercio ilegal de madera en la selva central de Perú. Consultado el 27 de julio de 2017 en Mongabay Latam. <https://es.mongabay.com/2017/07/clan-familiar-castores-tala-madera-deforestacion/>
- 154 Kene Instituto de Estudios Forestales y Ambientales (13 July 2017). Policía Nacional captura a organización criminal “Los Castores de la Selva Central” dedicados a la tala ilegal y tráfico de maderas. Nota de Prensa 002-2017, <http://www.keneamazon.net/Documents/Press-Release/Nota-de.Prensa-002-2017-KENE.pdf>
- 155 Interamerican Convention on Mutual Assistance in Criminal Matters; Judicial Assistance Agreement in Criminal Matters between the Republic of Peru and the Dominican Republic; Convention between the United States of Mexico and the Republic of Peru on Judicial Assistance in Criminal Matters; etc.
- 156 Vista gorda (28 January 2016). Caratas, p 62-65. <http://www2.caretas.pe/Main.asp?T=3082&id=12&idE=1244&idSto=369&idA=74400#.WSMvSuvhDIU>
- 157 PCM (15 January 2016). Pedro Cateriano reafirmó en Estados Unidos el compromiso del Perú con el medio ambiente. Press release. <http://www.pcm.gob.pe/2016/01/pedro-cateriano-reafirmo-en-estados-unidos-el-compromiso-del-peru-con-el-medio-ambiente/>
- 158 Supreme Resolution N. 011-2016-PCM (14 January 2016). Encargan funciones de presidente ejecutivo del Osinfor. Available in this report’s online reference materials.
- 159 Conforman comité que elaborará bases para elección de nuevo Presidente Ejecutivo de Osinfor (29 Enero 2016). Actualidad Ambiental. <http://www.actualidadambiental.pe/?p=35230>
- 160 Vista gorda (28 January 2016). Caratas, p 62-65.
- 161 La tala ilegal y la lucha contra el crimen organizado: a propósito de la Operación Amazonas II (3 December 2015). Presentation by Ambassador Juan Federico Jiménez Mayor, Permanent Representative of Peru before the OAS, Session of the Commission on Hemispheric Security. [http://scm.oas.org/doc\\_public/SPANISH/HIST\\_15/CP35300S04.doc](http://scm.oas.org/doc_public/SPANISH/HIST_15/CP35300S04.doc);
- 162 Supreme Resolution N. 011-2016-PCM (14 January 2016)
- 163 EIA (15 January 2016). EIA Denounces Termination of Peruvian Forest Oversight Body President, in apparent effort to allow illegal wood to enter the United States. Press release. <https://eia-global.org/press-releases/eia-denounces-termination-of-peruvian-forest-oversight-body-president>
- 164 Bajak (18 April 2017), Associated Press.
- 165 Vista gorda (28 January 2016). Caratas.
- 166 Idem.
- 167 Proética (19 April 2017). Lea la carta que envió el Mincetur al gobierno de EEUU para defender ingreso de madera ilegal a Houston. <http://www.proetica.org.pe/?q=content/lea-la-carta-que-envio%C3%B3-el-mincetur-al-gobierno-de-eeuu-para-defender-ingreso-de-madera>
- 168 See e.g. Forest Legality Initiative. U.S. Lacey Act. <http://www.forestlegality.org/policy/us-lacey-act>
- 169 García Delgado, F. (10 May 2017). ¿Por qué el Mincetur avaló envío de madera ilegal a EE.UU.? El Comercio. <http://elcomercio.pe/peru/mincetur-avaló-envio-madera-ilegal-ee-uu-419403>
