

THE LAUNDERING MACHINE

HOW FRAUD AND CORRUPTION IN PERU'S CONCESSION SYSTEM ARE
DESTROYING THE FUTURE OF ITS FORESTS



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For over 25 years as a non-profit organization, EIA has pioneered the use of undercover investigations to expose environmental crime around the world. Intelligence reports, documentary evidence, campaigning expertise and an international advocacy network enable EIA to achieve far-reaching environmental protection by spurring changes in market demand, government policy and enforcement related to global trade in wildlife and environmental products.

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EXECUTIVE SUMMARY

Exporters in Peru and importers in the United States and around the world are currently integral parts of a systematic flow of illegal timber from the Peruvian Amazon. Sometimes intentionally, sometimes through sheer negligence, each of the actors and agencies involved in this system are working as gears in a well-oiled machine that is ransacking Peru's forests and undermining the livelihoods and rights of the people that depend on them.

In this report EIA documents for the first time the systematic export and import of illegal wood from Peru to the US. In many ways this report not a new story: the system's corruption is something of which everyone in the sector is aware. EIA's contribution lies in having identified and patiently put together the pieces of the puzzle to reveal the mechanism that allows this trade to happen: what we call here the "laundering machine".

There are, of course, individuals and organizations in this sector who are trying to work legally; but corruption and illegality remain the norm, not the exception. Officials or offices attempting to do things right often have their hands tied by lack of resources both fiscal and physical. And those who attempt to change the system are summarily dismissed or even threatened with physical violence and, in extreme cases, physically attacked.

Peru is receiving around 150 million dollars from different sources of international financing and national counterparts for programs of forest conservation and management that - directly or indirectly - contribute to reducing

carbon emissions from deforestation or forest degradation (REDD). However, this investigation suggests that Peruvian authorities currently have little capacity to control what's happening in their forests. The results of this report demonstrate that the Ministry of Agriculture - responsible for Production Forests - isn't adequately monitoring the concessions in its purview; that the Ministry of Environment - responsible for Protected Forests - isn't sufficiently preventing illegal logging in the forests under its charge; and that the Regional Governments do not yet have the capacity to impede illegal activities in the field nor to follow up on the legal cases that do arise.

THE CRIME

EIA's investigative work focused on reconstructing the routes that timber takes from the Amazon to the warehouses of US importers, through use of official information obtained under Peru's Transparency and Access to Public Information Law. The links in this chain are willfully obscured to perpetuate confusion about the origins of almost all timber traded in Peru. EIA was able to reconstruct the chain of custody for trade in cedar (*Cedrela odorata*) and bigleaf mahogany (*Swietenia macrophylla*) only because both species are protected under the Convention on International Trade in Endangered Species of Flora and Fauna (CITES) and thus require specific export permit documents. The same illegal modus operandi is being applied for other species, but the even more limited information available regarding non-CITES

species trade makes it virtually impossible to connect the concession of origin with the shipments being exported.

By crossing public information on (a) the "supervision" inspections conducted by the Supervisory Body for Forest Resources and Wildlife (OSINFOR for its Spanish initials) on a series of timber concessions with (b) the documentation for CITES export permits for cedar and mahogany, EIA identified more than 100 shipments containing illegally logged CITES wood that were exported to the US between January 2008 and May 2010 - that is, more than 35% of all such shipments with CITES permits that left Peru for the US during this period.

Peru's primary exporter, Maderera Bozovich, exported shipments under 152 CITES permits during this time, at least 45% of which included wood of illegal origin. It is likely that more supervisions in the field would discover that these percentages are actually higher.

THE MOTIVE AND THE MECHANISM

Illegal logging is a lucrative business. Expenses other than transport costs are low, without any concern for decent wages or environmental practices. A large old rainforest tree may produce around three cubic meters of export-quality wood, and exporters receive about US\$1700/m³ for mahogany or almost \$1000/m³ for cedar.¹ In the US, the prices are even more dramatic: the wood from a single Peruvian mahogany tree can fetch over \$11,000 on the US lumber market, and that from a single cedar tree over \$9000.

Traders and financiers of illegal wood, however, face one significant challenge. While there are plenty of remote areas in Peru where illegal logging can go undetected, the trader must still get the wood out of the forest, past forest authority checkpoints, through customs, onto ships and into the United States. Without the formal paperwork and (in the case of cedar and mahogany) export permits authorized by the forest authority, their wood can't go anywhere.

The mechanism that the industry has therefore developed is simple to describe: the concessionaires submit for approval lists of trees that do not exist in the real world, and complicit authorities approve the extraction of this non-existent wood. Backed by these "volumes" of imaginary trees, the corresponding official documents (Forest Transport Permits or GTFs) are sold in the black market and used to launder wood extracted illegally from elsewhere - national parks, indigenous territories, other public lands. No posterior controls will detect this illegality without returning to the original concession to verify whether logging was actually done.

And even when the fraud is verified in the field, this is apparently not sufficient to intervene and stop it. Despite the fact that many of supervisions OSINFOR continues to conduct have detected multiple illegalities, the majority of these concessions known to be at fault continue to operate and sell to the export markets.

The GTFs and false volumes that support them are the key to understanding how illegal logging is so systemic - and also to combating it. Without the necessary paperwork, lumber can't be laundered, the exporters can't make money, and the motivations to engage in or finance illegal logging evaporate.

In various conversations with US importers and their trade association representatives, as well as with exporters and Peruvian officials, many have assured EIA that Peru is not exporting any illegal wood, because everything goes out "with legal documents" and they are purchasing on "good faith". This cynical 'no questions asked' approach by officials and traders who are perfectly aware of how meaningless these documents are has allowed illegality to flourish.

As long as the current system reigns, the prices and practices that responsible logging of the Peruvian Amazon would entail will never be

able to compete. On the other hand, without the demand for illegal wood from final consumers, there would not be demand from importers, or from exporters, or intermediaries, and incentives for illegal logging would gradually disappear.

THE HIGH COST OF ILLEGAL LOGGING

The effects of such systemic corruption are both severe and immediate. In 2006, the World Bank estimated that the illegal logging sector in Peru generated between \$44.5 and \$72 million dollars annually,² while recorded legal profits from timber sales in the same year reached only 31.7 million.³ Losses to the economy overall were estimated to be around \$70 million as of 2002 due to tax evasion, non-payment of required fees, and devaluation of standing timber. By 2011, the government and industry of Loreto, Peru's largest region, estimated that illegal logging was causing the country annual losses greater than \$250 million dollars - 1.5 times the value of total timber exports.⁴

On an individual level, the consequences of the current system are also devastating. Indigenous communities are almost universally swindled by intermediaries who want to remove the most valuable timber from their lands. Deadly local epidemics and violent conflict have resulted from contact between loggers and indigenous peoples in voluntarily isolation. Poor migrant workers are also frequent victims. In this report you will read first-hand stories of forced labor and sexual slavery practices from men and women hired to work at remote camps and kept almost as hostages for months on end, in exchange for minimum wages - wages that they may never even cash in, if the timber boss's business deals go awry or they are injured and have to leave on their own dime.

As a World Bank report from March 2012 makes clear, an effective fight against this scourge has to look beyond the poor loggers in the forest or the petty criminals, and focus on those who are truly enriched by this illicit activity:

"In some countries, illegally harvested logs reportedly account for as much as 90 percent of timber exports [80% for the specific case of Peru]. These estimates do not capture the enormous environmental and societal costs of these crimes—how they threaten biodiversity, increase carbon emissions, cause landslides, and undermine the resource-based livelihoods of rural peoples, with

ringleaders and organized crime profiting at the expense of the poor. Illegal logging also has detrimental economic impacts. It stifles economic development and distorts the marketplace, discouraging legitimate forest enterprises from making socially and environmentally responsible investments in forestry, and undermining attempts to achieve successful and sustainable management of forest resources worldwide. Finally, the extensive corruption associated with illegal logging weakens broader structures of governance and the rule of law".⁵

THE INSTITUTIONAL CONTEXT

In recent years, the Peruvian forestry sector has been reorganized a number of times. Between 2006 and 2007, the central government's powers regarding environmental management were transferred to regional entities as part of a larger national decentralization process. This decentralization process, rather than improving forest management by empowering authorities closer to the forests, has generated confusion regarding responsibilities and resources and has even opened new spaces for corruption, at least in the short term.

One aggravating factor is a lack of transparency in the sector, which turns simple public information requests into complex, onerous processes. In its third annual report about the transparency of public organizations with responsibilities over forests, the Peruvian NGO Derecho, Ambiente y Recursos Naturales (DAR) found it worrying that the average level of compliance with respect to transparency portals barely exceeded 50%, although recognizing a slight improvement from 2010 to 2011 (from 46.4% to 52.16%).⁶

In 2007, the US and Peru signed a free trade agreement that included a ground-breaking Annex on Forest Governance with binding obligations related to management and trade of CITES species, institutional strengthening, sectoral governance and support for indigenous communities' legal participation in the sector. As part of the Annex, if there is evidence of illegal timber entering the US from Peru, the US government has the right to ask for audits or verifications and to impose a variety of sanctions, including the delay or denial of shipments. Needless to say, almost two years after the deadline required of Peru to

Please visit www.peruforests-bosquesperuanos.com for an interactive version of this report with links to official documents, EIA's original databases, photos, updates and other materials.

implement its obligations, little has been done to enforce the agreement—either internally or externally through US pressure regarding a serious breach of contract.

WHERE A STAMP MEANS NOTHING

Beyond the Peruvian specifics, even beyond the forest sector, this report speaks to a problem applicable to the entire international trade in plants and wildlife: a “stamp” on an official document is not sufficient guarantee of something’s actual legality in many countries. This is a key issue in the context of laws like the Lacey Act, where the buyer is legally responsible for their products’ possible illegalities, even if s/he did not set out intentionally to buy illegal goods.