- 170 Oficio 015-2016-Osinfor/01.1 According to chart on page 6, the total volume going to the U.S. was 3,136.821 m<sup>3</sup>, while the “unjustified” (illegally harvested) volume going to the U.S. was 2,807.212 m<sup>3</sup>. Available in this report’s online reference materials.
- 171 García Delgado, F. (10 May 2017), El Comercio
- 172 Carta 061-2016-Serfor-DE. From Fabiola Muñoz, Serfor Director, to Leslie Fleming Luczkowski, US Customs and Border Protection. Lima, Peru (8 April 2016). Available in this report’s online reference materials.
- 173 Carta 062-2016-Serfor-DE. From Fabiola Muñoz, Serfor Director, to Leslie Fleming Luczkowski, US Customs and Border Protection. Lima, Peru (8 April 2016). Available in this report’s online reference materials.
- 174 Carta 094-2016-Serfor-DE. From Fabiola Muñoz, Serfor Director, to Steve Popp from Popp Forest Products Inc. Lima, Peru (22 April 2016). Available in this report’s online reference materials.
- 175 Presidencia Ejecutiva, Osinfor letter to Erik Fischer Llanos, President of the Timber Committee at the Peruvian Association of Exporters, ADEX (25 Feb 2014). Available in this report’s online reference materials.
- 176 Oficio Múltiple N. 002-2015-Osinfor/01.1. (13 May 2015). Ref: Información sobre títulos habilitantes supervisados por el Osinfor. Addressed to: Madereras Elaboradas del Oriente SAC, Corporación Industrial Forestal, Maderera Vulcano SAC, Maderas Peruanas SAC, Inversiones Técnicas Maderables SAC, KMU Perú SAC, Sico Maderas SAC, San Marino Industria & Comercio SAC, Triplay Iquitos SAC. Available in this report’s online reference materials.
- 177 Oficio No. 192-2017-Osinfor/05.2.5-RAIP (17 October 2017)
- 178 Informe 069-2016-Serfor-DGGSPFFS-DCGPFFS. Available in this report’s online reference materials.
- 179 Second complementary disposition of the Regulations to Legislative Decree 1085.
- 180 Osinfor (October 2015), p.9
- 181 Open letter to PPK from Grupo Peru COP20 (15 August 2016). <https://www.scribd.com/document/321398763/Sociedad-civil-pide-a-gobierno-de-PPK-derogar-reglamento-del-DL-1220-sobre-tala-ilegal>
- 182 Proética (19 August 2016). Fiscal Superior Especializada en Materia Ambiental respalda pedido para derogar reglamento del DL1220 sobre tala ilegal. <http://www.proetica.org.pe/?q=content/fiscal-superior-especializada-en-materia-ambiental-respalda-pedido-para-derogar-reglamento>
- 183 Idem.
- 184 Before Operation Amazonas, this had only been done for CITES-protected species whose export requires additional documentation, as EIA showed with its 2012 report The Laundering Machine.
- 185 Supreme Decree N° 036-2004-AG (2004).
- 186 Legislative Decree 1085, passed 27 June 2008.
- 187 Oficio N. 384-2015-Serfor-DE (28 October 2015) to Alfonso Luyo Carbajal, Superintendente Nacional Adjunto de Aduanas, Sunat, signed by Fabiola Muñoz Dodero, Directora Ejecutiva, Serfor. Ref: Mercancia restringida. Available in this report’s online reference materials.
- 188 Supreme Decree N. 018-2015-Minagri, Article 172.



- 189 Patron, A. R. (October 2017). Trazabilidad de la madera en el marco de la normativa forestal peruana [PowerPoint slides]. <http://www.serfor.gob.pe/cuidando-el-bosque/trazabilidad>; Serfor (29 March 2017). Technical report 034-2017-Serfor-DGPCFFS-DPR. Ref: Proyecto de Resolución de Intendencia Nacional que modifica instructivo “Declaración Aduanera de Mercancías (DAM) INTA-IT.00.04. Available in this report’s online reference materials.
- 190 Vick, G. (October 2017). International Wood Products Association presentation at International Seminar on Traceability [PowerPoint slides]. <http://www.serfor.gob.pe/wp-content/uploads/2017/10/15-Gianinna-Vick.pdf>
- 191 While it was announced that the group was also looking at potential illegal trade of wildlife and gold, most of the delegation’s focus was on timber trade.
- 192 Office of the United States Trade Representative (20 October 2017). USTR Announces Unprecedented Action to Block Illegal Timber Imports from Peru. Press release. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/october/ustr-announces-unprecedented-action>
- 193 SNI – ADEX (29 March 2017). Letter signed by Erik Fischer Llanos (ADEX) and Alfredo Biasevich Barreto (SNI) addressed to Walter Cárdenas Mendoza, Superintendent of Sunat; Serfor (29 March 2017), Technical report 034-2017-Serfor-DGPCFFS-DPR. Available in this report’s online reference materials.
- 194 Ibid.
- 195 Patron (October 2017), Serfor.
- 196 Supreme Decree N. 018-2015-MINAGRI.
- 197 Ibid.
- 198 Numeral 17, Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market.
- 199 European Commission (12 February 2016). Guidance Document for the E.U. Timber Regulation.
- 200 Saunders, J. (7 June 2017). Dutch ruling helps curb illegal timber trade. Forest Trends [blog]. <http://forest-trends.org/blog/2017/06/07/dutch-court-ruling-helps-curb-illegal-timber-trade/>
- 201 Joint Statement of the Meetings of the Peru - United States Environmental Affairs Council, Environmental Cooperation Commission and Sub-Committee on Forest Sector Governance (4 November 2016).
- 202 Ibid.
- 203 Maderera Bozovich (23 November 2015). Exportando Perú – Pisos de madera Bozovich [video file]. PromPeru. [https://www.youtube.com/watch?time\\_continue=261&v=QJMe5bNR98E](https://www.youtube.com/watch?time_continue=261&v=QJMe5bNR98E) ; e-consultaruc.sunat.gob.pe
- 204 SNI – ADEX (29 March 2017), Letter to Sunat, p.1
- 205 Ibid, p.2
- 206 Serfor (29 March 2017), Technical report 034-2017-Serfor-DGPCFFS-DPR, p.9
- 207 Laclotte Hart, D. and C. Romero Saavedra (April 2017). La Trazabilidad como medio para controlar el origen legal de la madera en el Perú: Conceptos, experiencias, regulaciones y recomendaciones. Soluciones Sostenibles Consultores.
- 208 Sunat public database, [http://www.aduanet.gob.pe/cl-ad-itconsultadwh/ielTS01Alias?accion=consultar&CG\\_consulta=2](http://www.aduanet.gob.pe/cl-ad-itconsultadwh/ielTS01Alias?accion=consultar&CG_consulta=2)
- 209 Resolution No. 156-2015-Serfor-D, Annex 2.
- 210 Supreme Decree N. 014-2001, Article 300
- 211 Forest & Agriculture Organization of the United Nations and United Nations Economic Council for Europe. Available at <http://www.unece.org/forests/fpamr2016-annex.html>
- 212 Laclotte Hart and Romero Saavedra (April 2017)