This means that importers, to achieve real compliance, need to go beyond asking for an official document in order to feel confident about the legal origin of the products they want to purchase. For Peru this could have tough consequences since, if importers conclude that they cannot rely on the oversight of national authorities, it is possible they will opt for suppliers in other countries where the system of control offers better guarantees of legal origin.

HOW TO READ THIS REPORT

This report is divided into three principal parts:

Part One: History and Context, which reviews the technical, political, social and environmental background relevant to Peru’s forest sector. It also includes a detailed diagram where EIA reconstructs the route that wood should follow from stump to US shores, according to Peruvian laws and regulations, and compares this with what happens in reality. (Sections 1 through 5)

Part Two: Case Analysis and Results, which presents three inter-related EIA case studies about the methods of illegal timber laundering.

First, we detail the analysis described above that reveals at least 112 shipments with illegal CITES wood. Through description of 14 emblematic cases – taken from the OSINFOR Supervision Reports – we lay out the intrinsic problems of the concession system: the lack of capacity or political will for enforcement; impunity for concessionaires, forest consultants and public officials complicit in putting false

information on official documents; forest censuses up to 100% fabricated that generate paper “volumes” used to launder real illegal wood; concessionaires who have no financial ability to actually log, etc. (Sections 6 and 7)

This second part also includes the history of OPEXA, a concession where EIA established first-hand that export permits were linked to imaginary trees. In a visit to this remote concession, an EIA team verified through random stratified sampling that the forest census was entirely fabricated. This Chapter is also the story of Francesco Mantuano, a concessionaire who has spent two years attempting to get authorities to acknowledge the illegalities in his own concession, without succeeding attention beyond the ire of his trade association. EIA’s journey is documented with maps, GPS, videos and photos in an accompanying interactive website (Section 8, also see www.shootunit.com/eia).

Third, this section reviews the case of four watersheds where cedar and mahogany logging was theoretically banned between 2000 and 2010, but where a series of authorities approved the extraction, trade and export of wood going explicitly against this law. After years of providing conflicting administrative interpretations, as the ban was about to expire the forest authority acknowledged that the law did not allow for any exceptions. However, until now EIA knows of no internal process with this agency to investigate the issue and sanction those deemed responsible. The General Comptroller of the Republic, however, does have an active investigation on the issue. (Section 9)

Part Three: Conclusions and Recommendations, where we present suggestions that we hope will serve to open up the discussion about how to confront the problems documented here.

METHODS AND SCOPE

This information is based on various sources of complementary information. Most of the official documentation was obtained through public information access requests, with which we constructed the databases allowing EIA to connect information about problem concessions with exports. In parallel to the official files obtained, this report also draws from documents obtained extra-officially through officials or ex-officials

concerned about the situation in the sector.

Once EIA had identified those concessions with clear illegal activity whose documents were linked to cedar and mahogany shipments to the US between 2008 and 2010, each concession’s complete supervision report file was closely reviewed. EIA also conducted a survey of 2010-11 exporters and US importers of Peruvian wood with respect to the measures they take to prevent doing business in illegally sourced wood. The complete responses are available at the online version of this report.

To capture the social and environmental impacts of illegal logging, EIA conducted fieldwork to document cases of illegal activity and recorded testimonials from loggers and victims of the local logging mafias. We also had many conversations off the record with experts, authorities, industry members and members of the indigenous movement, as well as analyzing many aspects of the legal and institutional framework.

Given limitations of time and resources, we have focused on failures within the concession system and have not examined other types of forest harvest permits and authorizations, but believe this should be considered an outstanding need. In addition, authorities did not give us more recent information (post 2010), analysis of which is an important follow up point for future investigations – both by Peruvian authorities and by American authorities, under the FTA Annex on Forest Governance and/or relevant laws such as the Lacey Act.

Why is the extraction of imaginary trees being authorized? Why are concessions that the government’s own inspections show to be in flagrant violation allowed to continue operating? Why does it take years even to initiate administrative processes against these violations? Why is all the information – already public under Peruvian law – not effectively accessible to the public in the government’s official websites? And why, after years of public evidence about Peru’s illegal logging problems, do US companies continue to import illegal CITES-protected wood? These are some of the questions that this report invites us all to ask, with the hope that civil society, the private sector, and authorities who read it will ask many more – and that we can begin to work together towards solutions.

Please visit www.shootunit.com/eia to view an interactive, GPS-referenced map with photos and videos from EIA’s investigation into OPEXA’s laundering and the forest industry in southern Loreto.



1. INTRODUCTION TO THE FOREST SECTOR

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70% of Peru's national territory is covered by some of the most biologically diverse forests on earth.¹ It is a place where the vast expanse of South America's great rainforest meets the towering wall of the Andes mountain range, and the headwaters of the Amazon River emerge from dramatic canyons and valleys. Along the banks of the Ucayali, Marañón, and Tambopata rivers lie not only a fantastic range of ecosystems, but thousands of native communities from 56 distinct ethnic groups,² whose cultural identities and livelihoods are closely tied to the forest. (See map on p.35.)

87% of Peru's population lives on the coast or in the mountains,³ while the majority of territory in the jungle regions - Loreto, Ucayali, San Martín and Madre de Dios - is occupied by the poorest and most disenfranchised segment of the country's population, Peru's indigenous peoples. For most of its history the Peruvian Amazon has been treated as a remote and sparsely populated hinterland, with a value determined solely by the resources that can be extracted and sold: oil and gas, gold, and timber.

How this extraction takes place historically has been of little concern - the extractive industries have siphoned wealth out of the jungle without restraint, the central government in Lima has encouraged resource extraction and imposed virtually no standards, and the international markets have accepted the products of Peru's forests without question.

1.1. SNAPSHOT OF THE PERUVIAN LOGGING INDUSTRY

Peru's rainforests cover 68.0 million hectares,

with the northeast supporting a unique dry forest ecosystem of 22,132 hectares.⁴ Only three other countries - Brazil, Indonesia, and the Democratic Republic of Congo - have more tropical forests. Some 26% (17.8 million hectares) of Peru's forests are zoned for commercial logging as Permanent Production Forests (*Bosques de Producción Permanente*), while another 3.4% (2.3 million hectares) lie within protected areas.⁵ Over 10 million hectares are titled to native communities, but in reality untitled groups occupy just as great an area throughout the jungle.

Although Peru's forests are abundant, its timber resources have never been a mainstay of the economy. The country's primary exports are its metals (silver, gold, copper, zinc, tin, lead), petroleum and gas, agricultural products including asparagus and coffee, fishmeal, textiles and apparel. 2010's total export value for wood products (mainly sawnwood, plywood and molding) was \$168 million, excluding paper products⁶ - in comparison to the country's overall exports of \$35.1 billion.⁷

For years, the inaccessibility of Peru's Amazon limited most logging to extraction of select species - above all, mahogany (*Swietenia macrophylla*), one of the world's most valuable timbers, whose beautiful, durable red wood currently sells at up to \$1700/m³ on international markets.⁸ After Brazil banned mahogany exports in 2001, Peru became the primary global source of non-plantation mahogany, exporting highly unsustainable volumes of wood, the majority of which appears to have been illegally harvested according to the government's own inspections and sources.⁹ This continued until international concerns

raised through the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the growing scarcity of accessible mahogany trees led to dramatic export decreases beginning in 2008.

Even as the commercially viable population of mahogany began to plummet, the industry was expanding its search. Spanish cedar (*Cedrela odorata*), another red-colored wood of the same taxonomic family (*Meliaceae*), has been the subject of the second intense wave of logging. Both species are valued for high-end doors, furniture, windows and other interior design work, as well as cigar boxes in the case of cedar.

By value, mahogany and cedar are still an important segment of the export market. By volume, a suite of other hardwoods used for flooring, veneers or construction now make up the bulk of exports: cumala (*Virola spp.*, *Iryanthera spp.*), lupuna (*Chorisia integrifolia*), tornillo (*Cedrelinga cateniformis*), shihuahuaco or cumaru (*Dipteryx micrantha*, *Dipteryx spp.*) and capirona (*Calycophyllum spruceanum*) chief among them.¹⁰

Peru's most significant end markets - the US (including Puerto Rico), China, and Mexico - account for 89% of the total value of Peruvian timber sales. After doubling during the early part of the 2000's, wood exports leveled off as the global economic crisis hit in 2008. The proportion of timber exported to China has, however, increased rapidly in the last decade, offsetting a reduction in direct exports to the US. Chinese importers are particularly focused on species for flooring, while Mexico takes the majority of Peru's veneer and plywood, and

the US receives high-value sawn wood.¹¹ An unknown amount of the timber exported to China and Mexico subsequently enters the US after further processing.

1.2 ONLY TWO WAYS OUT

Almost all documented wood exports from Peru are transported through one of two places. The vast majority leaves via the port of Callao, just north of Lima on the Pacific Ocean. Since Iquitos traders can receive better prices for lumber in Pucallpa, most high-value wood is transported laboriously up river hundreds of miles on large barges (*chatas*), where the resulting sawnwood is loaded onto trucks for transport over the Andes.

Additionally, a smaller but significant amount of wood travels down the Amazon from Iquitos.¹³ This route - traversing the entire width of the Brazilian Amazon - is actually the only natural water-born outlet to the Atlantic for products east of the Andean mountain range.

A single Peruvian shipping company has ships that make this month-long journey from Iquitos to the southern U.S. and Mexico and back several times a year. The departure and arrival dates for these ships are available online. The long-running Yacu Puma¹⁴ was recently retired and replaced by the Yacu Taski.¹⁵ These well-documented shipments should, in theory, make monitoring and enforcement of the legality of this timber particularly feasible for Peruvian officials.