- 213 Patron (October 2017), Serfor; Serfor (29 March 2017). Technical report 034-2017-Serfor-DGPCFFS-DPR, p.9
- 214 SIGO-SFC accessed 7 October 2017. Of the 618 supervisions conducted in 2016, Osinfo initiated legal sanction processes (PAUs) for 454 or 73% of the points of origin.
- 215 Forest Stewardship Council certificate search, accessed 24 October 2017. <https://info.fsc.org/details.php?id=a023300000dpag9AAA&type=certificate>
- 216 Ibid.
- 217 Specifically, 0.8 times the square root of the number of supplier units. FSC-STD-40-005, p23. <https://us.fsc.org/preview.standard-for-company-evaluation-of-controlled-wood-fsc-std-40-005v2-1en.a-198.pdf>
- 218 EIA (2015). Stealing the last Forest: Austria’s Largest Timber Company, Land Rights, and Corruption in Romania. <https://eia-global.org/reports/st>
- 219 Erickson-Davis, Morgan (23 February 2017). Forest Stewardship Council cuts ties with Austrian timber giant. Mongabay. <https://news.mongabay.com/2017/02/forest-stewardship-council-cuts-ties-with-austrian-timber-giant/>
- 220 U.S. Department of Justice (6 August 2012). Gibson Guitar Corp. agrees to resolve investigation into Lacey Act violations. Press release. <https://www.justice.gov/opa/pr/gibson-guitar-corp-agrees-resolve-investigation-lacey-act-violations>
- 221 U.S. Department of Justice (1 February 2016). Lumber Liquidators Inc. sentenced for illegal importation of hardwood and related environmental crimes. Press release. <https://www.justice.gov/opa/pr/lumber-liquidators-inc-sentenced-illegal-importation-hardwood-and-related-environmental>
- 222 Uitspraken (June 2017). <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBNHO:2017:4474>
- 223 Minagri (21 March 2017). “Presentan herramienta que permitirá seguir la madera desde el bosque hasta su comercialización”. Press release. <http://www.minagri.gob.pe/portal/publicaciones-y-prensa/noticias-2017/18915-presentan-herramienta-que-permitira-seguir-la-madera-desde-el-bosque-hasta-su-comercializacion>
- 224 Serfor. Centro de Información: Sistema de información – SNIFFS. <http://www.serfor.gob.pe/centro-de-informacion/sistema-de-informacion>
- 225 Froman (2016), USTR [blog]
- 226 This system, referred to for years as the “SNIC”, was envisioned as one component of a larger “National Forestry and Wildlife Information System”(SNIFFS). The SNIC has now been re-christened MC-SNIFFS to indicate that it is the “Control Module” for this as-yet-nonexistent larger information system. See <http://www.serfor.gob.pe/centro-de-informacion/sistema-de-informacion> for more details.
- 227 Presentation at Forest Legality Week, World Resources Institute, Washington DC, 3 October 2017.
- 228 Serfor (6 July 2017). Serfor promueve Databosque de GIZ usado para mejorar la gestión de las operaciones maderables en el bosque. <http://www.serfor.gob.pe/noticias/serfor-promueve-databosque-de-giz-usado-para-mejorar-la-gestion-de-las-operaciones-maderables-en-el-bosque>
- 229 SFM Itto (24 May 2017). Model for Peruvian Timber traceability system for SMEs [video post]. <https://www.youtube.com/watch?v=6Ubew0HQ70g&t=4s>
- 230 Maderera Bozovich. Letter to Sunat. Ref: Notificación N. 048-2017-Sunat/391200. Lima, April 18<sup>th</sup>, 2017. Available in this report’s online reference materials.

- 231 Memorandum N. 489-2016-Serfor-ATFFS Lima in response to information request N. 182-2016, contains annexed materials Carta N. 084-2016-Serfor-ATFFS Lima (28 June 2016) and Oficio N. 384-2015-Serfor-DE (28 October 2015); also 403-2016-Serfor/DGGSPFFS-DCGPFFS (13 October 2016). Available in this report's online reference materials.
- 232 Memorandum N. 0457-2017-Serfor-ATFFS LIMA. Solicitud de acceso a la información pública, CUT: 42468-2017. Lima, September 12, 2017. Signed by Ing. Julio Napoleón Jeri Ochoa. Original text: "Es grato dirigirme a usted, para saludarle cordialmente y en relación al asunto, para alcanzar a su despacho el escaneo de las actas de inspección ocular con sus respectivas Guías de Transporte forestal verificadas en el Terminal Portuario correspondiente al año 2016, así mismo informarle que en la actualidad se viene verificando y sellando solo las guías de transporte forestal de los productos a exportar. Adjunto CD." Available in this report's online reference materials.
- 233 CIEL (20 November 2017). "Continuous Improvement" in Illegal Practices in the Peruvian Forest Sector. <http://www.ciel.org/wp-content/uploads/2017/11/EnglishVersionFinal.pdf>; The official data received by EIA from Serfor for the same time period was far less complete than the one received by CIEL. While this should not be possible, since the Peruvian laws guarantee transparency and access to information for all citizens, it was the case. Because of this, EIA opted to verify, validate and work over the data received by CIEL.
- 234 Other importing countries: Germany, Argentina, Australia, Belgium, Canada, Chile, Costa Rica, Cuba, Denmark, Ecuador, Spain, Philippines, Greece, Hong Kong, Israel, Japan, South Korea, Nicaragua, New Zealand, Panama, Polynesia, Portugal, Puerto Rico, United Kingdom, Taiwan, Uruguay, Vietnam.
- 235 USTR (20 October 2017).
- 236 Global Witness (9 November 2017). Buyers in Good Faith. <https://www.globalwitness.org/en/campaigns/forests/buyers-good-faith/>
- 237 Memorandum N. 0457-2017-Serfor-ATFFS LIMA.
- 238 After receiving the 2016 Actas de Inspeccion from Serfor and noticing the changes, EIA replied to the officer who sent the data, requesting a meeting to clarify this and other issues related to the access to information response. EIA followed up through several phone calls, but it was impossible to get any additional information.
- 239 Cossio-Solano, R. et al (2011). El aprovechamiento de madera en las concesiones castañeras (*Bertholletia excelsa*) en Madre de Dios, Perú. Documento de Trabajo, Center for International Forestry Research. [http://www.cifor.org/publications/pdf\\_files/WPapers/WP56Guariguata.pdf](http://www.cifor.org/publications/pdf_files/WPapers/WP56Guariguata.pdf)
- 240 The regulation to Legislative Decree 1085, Second final complementary disposition, establishes that the competent authorities who approve Forest Management Plans shall communicate to Osinfor the pertinent documents within 15 days of issuing the approval.
- 241 "Through March of the current year [2015] 100% of these do not exist in the institutional database" (translated), p. 55, Resultados de las supervisiones y fiscalizaciones efectuadas por el Osinfor en el marco del Operativo Internacional "Operación Amazonas 2014".
- 242 Yacu Kallpa 2015 database.
- 243 Oficio N. 192-2017-Osinfor/05.2.5-RAIP (17 October 2017).
- 244 See e.g. Mejía et al. (2015).
- 245 Bajak (18 April 2017), Associated Press.
- 246 USTR (20 October 2017).
- 247 SNI – ADEX (29 March 2017), Letter to Sunat.
- 248 Osinfor. SIGO-SFC database. <http://observatorio.osinfor.gob.pe:96/Home/Reportes/4>, accessed 24 October 17.
- 249 See e.g. examples in Nogueron, R. (October 2017). Trazabilidad de Productos Forestales: Una Perspectiva Global [PPT slides]. <http://www.serfor.gob.pe/wp-content/uploads/2017/10/03-Ruth-Nogueron.pdf>; O'Donnell, J. (2017). Where does your wood come from? Advances in traceability tech give consumers more info than ever before. International Wood Buyer's Guide. International Wood Products Association. <https://view.joomag.com/international-wood-international-wood-2017/0231287001508881563?short>
- 250 Alianza Cacao Peru (October 2016). Peru Cocoa Alliance Final Report. USAID.
- 251 García, Francesca (5 November 2017). Sin precedentes: ¿por qué EE.UU. aplicó sanciones en TLC con Perú?. El Comercio. <https://elcomercio.pe/peru/precedentes-ee-uu-aplico-sanciones-tlc-peru-noticia-471207>



EIA - US

P.O. Box 53343

Washington DC 20009 USA

TEL: +1 202 483 6621

FAX: +1 202 986 8626

EMAIL: [info@eia-global.org](mailto:info@eia-global.org)

[WWW.EIA-GLOBAL.ORG](http://WWW.EIA-GLOBAL.ORG)

EIA - UK

62/63 Upper Street,

London N10NY, UK

TEL: + 44 (0) 20 7354 7960

FAX: + 44 (0) 20 7354 7961

EMAIL: [ukinfo@eia-international.org](mailto:ukinfo@eia-international.org)

[WWW.EIA-INTERNATIONAL.ORG](http://WWW.EIA-INTERNATIONAL.ORG)