In fact, the first US Lacey Act enforcement

action on record involving timber shipments involved the Yacu Puma. In May 2009, the US Fish and Wildlife Service received information concerning a shipment of three pallets of tropical hardwood scheduled for importation. According to the court decision, "James Louis King, the owner of the Peruvian business Amazon Reserve and Resort, S.A.C., provided information that the shipment was being imported on the vessel Yacu Puma with stolen and forged documents. King had temporarily closed his business for tax reasons and became aware of the shipment when he received a bill from the shipper," Harlan Crouch of Florida-based Cocobolo, Inc.¹⁶ Mr. Crouch had apparently been contacted by an ex-employee of Amazon

Reserve and Resort offering to sell him wood, asking for payment via a money order directly to the individual.

US agents confiscated the wood on grounds that the shipment violated Lacey's declaration requirements because the buyer's import broker classified the three pallets as containing finished wood products when, in fact, the pallets contained raw wood. This misclassification, which the courts deemed to be intentional, enabled the importer to avoid having to fill out more detail about the shipment. In addition, there was substantial evidence that the ex-employee exporter did not have legal title to the shipment.




Only one boat, the Yacu Taski, carries timber from Loreto down the Amazon to ports in the US and Mexico.
© <http://www.peruvianamazonline.com.pe/>

Box I: China-Peru Tariff Discrepanies

Trade data analysis by www.globaltimber.org.uk shows that almost all timber leaving Peru declared as exports of molding (4409) bound for China is subsequently recategorized and declared as sawn wood (4407) upon arrival in China. Why? One potential explanation is that the difference in classification decreases the export taxes necessary in Peru and/or the import taxes in China, creating incentive for systematic fraud. Another possibility is that China simply does not recognize Peru's sawn wood processing as sufficient to be molding (although according to World Customs Organization rules the standards should be the same throughout the world to prevent exactly the situation in question).

Analysis of the quantity of sawn wood and moldings declared to be exported from Peru as opposed to what China declares has been imported shows another strange discrepancy. Peru is declaring exports of sawn wood and moldings roughly twice as large as what China claims it is receiving. EIA recommends that the two countries engage in customs collaboration efforts to determine what is occurring and ensure that this discrepancy does not signal fraud of some sort.¹²



Highly valuable mahogany and cedar were the first species to be exploited. Big specimens are increasingly rare and inaccessible, like this tree in the buffer zone of Pacaya Samiria National Park. January 2010. © H. Berninzon/EIA

2. SYSTEMATICALLY FAILING THE FOREST

2.1. ILLEGAL LOGGING: THE OPEN SECRET

Peru's forest sector demonstrates a systematic failure of governance at all levels, as this report shows with first-hand evidence and documented sources. The logging and export industry is dominated by a relatively small group of timber barons. With limited exceptions, these businessmen have built their trade on a system of intermediaries that stretches into the heart of the forest, to local bosses who are known to cut illegal and unfair deals with indigenous communities, operate logging camps with forced labor, and/or harvest in national parks or protected indigenous territories as well as licensed timber concessions where rules are often ignored and abused.

National laws and decisions handed down by the highest courts of Peru have been routinely flouted, with apparent impunity, in order to continue exploiting and exporting the most valuable woods. Government officials at all levels are necessarily part of this system, as are private forestry consultants, concession owners, and many indigenous community leaders. Officials who have tried to fight back have, in some cases, been dismissed, while other officials with notorious track records and charges of inappropriate conduct have been retained and even promoted.

Exporters at the top end of the chain use intermediaries to maintain a distance from what happens in the forests, turning a blind eye and - in the rare event they are questioned - claiming that they bought everything 'in good faith'. However, everyone who buys

and sells wood in Peru knows or should know how the system works. Its high levels of corruption and illegality have been openly acknowledged by government and industry themselves on multiple occasions for many years. For example, in 2010 the then-director of the National Institute for Natural Resources (INRENA), responsible for forest management, told the country's primary newspaper regarding his own agency: "The State doesn't have the capacity to monitor the forests...There isn't sufficient commitment among regional employees for monitoring. The corruption within INRENA is worse than the case of the petroaudios [a notorious corruption scandal] or whatever other thing is happening in this country."¹⁷ It's of a magnitude that's really incredible."¹⁸

Similarly, an October 2011 accord between the regional government of Loreto, a regional concessionaire's association (ACROFREL) and the government supervisory body (OSINFOR) stated that joint actions were needed "in light of the crisis affecting the industrial loggers of Amazonia, caused in great measure by illegal logging, which leads to annual losses greater than \$250 million dollars."¹⁹ These losses are 1.5 times the value of annual Peruvian timber exports according to government statistics (\$168 million).

2.2. IT'S NOTHING NEW: THE 1000 HECTARE CONTRACT SYSTEM

The current crisis in Peru's forest sector is a legacy of the institutionalized corruption and abuses set in motion by the previous legal

regime. Prior to 2000, Peru's Forestry and Wildlife Law N. 21147 authorized the granting of logging contracts for areas less than 1000 hectares for periods of two years or less. In theory, only small-scale extractors personally cutting the wood were supposed to obtain these contracts, which were non-transferable, and a person could only hold one contract at any given time. While the intent of the "1000-ha contract" system was to support local incomes without generating large-scale extractive logging, in practice a pervasive system called "*habilitación*" developed.

Under the "*habilitación*" system, industrial logging companies paid costs for individual loggers to apply for 1000 hectare logging contracts, and simply conducted the logging in their names. In some cases, companies logged the actual 1000 hectares named in the contract.²⁰ In many cases, however, the companies used the volume of wood authorized from these parcels to launder wood they had actually cut elsewhere. Much of the mahogany and cedar stolen in this way came from the lands of native peoples, including areas protected for voluntarily isolated tribes highly susceptible to diseases from the outside world.²¹ (See Box III for more on the *habilitación* system).

The disastrous mismanagement of the 1000 hectare contracts gave way in 2000 to the new Forestry and Wildlife Law N. 27308 - discussion of which had begun in 1992. The law, which had faced intense resistance from the mahogany barons, created the system of commercial concessions and permits for communities and private land owners that is under operation today. In addition, a new law was approved

in July 2011 and will go into effect once its implementing regulations are complete (see box on the new Forestry and Wildlife Law, p10). The 2011 law largely retains the same model for managing timber extraction and subsequent trade that has led to the current situation.

2.3. PREVIOUS ESTIMATES OF ILLEGAL LOGGING

An exhaustive report prepared in 2006 for the World Bank described illegal logging in Peru as systematic, characterized by criminal networks in collusion with state actors. Illegal logging is rooted in Peru's own socio-economic dynamics such as the lack of labor opportunities and basic public services in jungle regions, migration and land invasion, the marginalization of indigenous communities, and lack of access to capital, etc. But illegal logging in Peru is facilitated and amplified by an enormous no-questions-asked demand for tropical timber from global markets.³²

The World Bank report was cautious about quantifying illegal logging, but did cite various analyses conducted by others during the first half of the decade which estimated rates of illegality between 15% and 88%, and which found that illegal logging in Peru generated between \$44.5 million and \$72 million dollars annually. The report went on to state that "during the last four years, the illegal harvest and trade of wood in Peru has increased in an alarming manner."³³

At the same time that this report was being completed, INRENA itself conducted a review of concessions and communities that were authorized to harvest and sell mahogany for export. At that time, mahogany had been listed in Appendix II of CITES and was supposed to be subject to special protections. INRENA found that in 2006, 92 of the 150 concessions authorized to harvest mahogany were using fraudulent documents - and that these concessions accounted for 85% of the 17,000m³ of mahogany approved for export that year.

A diplomatic cable³⁴ written April 26, 2006, shows that the US government was aware of the extent of the problem (see p.18). Then-US ambassador to Peru James Struble warned that "much of [Peru's] exports are likely from illegal logging, violating Peruvian law and the CITES

international convention", with the US acting as the foremost buyer. The cable notes that INRENA itself unofficially estimates that "70-90 percent of all mahogany exported in 2005 originated from illegal sources" and that "since 2002, the agency's estimate of illicit exported mahogany has been 60,000 cubic meters per year."³⁵

As Stephen Corry of Survival International noted, "The [US] ambassador's cable shows the alarming extent to which the authorities were aware of illegal logging in Peru, did not admit it, and did little to stop it. Consumers in the US and Europe simply can't rely on documents that purport to show Peruvian mahogany is sustainably sourced, as these are clearly not worth the paper they're written on."³⁶

2.4. THE THREE JUNGLE REGIONS, A TROUBLED PAST

2.4.1. Loreto: Loreto is the largest region of Peru, about the size of Japan or the state of Montana and an area of incredible ecological, cultural and natural resource richness. It is the top producer of logs and plywood and home to over half of Peru's Permanent Production Forest (BPP), some 9.3 million hectares as of 2010.³⁷

Loreto is no stranger to ugly exploitation for

export markets. During the late 1800s and turn of the century, rubber barons transformed Iquitos, the region's capital, into an outpost of European extravagance on the banks of the Amazon. There were homes bedecked with hand-painted Italian tiles, an opera house, even a mansion of iron designed by Gustave Eiffel and imported in pieces from Paris. Such strange luxury was financed by the pillage of the region's forests for natural rubber for the nascent automobile industry.³⁸ An estimated 30,000 indigenous people were enslaved and forced into labor tapping trees³⁹ - a situation with parallels to the *habilitación* system of contemporary timber trade.⁴⁰ The traumas of this period are thought to have led a number of tribes to renounce further contact with the outside world and retreat into voluntary isolation.⁴¹

Often cited as the biggest city in the world with no road access, Iquitos is the capital of a sprawling region more accessible to Brazil than to Lima. Timber exits Loreto via only one of two routes: upstream or down. The most valuable wood goes through Pucallpa, but other species are processed into sawnwood or plywood in the mills of Iquitos and nearby, then sold domestically or sent down the Amazon (see p.7).



As big trees of one species become hard to find, the industry moves on to the next. Iquitos sawmill, 2012.
© Toby Smith/EIA

Box II: Peru's new Forestry and Wildlife Law: Conflict and Consultation



Protests turn violent in Bagua, 2009. © Marijke Deleu/Thomas Quirynen

On July 22nd, 2011, five days before the end of President Alan García Pérez's five-year term, the new Forestry and Wildlife Law N. 29763 was published. The law states that it will enter into force the day after the publication of its regulations in the official gazette,²² and that the regulations will be the result of "a participatory process of free, prior, and informed consultation" implemented by the Ministry of Agriculture.²³ The law also states that the regulations must be approved within a year²⁴ - that is, before 22 July 2012.

Law N. 29763 will replace Law N. 27308 and its regulations (Supreme Decree 014-2001-AG). However, since the government has not approved the new regulations - and has only recently begun the design of a consultation process that the DGFFS estimates won't conclude before November 2012 - the Law N. 27308 remains in force as of this report's writing. In any case, the two laws are substantively similar with respect to the leasing, functioning, obligations and oversight of logging concessions.

II.I. THE US-PERU FTA AND PERU'S FORESTRY AND WILDLIFE LAW

When the Government of Peru signed the Free Trade Agreement (FTA)²⁵ with the United States, finally ratified in December 2007 (see

p.22), it committed to implementing reforms in different areas of Peruvian legislation that would theoretically permit better and more transparent management of international commerce, as well as guaranteeing a set of minimum standards in the environmental and labor sectors. Some of these are laid out in a ground breaking Annex on Forest Sector Governance, which is intended to prevent "free trade" from facilitating "illegal trade" through provisions that encourage the legal use of natural forests, compliance with international treaties like CITES, stronger law enforcement and more transparent and participatory forest management. (For complete text see EIA's 2010 report, "PERU'S FOREST SECTOR: READY FOR THE NEW INTERNATIONAL LANDSCAPE?")

II.II. THE 99 DECREES

In June 2008, Peruvian President Alan Garcia finished issuing 99 different "Legislative Decrees" under the pretext of adapting Peruvian law to the requirements of the new FTA.²⁶ Many of these decrees turned out to be unconstitutional, and others were rejected by the public as worsening conditions instead of improving them.²⁷ Among the most controversial decrees were DL 1090, which in practice was a new Forestry and Wildlife Law, and DL 1064, which made it possible to convert state forest lands into private agricultural lands

through administrative re-classification of the land use type.

II.III. LEGISLATIVE DECREE 1090: 45 MILLION HECTARES OF FORESTS AT RISK

Non-Governmental Organizations that specialize in forestry and indigenous issues, the National Board of Engineers, and La Molina Agrarian University - among other institutions at the national level - warned from the beginning that the entry into force of Legislative Decrees 1090 and 1064 would immediately endanger 45 million hectares of Peruvian forest land.

In contrast to previous forestry laws, DL 1090 limited the definition of "forest resource" and "forest patrimony" exclusively to protected forests, leaving forests designated as production lands out of the new regulatory scheme. In this fashion, 45 million hectares of forest land - equivalent to 60% of Peru's forested territory and 40% of the entire country of Peru - fell outside the forestry category (and the biodiversity protection and sustainable use that it includes). Instead these lands were decreed to be part of the agrarian category, where the priority is agricultural production. In January 2009, DL 1090 was modified by Law 20317, but even so it continued to be strongly questioned.

DL 1090, Law 20317, and DL 1064 were finally revoked by the Peruvian government as a result of indigenous protests that turned into a violent confrontation in June 2009 in Bagua.

II.IV. THE CONFRONTATION IN BAGUA

Indigenous protests concerning management of the Peruvian forests and their land tenure and use rights began in December 2006, when the indigenous peoples rejected a bill proposed by the Garcia Administration widely known as "The Law of the Jungle". This proposal was ultimately rejected by Congress. But in mid-2008, when President Garcia issued the 99 Legislative Decrees, he took advantage of the opportunity to re-introduce controversial sections of the Law of the Jungle. According to AIDSEP, the largest indigenous organization in Peru, this new phase of conflict began when the

government did not comply with its obligation to consult indigenous peoples as required by ILO Convention 169 with regards to at least 9 Decrees affecting their lands.²⁸

The dimension and number of indigenous strikes, protests, and road blockades grew without the government paying much attention, until on June 5, 2009, when the order was given to forcibly remove the members of the indigenous communities affected by DL 1090, Law 20317 and DL 1064 that had staged a protest in the Amazonas province of Bagua demanding the revocation of these measures. The protest turned violent and a confrontation between the indigenous people and police left 33 dead and 200 injured.

On June 19 2009 the government revoked DL 1090 and 1064, and that same day the indigenous strike – underway since April – was lifted.²⁹ Garcia's administration also created a National Coordination Group for the Development of the Amazonian Peoples (the 'National Group') convening different sectors of the government and the two most important indigenous organizations, AIDESEP and CONAP, to address all aspects of development. This group organized itself into four Working Groups, including one (Group 2) focused on the new forestry law.

The National Group agreed that the contributions of Group 2 were to be included in the next proposal of the new Forestry and Wildlife Law. However, different opinions exist regarding the extent to which all of the recommendations were actually incorporated into Law N. 29763.

II.V. THE PROCESS FOR THE NEW FOREST LAW

In 2010, Garcia's administration committed to a more transparent and participatory national consultative process for drafting a new forest law. The Forestry Law Platform was created for this process: representatives of civil society, indigenous organizations, universities, research centers, and professional organizations were invited to participate, as well as representatives of other government agencies.

Through face-to-face meetings, email lists, and a "Google Group" (a virtual community that

permits the sharing of documents between users), the contributions of the parties interested in participating were compiled and published. During the period for open comments, the government received 112 submissions.

During the Platform's final sessions, participants acknowledged the advances made in this participatory process in comparison to previous attempts. However, they also criticized the process, whereby comments were solicited without providing an opportunity for discussion and debate that could have allowed the group to arrive at consensus regarding which issues raised were the most important for inclusion into the new law. Additionally, there was no disclosure of the criteria used by the Government to determine which contributions would be incorporated into the law. The lack of clear guidelines or processes regarding the Platform created expectations that were not met, and dissatisfaction on the part of both civil society and government concerning the Platform and the ultimate outcomes.

II.VI. THE PRIOR CONSULTATION PROCESS

According to ILO Convention 169, to which Peru is a signatory, the State is obligated to conduct a consultation process³⁰ regarding government decisions that affect indigenous peoples "with the objective of achieving agreement or consent."³¹ In this context, a forestry law should clearly be subject to consultation, but this is easier said than done. Initially the government attempted to rush the process with its new draft, which provoked immediate reactions: the indigenous organizations, Peruvian and international civil society groups, and the Ombudsman Office all called on the Government to rethink its strategy or risk exacerbating social conflicts once again.

In December 2010, twelve international organizations – including EIA – added their voices to the chorus, issuing a declaration that called the international community's attention to the deficiencies in the Forestry Law consultation process. The Government ultimately decided to extend the process for several more months with the objective of calming the furor from all sides.

Finally, on May 26, 2011, the Peruvian government declared that the consultation process had concluded. "For us it is a great satisfaction that, after two years of work by the Executive branch, the Congress and forestry stakeholders, we have been able to arrive at an important agreement and prepare together this bill that can be debated on the floor of Congress" declared then-President of the Congressional Agrarian Committee, Aníbal Huerta.

Since this law was the country's first experience with prior consultation, neither the government nor the stakeholders consulted knew exactly what steps to take or what to expect from the process. This left people with very different impressions about the process: official descriptions and some NGOs claim that it was a success, while statements from other participants – including AIDESEP – express dissatisfaction and maintain that the process was plagued with irregularities, lies, manipulation attempts, and a lack of a consensus in the end.



© Toby Smith/EIA

The recent completion of a paved road, the Transoceanica, linking Brazil and Madre de Dios to Peru's coast and shipping routes to Asia and North America, may have dramatic impacts on the forests in its vicinity. © EIA



The private sector logging industry and the forest authority that oversees it are closely linked in Loreto. One example of this troubling relationship occurred in 2007, when then-head of the Loreto Forest Concessionaires Association, Juan Miguel Rengifo Ríos, was appointed administrator of the regional forest authority office (then INRENA) and subsequently presided over an investigation involving his own concession, Forestal Capirona SAC. The inspection that Rengifo's office conducted found no fraud by the concession, even though the conclusions the field inspectors drew were highly suspect. An ecologist at the well-respected Peruvian Institute of Amazonian Research (IIAP), based in Iquitos, minced few words in describing the inspection: "Reviewing the maps I arrive at the conclusion that this concession contains an area where one cedar tree grows every 200 meters in straight lines. And that is essentially impossible."⁴²

2.4.2. Ucayali: Immigration and infrastructure - specifically, a road to Lima - have made Ucayali the center of Peru's wood processing industry and home to two of the most powerful wood export companies in Peru today: Maderera Bozovich SAC and Maderera Vulcano SAC. Batrich Bozovich, a Yugoslav émigré, set up his first sawmill in the central jungle area of Oxapampa in 1948.

Logs come into Pucallpa's sawmills from sources both legal and illegal - and by the time processed boards are loaded onto trucks bound for Lima, their origins have become virtually indistinguishable. Mahogany and cedar from Pacaya Samiria National Reserve, Alto Purús National Park and the Murunahua Territorial Reserve for Indigenous Peoples in Voluntary Isolation are known to arrive in Pucallpa's ports (See Boxes III and XIV). In early 2007, Peru's newspaper of record, *El Comercio*, revealed that a Peruvian police plane was involved in transporting illegal mahogany from Purús to Pucallpa. In an interview for the same newspaper on April 2007, the then Peruvian Forestry and Wildlife Director, Gustavo Suarez de Freitas, stated: "Personally, I am not surprised about this plane, because it has been known for years that illegal timber comes out of Purús on charter planes."⁴³

Of the various scandals that the Ucayali forest

sector has seen, perhaps the most egregious have involved drug dealing and money laundering by Luis Valdez Villacorta, the former mayor. Valdez Villacorta owned a logging operation and plywood production facility. In 2003, 523 kilos of cocaine were found hidden in his company's plywood, en route to Mexico.⁴⁴ Valdez was arrested and then released, but his drug related case is still open in the Peruvian Supreme Court.⁴⁵ Valdez Villacorta is also being tried for the murder of a journalist in 2004, who was investigating and reporting on Valdez's drug dealing and money laundering activities in Pucallpa. Due to irregularities in the process, the Supreme Court has twice annulled the entire murder case and is currently preparing to emit a sentence for the third time.

A US State Department Cable released by Wikileaks recounts the seriousness of this case. "Given that Valdez's companies employ some 3,000 people in Ucayali and his election twice as Pucallpa mayor, he enjoys strong support from the public. After his detention some 30-40 supporters blocked streets and the entrance to the airport, hoping to prevent the authorities from removing him to Lima. Analysts explained to a US state department officer that Valdez and his organization controlled the flow of drugs out of Peru to the east and northeast, primarily into Brazil. The organization used its commercial network and logistical resources to facilitate the movement out of the country of large quantities of cocaine, say those observers. Even without good estimates of the quantity of drugs the Valdez network moved, one analyst



Lieutenant Governor Julio García Agapito was killed in 2008 while detaining a truckload of illegal mahogany. His family still waits for justice. © La Republica

told poloff that Valdez's arrest was the single biggest blow to drug trafficking interests in Peru since the 2004 arrest of Peruvian drug kingpin Fernando Zevallos."⁴⁶

2.4.3. Madre de Dios: Peru's southern jungle region borders on Brazil and Bolivia, and contains world famous protected areas such as Tambopata-Candamo Reserve and Manu National Park. Madre de Dios has somewhat less Permanent Production Forest (1,935,162 ha) and lower log or sawnwood production than its neighbors Ucayali or Loreto.

Substantial illegal mahogany logging occurred in Madre de Dios in the late 1990s and early 2000s, provoking both physical violence and legal battles. In 1999, a Mississippi company named Newman Lumber Company entered into a joint venture with a local sawmill to supply some \$78 million worth of mahogany exports, with Newman financing or facilitating the construction of over 100km of illegal logging roads. After Peruvian authorities 'discovered' the situation and shut down the operations, seizing wood and declaring a state of emergency, Newman entered into a protracted legal battle with the Government.⁴⁷

A relatively recent murder in Madre de Dios shows the stakes and dangers related to the illegal timber trade. In February 2008, Julio Garcia Agapito, the Lieutenant Governor of the town of Alerta, near the Bolivian border, was killed by timber traffickers after stopping a truck carrying illegal mahogany. Garcia Agapito was shot eight times in the office of the local forest authority as he wrote his official testimony.⁴⁸ To date, no one has been charged with his murder.

2.5. THE ECONOMIC AND HUMAN IMPACTS

Peru's pervasive lack of law enforcement traps the country in a system that precludes long-term investment and does not contribute to meaningful socioeconomic development at either national or local levels. Although quantitative data are scarce, Pautrat and Lucich's attempt to estimate annual losses to Peru's economy from illegal logging found

a conservative estimate to be around US\$70 million in 2002 from tax evasion and fraud, non-payment of stumpage fees and devaluation of standing timber.⁴⁹ This study suggests what the Government stands to gain if it could bring corruption under control and impose the rule of law in remote jungle regions. However, it does not characterize the impacts of illegal timber trade on people in Peru, which while difficult to quantify are no less real.

2.5.1. Forced Labor and *Habilitación*:

Much of the logging in Peru takes place via a patronage system called '*habilitación*'.⁵⁰ While difficult to translate directly into English, the system is akin to sharecropping or debt peonage. A local intermediary, called the *patrón*, receives money from a lender or *habilitador*. In turn, this *patrón* gives cash advances to loggers at an extremely high interest rate (sometimes as much as 100%). The logger fronts the costs of timber extraction such as hiring chainsaw operators and assistants, trail-cutters, laborers, and cooks, as well as buying equipment, tools, groceries and fuel (often from the same *patrón*, at high prices). In exchange for the advance, the logger recipient must provide the *patrón* with the types and volumes of timber he has ordered by the end of the cutting season. If, by the end of the agreed time, the logger has not been able to do this, the *patrón* may continue to advance him money until he can meet the agreement in either this or the next season. These "cash advances" end up trapping the logger in a self-perpetuating pattern of debt and ongoing abuse. (See graphic, p. 19).

Under the *habilitación* system, the exporter is assured of a part of the year's wood production. At the same time, the laborers cutting the wood are separated from the exporters who finance the activity through the intermediary lender (*habilitador*) and the local *patrones*.⁵¹ The system is very effective for disguising "knowledge" by the businessmen and allowing them to state that they purchased their wood "in good faith".

Expert observers believe that the patronage system is largely a result of the lack of formal financing available from banks for logging activities in Peru, due to the many risk factors that prevent loan repayments.⁵² Without

traditional financing, and with prices for timber undercut by the flood of illegal timber, the industry is trapped in a vicious cycle of illegality, informality and abuse. The economics of the patronage system are stacked against local laborers, who frequently end in debt after a hard season's work. Logging camps may be located deep in the forest where workers must buy all basic goods at high prices from the *patrón* and are prevented from fleeing. Workers injured on the job are not provided any medical attention, insurance or benefits and are often deprived of even their minimal wages.

In its extreme form, logging activities in the logging camps and some indigenous communities working under abusive contracts meets the International Labor Organization's definition of forced labor. A 2005 ILO study found that approximately 33,000 people were working under forced labor conditions in the Peruvian Amazon, principally involved in the illegal harvest of mahogany and cedar.⁵³ (Note: the reduction in mahogany logging since 2005 has probably reduced these numbers, but EIA's investigations shows that such ugly realities are by no means a thing of the past. See Box IV, "Another Dimension of Illegal Logging").

In the most common form of forced labor, referred to as "*castigo de madera*"⁵⁴ (punishment of the wood), a logging boss (*patrón*) gives indigenous groups an advance of food or goods, such as rice, boots, or rifles, in exchange for a certain quantity of wood from their land. However, the logging boss inflates the prices of the goods provided and grossly undervalues the timber harvested by the community in order to claim that he is owed money. The boss demands that the indigenous groups pay off this "debt" by harvesting yet more wood. In its more pernicious form, the logging boss demands that the debt be paid off by working in a logging camp.

2.5.2. Impacts on Indigenous Peoples:

Indigenous community leaders have been known to sign abusive or illegal contracts with intermediaries that are not approved through legitimate community procedures. The most vulnerable communities, however, are indigenous groups who voluntarily remain isolated to avoid contact with the outside world. Some, though not all, of the lands they

Box III: The *Habilitación* System and Pacaya Samiria National Reserve

It would be hard to find a case that better exemplifies the multitude of problems inherent in Peru's logging industry than Pacaya Samiria National Reserve in southern Loreto, the country's largest protected area (at 2,080,000 ha, it is 1.5% of Peru's entire territory).

In November 2009, a park guard of the Reserve informed EIA that illegal loggers were still active in the area. "In November and December they cut the trees, and at the end of December and during January the wood is moved, taking advantage of the high waters of the river." A community source confirmed activity near the southern corner of the Reserve.



In 2010, EIA investigators visited the Reserve's southern corner, finding evidence of a long history of illegal logging of CITES-listed timber species, and first-hand accounts of the abusive labor system through which this wood has been laundered into supply chains destined for export.

After four days of travel, the investigative team set up its first camp on the side of the Rio Pacaya, six hours from its outlet in the Ucayali River. After about ninety minutes of hiking, investigators found a cedar stump, beside which were remains of chainsaw cutting that the loggers had left behind; it was estimated the tree had been cut 3 years earlier. Several hours later the team found a second stump, this time mahogany, cut 5-7 years earlier. Various pieces of discarded wood lay beside this stump, as well as old cans and a liquor bottle.

Over the course of three days, this pattern was repeated. EIA investigators found 13 cedar stumps and three mahogany stumps distributed between the strict protection zone, the restoration zone and the buffer zone of the Reserve. These stumps established a pattern of illegal logging that spanned at least the past seven years, and the amount of sawnwood left behind and wasted was astonishing. Several young cedar trees too small for the loggers were also seen.

EIA investigators found that the discarded wood left behind at stump sites was still high quality. When we asked the guide – a local man knowledgeable about logging in the area – why it had been abandoned, he stated that the patrón had dismissed these pieces because the wood was for export and they didn't comply with the demands of the export market.

This enormous mahogany tree, measuring 2.12 m in diameter and at least 20 m of commercial length, was cut down in Pacaya Samiria National Reserve. Did it end up in the US? A tree this size might produce wood worth more than \$16,000 in the US market. © H. Berninzon/EIA

Chata barges ply the rivers throughout the Amazon. This boat was loading logs at the boundary of Pacaya Samiria National Reserve (2010).
© H. Berninzon/EIA



III.I. AN ABUSIVE SYSTEM

EIA conducted interviews with local sources in order to gain a picture of how the *habilitación*, or patronage, system worked in the area and who was involved. The basic structure revolves around a local boss, or patrón, who buys wood cut in Pacaya Samiria and transports it to Pucallpa for sale. The patrón gives money to local teams of loggers, chain saw operators and transporters who do the hard work of cutting and hauling wood from the forest.

EIA was told of a local patrón who had financed the local logging teams and made himself rich with extraction of the cedar and mahogany from the Reserve. "These bosses have become businessmen now and gone to Pucallpa." "Of course they become businessmen, these bosses, since they're paying prices amounting to robbery." Many residents of the nearby community who had worked with this patrón had been cheated. One described how a friend had worked carrying wood and at times they didn't even pay him for this hard labor. The patrón's excuse was that the wood had later been seized by authorities: "The habilitadores

gave him only 100 soles [aprox US\$ 35] and owed him 4000 soles more for six months of carrying wood."

Another man told EIA that the residents of several nearby communities "live by taking wood from Pacaya Samiria Reserve". He had been a volunteer park guard and recounted watching what happened when the paid park guards seized wood taken from the National Reserve. After the seizure, he said, the patrón who had financed the wood's harvest would pay the guards 2000 soles [aprox US\$750] and they would give him his wood 'back'. He described the bad conditions of the guard posts, in some cases literally falling down.⁵⁹

Several sources told EIA that in areas like Montebello and other nearby population centers, "independent" illegal loggers extract cedar and take the wood themselves to Pucallpa in whatever boats came along. They hide the boards in the boat's storage area until arriving to the port, where traders called *regatones* come right onto the boats and buy wood on the spot.

III.II. A ZONE WHERE THE LAW MEANS LITTLE

In the buffer zone of Pacaya Samiria Reserve near Montebello, the EIA team found 4 stumps cut just the week prior to our arrival, apparently headed to Pucallpa. That same evening, EIA's team was informed that some local residents were uncomfortable with our presence because they thought EIA may have come to investigate nearby coca production. The team decided to leave for security reasons.

While returning to Iquitos, EIA's team encountered various points where wood was being piled and loaded onto boats at the edge of Pacaya Samiria Reserve. During 5 days in the Reserve's strict Restriction Zone and subsequently traveling through the Recuperation Zone, no official patrols were observed.

Box IV: Another Dimension of Illegal Logging: Forced Labor and Sexual Abuse

At its worst, illegal logging in Peru is a story of abuse of the poorest people in situations that border on slave labor and sexual slavery. EIA had direct access to the testimonies of two persons who managed to escape an encampment of illegal logging in the Yavarí River Basin in the Loreto region in 2010.

These testimonies shed light on a system of illegal logging in which Peruvian, Colombian, and Brazilian mafias act and hire openly and divvy up for their profit natural resources that should belong to all Peruvians. Survival of the fittest reigns in the camps: the chainsaw operators work daily from 6 a.m. to 6 p.m. without receiving medical attention in the case of infections or accidents, and the female cooks are often sexually abused. The pay fluctuates between US\$110 and US\$140 per month; however, money is deducted from it to pay for overpriced and required products such as rubber boots, toothpaste, or T-shirts.

For obvious reasons regarding the security of those involved, we have omitted details which might compromise their identity.

María, a single mother nearing 50 years of age, had no job. Thus, when a neighbor told her about temporary work available as a cook in a logging camp, she thought she had been presented with a good opportunity. The pay seemed good to her: 300 soles per month (approximately US\$110), above the average pay for a cook in the city of Iquitos. She would have to leave her children and move to the camp, but it would only be for three months. Unfortunately, things did not turn out as planned: six months later, she ended up fleeing.

In order to convince her to move to the jungle and leave her children, the *habilitadores* gave her 250 soles (approximately US\$90) as an advance payment. She left Iquitos and traveled one day by river to join up with other people who knew how to get to the camp. From there, she traveled by boats and foot for another five days to the middle of the jungle.

Getting there was not the most difficult part. María was the only woman in the camp and was surrounded by approximately 25 men, most of whom were between the ages of 20 and 30, and all of whom were strong enough to fell trees measuring more than one meter in diameter. María's nightmare began when she realized that the men expected her to not only cook them



"I was there for six months. I barely slept from my fear, I was always worried that something was going to happen. When I knew they wanted to attack me, I couldn't sleep." MARÍA

breakfast, lunch, and dinner, but also provide them with sexual favors.

María remembers each night as being a nightmare. "I was there for six months. I barely slept from my fear, always worried that something was going to happen. When I knew they wanted to attack me, I couldn't sleep. Thinking they were coming, I would wake up. So that they would think I was awake, I would move, I would get up, I would light my lantern, that is the way I was there, I would sleep on my side. And suddenly it was time to wake up."

The worst was that once the three months were up, one more week passed, and then another, and another, without anyone saying anything about an imminent return to the city. María spent months trapped in the camp, caught between the fear of being raped at any time and the panic of traveling through dense Amazon forest alone and getting lost or being attacked by wild animals.

After her own experience, she does not recommend anyone to accept work of this kind. "They drastically abuse the new female cooks. They would say that the female cook had to *share* with all of the male workers. That is not the way it is for me, for me all of that is

horrible, that they abuse the female cooks. More than anything, they look for people in the rural areas, *chibolitas*⁶⁰ who are around 14 years old, naïve and inexperienced with the logging mafias. 'Let's go to camp,' recruiters say, and they [the young women] go. Once they have arrived in camp, the situation changes. The boss takes the first pass at them and then he leaves the girl for all the men. If the girl doesn't want to do it, the men hurt her, they hit her arm, or her leg. A woman is just an object for the men. They take the girls whenever they want, even if the girl doesn't want it. On the ground, in the bush, I don't know. And the girl has to allow this, because she can't leave [the camp] just like that."

Work as a camp cook begins before daybreak. At 2 a.m., the cook begins to clean and cook whatever bushmeat the men have managed to hunt. Then the cook roasts the animal with a bit of *fariña* (yucca flour) or whatever she has available. All of this must be done before 5 a.m., so that by 6 a.m. all of the men have eaten and are ready to leave with their

lunch rations. "Then I was left alone there. Sometimes I would listen to the chainsaw nearby, and sometimes nothing; silence," remembers María. In order to keep the workers happy, she would offer to wash their clothes and mosquito nets. But even so, they would demand that the contractor bring another female cook to "attend" to all of them.

Cristian had already worked previously as a chainsaw operator for the same contractor, so he knew what was in store: at least 12 hours of intense physical labor every day for 400 soles per month (approximately US\$140), out of which the *habilitadores* would discount the cost of anything extra he needed while in the camp: boots, T-shirts, underwear, toothpaste. Soap and basic foodstuffs – rice or *fariña* and cooking oil – were included. But they themselves needed to hunt down their own protein in the forest, during their free time.

In the camps, explains Cristian, there is no first-aid kit. There is only paracetamol (an analgesic for moderate pain). If you have an accident, he says, they do not bother to evacuate you but rather, they leave you there. "They treat the people as if they were animals; if something happens to

them, they are left there. A friend of mine cut himself with an ax and they left him there, treating his wound with just the bark of a tree. If the family inquires, they are told, 'he already left,' he remembers. In other words, according to what Cristian has seen and heard, the *habilitadores* don't admit or assume any responsibility if the worker has an accident, dies or disappears.

After working some six months in the camp, Cristian caught an infection and had no way to treat it, so he decided to leave the camp with María. María describes the return journey: "The departure to come back here was horrible. We left with practically nothing, with a little bit of *fariña*; there was no meat, there was nothing. We were thirsty and had prepared several liters of *ungurahui* with *fariña* and *madurito* and we drank it [it is a local drink]. We also put out a little trap and caught a lot of little fish. We walked for five days in order to get to the place where we could catch the boat back. The day disappears quickly. The walk is long and the track is horrible. You sink in the swamp. You pass through streams, you go over those bridges; you can fall in, drown. We slept in the open: we would cut leaves and put them on top of the plastic, then the sheet and on top

the mosquito net. There, too, it was dangerous, the tigers could come to kill, to eat you." (Note: "tiger" is the local term used for jungle cats, particularly the jaguar (*Panthera onca*).)

Cristian and María explain that around their camp there were other camps, also presumably illegal, where other Peruvians, Colombians, and Brazilians worked. There were not fights between these camps for access to trees; instead, they '*matean*' the trees (mark them with the initials of the 'owners') and everyone would "respect" these marks. "They don't fight amongst themselves: they cannot fight, because at the end of the day, they buy timber from one another. They all have shotguns, but they are just used for hunting. They do not go out armed when they go to fell trees. No one robs them," agree María and Cristian. No one dares to.

The previous time Cristian had been in a camp cutting cumala, but this time it had been only cedar. He estimates that they cut 500 logs of cedar measuring some 12 feet in length. When he left the camp, workers were awaiting the rains so that the river would be high enough to float downstream to Colombia and possibly, eventually, the US. EIA conservatively

estimates that the quantity and quality of wood mentioned by Cristian would be worth at least \$US493,000 on the international market. A quick assessment of what was "invested" in labor to extract the wood from the forest adds up to approximately US\$20,000. To this we probably must add numerous bribes, in addition to the regular supply chain costs. Even so, it is a very profitable business and, unfortunately, one which carries very little risk.

María and Cristian agreed to tell their stories to EIA using fictional names, in order to prevent other people from suffering as they did, but they are scared of showing their faces. "They [the *habilitadores*] work with Colombians and are connected with people in Lima. If they realize it was that female cook, it was that guy, they could come straight to us and kill us. 'It was you, take this so that you will never be able to speak [about it] again.' They can break your neck. That is what we are afraid of."

Up to the last contact EIA had with these sources, they had still not received their pay for the months they had worked in the camp. The contractor had said he would pay them once he had sold the timber.



Illegal logging camp on the banks of the Guanache River, Loreto (Oct. 2011). © Toby Smith/EIA

nomadically use have been formally set aside by the state into Reserves. Logging groups' invasions into these peoples' lands places both the tribes and the loggers at risk of violent conflict and deadly diseases. In the 1990s, half of the Murunahua tribe was wiped out by flu or colds after contact with mahogany loggers,⁵⁵ while in Purús violent encounters have resulted in both loggers and indigenous people being killed.⁵⁶ Reports of such conflicts led the Inter-American Human Rights Commission in 2007 to ask Peru to implement cautionary measures to better protect uncontacted

tribes.⁵⁷ However, the problem continues; in 2009 Survival International documented forced migration of tribes across the Brazilian border to escape loggers,⁵⁸ and in 2011 renewed illegal logging of mahogany in the same territories has been seen by overflights.

2.5.3. Environmental Impacts:

Illegal logging activities, in Peru or elsewhere, catalyze a chain reaction of environmental damage. When illegal loggers enter a forest,

they are clearly not abiding by management plans, they are not respecting protected areas, and they take no measures to protect endangered plants or animals.⁶¹ They are hunting for a few selected tree species whose timber has such a high value on the international market that it is worth the risk of harvesting.

Logging in the Peruvian Amazon is a tragedy of the commons. Following the perverse logic of "grab what you can" and "do it quickly, before anybody else does", illegal loggers have for

GROWING NEXUS BETWEEN ILLEGAL LOGGING AND NARCOTRAFFICKING

12. (SBU) The narcotrafficking presence on the eastern slopes of the Andes puts even more pressure on mahogany and cedar populations. Narcotraffickers with established networks for moving coca paste and opium latex appear to be getting involved in transport of illegal timber, for both its profitability and its utility as concealment. For example, GOP officials and mining developers familiar with mine exploration activities at the northern border with Ecuador told Econoff in July that a local Mayor has been involved in both illegal logging and opium poppy production.

13. (SBU) Police in Loreto Department told Econoff in June and September that they continue to find coca paste packages hidden in mahogany and cedar shipments. The transported mahogany trunks, or stacked loads of sawn lumber, are so huge, and the number of shipments so massive that police catch only a tiny fraction of the coca that they estimate is transported from the Andes downriver to Brazil. DEA's Lima Country Office – which actively assists GOP law enforcement in eliminating the concealment of illicit drugs in wood shipments, believes that suspected shipments are large.

Stories of the links between narcotraffic and wood continue to surface. In a 2006 cable on illegal logging (released by Wikileaks), US Ambassador Struble noted that the DEA "believes that suspected shipments are large." © Wikileaks

years been harvesting the high value species from the more accessible areas of the Amazon forests.⁶² At this point, the places where substantial quantities of these precious tree species remain are mostly on indigenous community lands, protected areas – such as parks or reserves – or the most remote and isolated primary forests. These areas are also the critical habitat for threatened and endangered species, such as the jaguar (*Panthera onca*), the Harpy Eagle (*Harpia harpyja*) and the giant otter (*Pteronura brasiliensis*).⁶³

The economics of illegal logging are similar to the economics of the production of illegal drugs. The high prices paid for rare timber species on the international market, combined with the low risk of prosecution due to an absent or corrupt government, make the “investments” required for illegal logging (building roads, paying bribes to public and private authorities, designing elaborate arrangements for the transport and launder of timber onto the national and international markets) worth it.⁶⁴

The creation of transport networks by illegal loggers on otherwise inaccessible areas precedes more intensive logging of less valuable species, which leads to forest degradation and can ultimately set the stage for forest land conversion into agriculture. Deforestation and degradation destroys biodiversity, displaces the wildlife upon which surrounding indigenous communities depend on for consumption, and threatens the survival of certain species. It also causes topsoil exposure and subsequent erosion, which has a negative impact on natural waterways and can

exacerbate flooding and landslides.

Also, illegal logging camps typically obtain their protein from bushmeat; being a temporary presence, they hunt without caring whether the species is threatened or avoiding female or young animals, whose survival is critical for maintenance of healthy animal populations.

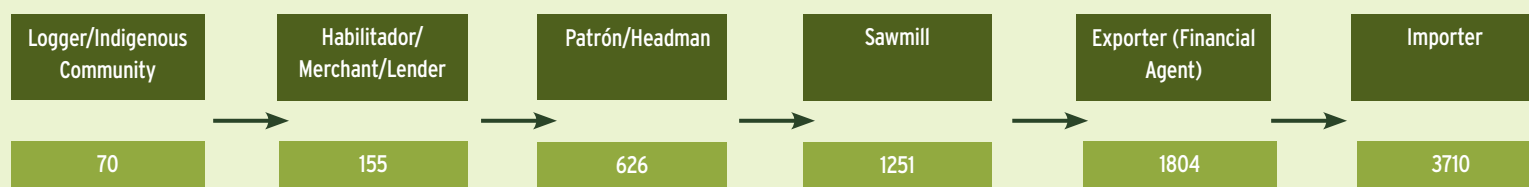
Another less widely known impact of deforestation is the increase of the incidence of malaria in surrounding towns. A recent study published in the *American Journal of Tropical Medicine and Hygiene*, referenced in a Ministry of Environment publication, states that “the conclusions of a long term field work developed on the Peruvian Amazon’s areas with different levels of degradation [...] demonstrated that on the deforested areas [...] the vector had a biting rate 278 times higher than on the forest areas.”⁶⁵ MINAM also quotes a previous study, based on documentation from 60 tropical forest areas in the world, which concluded that “the *Anopheles darlingi* [mosquito] increases its density in those areas with larger sun exposure due to the disappearance of the forest cover.”⁶⁶

Deforestation and land use change are also direct drivers of climate change. In a world every day more affected by the impacts of climate change, forests have huge value as a critical pool of carbon whose protection can mitigate the human-driven imbalance. While activities such as energy generation, industrial production and transportation release carbon dioxide (among other greenhouse gases) into the environment, the vegetation and soils of forests capture those gases and keep them out of the atmosphere. But when the trees are felled or burned, important percentages of that

carbon are released again. The balance between carbon-generating human activities and forests’ carbon storage was broken a long time ago, and international scientific community agrees that we have to take action. In this context, the rich biodiversity of Peru’s intact rainforests makes them one of the world’s most valuable places. Because of this, Peru has become the object of much interest for many multinational projects working on forest conservation and looking for ways to avoid the carbon emissions generated by their destruction.⁶⁷

According to MINAM, Peru is “one of the ten ‘mega-diverse countries’ globally, it has the second-largest area of Amazonian forest, the biggest area of tropical mountains, 84 of the 104 life zones identified on the planet, and 27 of the world’s 32 climatic zones. Of the four most important crops for the human diet (wheat, rice, potatoes and corn), Peru has high levels of genetic biodiversity for the last two. It also has an abundance of glaciers (71% of the world’s tropical glaciers) that are hugely important for human, agricultural and mining consumption as well as energy generation. These glaciers have receded 22% over the last 35 years.”⁶⁸ This is the real dimension of what is at risk in Peru from climate change and environmental destruction.

Representative Timber Price for Mahogany Through the Value Chain per Cubic Meter (US\$)



Most of the profits from logging in the current system accrue to intermediaries, exporters and retailers. Loggers and native communities see little benefit. [These figures are representative, based on data from 2008 and 2011. Adapted from Maravi et al, “Timber extraction and trade in Peru”, EFRN News (2008), with data from EIA research and W. Nalvarte A., “Evaluación del impacto del cobro por madera en pie y otras tasas sobre el manejo forestal sustentable”, hecho para la FAO, 2011.]



3. INSTITUTIONS GOVERNING PERU'S FORESTS

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3.1. INRENA AND REGIONAL MANAGEMENT

Note: refer also to glossary at end of report

In recent years, management of Peru's forest sector has been decentralized and reorganized several times. In 1992, the National Institute of Natural Resources (INRENA) was created for the sustainable use and conservation of the country's natural resources. The Forestry and Wildlife Law N. 27308, passed in 2000, specified INRENA as the "the National Competent Authority" for forests and wildlife, including regulation and supervision of forest concessions and other types of logging authorizations.⁶⁹ A year later, INRENA's regulations⁷⁰ established that its General Directorate of Forests and Wildlife (DGFFS in Spanish)⁷¹ should have offices at the local level, and 29 so-called Technical Administrations for Forest and Wildlife (ATFFS) - regional offices - were created throughout the country.⁷²

The head of each ATFFS or regional office, the "Technical Administrator", was appointed by INRENA in Lima, and several regulations laid out the roles that these entities and officials would play.⁷³ These included:

1. Approving General Forest Management Plans (PGMFs) for concessions
2. Granting forest use permits and

authorizations for logging in community or private lands (not considered 'concessions' and subject to distinct regulations)

3. Issuing transport permits (GTFs) for timber and wildlife
4. Imposing sanctions on those who break forest and wildlife laws.

Three years later, the ATFFS offices were also given the power to approve the Annual Operating Plans (POA) of timber forest concessions within their jurisdiction.⁷⁴

3.2. DECENTRALIZATION TO THE REGIONS

In 2006 and 2007, many of INRENA's powers

were formally transferred to the Regional Governments as part of a larger process of decentralization in Peru.⁷⁵ IN 2008, INRENA was eliminated altogether, and what remained of its resources and functions at the central level was consolidated into a revamped DGFFS, this time within the Ministry of Agriculture.⁷⁶ DGFFS in turn has three sub-directorates responsible for different aspects of regulation, administration, information collection, promotion and control.⁷⁷

Under the decentralization process,⁷⁸ the Regional Governments were given powers and responsibilities that included "the development of oversight and control actions to guarantee the sustainable use of the natural resources under their jurisdiction" and the authority to



While the laws and names of institutions may have changed, many of the problems in the forest sector remain the same. © Toby Smith/EIA

"grant forest permits, authorizations, and concessions in areas within the region, as well as carry out promotion and oversight actions in strict compliance with the national forestry policy." Such a transfer, of course, could not happen overnight. Since 2009, DGFFS has gradually transferred authority to the Regional Governments of Loreto, Ucayali, Madre de Dios, San Martín, Amazonas, and La Libertad. In other regions, ATFFS offices continue to operate until the transfer of function can be completed.

The Regional Governments, in turn, have created institutions within their own structures to take charge of the new functions. For example, the Regional Government of Loreto (GOREL) created the Program for Forest and Wildlife Resource Management (PRMRFFS), operative since January 1, 2010, which performs most of the same functions that the ATFFS did before under Lima's direct supervision.⁷⁹

3.3. NEW LAW, NEW INSTITUTIONS

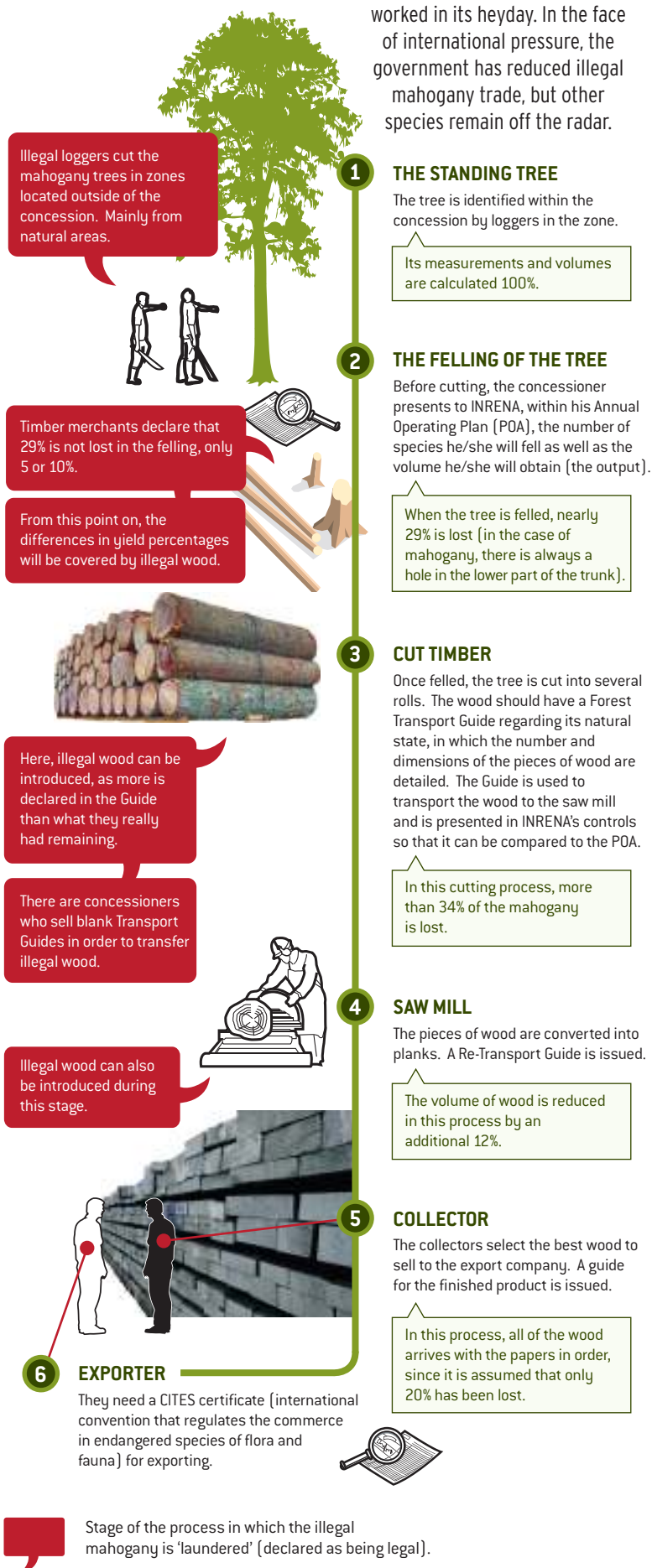
The new Forestry and Wildlife Law, Law 29763, which will enter into force once its regulations are complete (see box "The new Forestry and Wildlife Law"), creates a National System of Forest and Wildlife Management (Sinafor). This System is meant to integrate all the various ministries, entities and public institutions at national, regional and local scales that play a role in management, including local and regional governments as well as the management committees of various forests. The Law also establishes within the Ministry of Agriculture a National Forest and Wildlife Service (Serfor), which will be considered the national authority as well as the secretariat of Sinafor. The DGFFS will eventually be absorbed into Serfor's structure.

3.4. OSINFOR BECOMES INDEPENDENT

The "re-launching" and strengthening of the Supervisory Body for Forest and Wildlife Resources (OSINFOR) was a measure taken by the Peruvian government as one of its commitments within the framework of the US-Peru Free Trade Agreement.

OSINFOR was originally created in 2000 by Forestry and Wildlife Law N. 27308. (At that time, it was called the Supervisory Body for Timber Resources). For years it was housed under INRENA and financed by revenues from timber harvesting, a structure that created perverse incentives and institutional pressures for an entity charged with monitoring logging activities. In 2008, OSINFOR was substantially reformed by Legislative Decree 1085, broadening its functions and increasing its budget, as well as making it more independent by giving it a place within the Presidency of the Council of Ministers (PCM). (Decree 1085 was one of the less controversial decrees resulting from the "99 decrees" process, see Box II.)

OSINFOR's critical role in the forest sector is to conduct "supervisions", as they shall be called in this report; these are field visits by officers charged with inspecting the forestry practices of concessionaires, private land owners or communities to see whether they comply with their own annual operating plans (POAs) as well as regional or national regulations. If OSINFOR finds infractions, it has the authority to suspend activity in the concession or community while the forest authority conducts further investigation. OSINFOR, too, has undergone a process of decentralization to the regions over the last few years.





CONVENCIÓN SOBRE EL COMERCIO INTERNACIONAL DE ESPECIES AMENAZADAS DE FAUNA Y FLORA SILVESTRES

PERMISO/CERTIFICADO N°

- ☒ EXPORTACIÓN
☐ REEXPORTACIÓN
☐ IMPORTACIÓN
☐ OTRO

International trade in species regulated under CITES requires species permits

Original

2. Válido hasta el
09/06/2009

3. Importador (nombre y dirección)

BTP INC
126 Salter St. Evergreen Al. 36-401

4. Exportador/reexportador (nombre, dirección y país)

MADERERA BOZOVICH S.A.C.
Calle Marie Curie 451 Urb. Santa Rosa, Ate Vitarte

3a. País de la importación

ESTADOS UNIDOS.

LIMA- PERU


Firma del solicitante

4. THE INTERNATIONAL POLICY CONTEXT

Several significant international and bilateral policies influence forest management and trade in Peru. Because of their provisions, the consequences for ongoing illegal logging and corruption have diplomatic, financial, and legal implications far beyond the forests.

4.1. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES)

In force since 1975 and ratified by 175 Parties, the CITES treaty seeks to ensure that international trade in animal and plant species or derived products does not endanger their survival. Species protected under CITES are subject to controls on their import, export, and re-export under a licensing system managed by a Management Authority in every country.⁸⁰

Protected species are listed in one of three appendixes. Species listed on Appendix I of the Convention are effectively banned from international commercial trade. Species listed on Appendix II can be exported only if they were legally obtained and “the export will not be detrimental to the survival of the species”. All range states, or countries whose territories are home to protected species, are required to use scientific information to establish these ‘non-detriment findings’ and set an export quota. Species in Appendix III are placed there by individual range states themselves, unilaterally, as recognition that a particular species or population within their borders is threatened. Appendix III species can only be exported if they were legally obtained. All importing countries, for their part, are required to monitor trade to ensure that shipments

of CITES-protected animals and plants are accompanied by legitimate licenses.⁸¹

Big-leaf mahogany (*Swietenia macrophylla*) was listed on Appendix II of CITES in 2002. Peru has also listed Spanish cedar (*Cedrela odorata*) on Appendix III. After the mahogany listing, Peru’s lack of scientifically-based non-detriment findings, combined with its authorization of export permits for laundered, illegal wood, became a subject of intense debate within CITES for several years. In 2007, Peru agreed to dramatically reduce its export quota and implement a range of recommendations, including adoption of a “Mahogany Strategic Action Plan”.

Subsequent supervision by the CITES Secretariat, regular reports to the Plants and Standing Committees, and new recommendations in the intervening years all indicate that progress has been made but is still partial. In March 2010, the Secretariat “expressed concern that Peru had achieved formal or ‘paper’ compliance but not necessarily real ‘on-the-ground’ compliance with the Standing Committee’s recommendations.”⁸² In July 2011, the Standing Committee considered but declined to recommend a complete suspension of trade in bigleaf mahogany from Peru, instead recognizing the country’s progress in management and recommending further monitoring and reporting.⁸³ The same month, a Peruvian organization published its latest report documenting new illegal mahogany logging in a reserve for the voluntarily isolated Murunahua people, calling into question Peru’s ‘on-the-ground’ compliance once again.⁸⁴

A proposal to list cedar (*Cedrela odorata*) on CITES Appendix II in 2007 was rejected by range states which agreed to study the issue further. The proposal noted illegal trade in Peru, among other countries.⁸⁵ While this listing was discussed again at the 2010 Conference of the Parties, no proposal was put forth.

If a Party is clearly failing to meet its obligations under CITES, there are a variety of increasingly strong measures that can be taken at an international level, including a temporary ban on exports. In addition, each country has its own laws for dealing with violations by traders. In the United States, CITES is implemented by the Endangered Species Act, and penalties for non-compliance include seizure of goods.

4.2. US-PERU TRADE PROMOTION AGREEMENT

In 2007, the Democrat-controlled US Congress struck a deal with President George W. Bush’s administration to re-negotiate environmental and labor provisions in several pending free trade agreements (FTAs, sometimes officially called ‘trade promotion agreements’). One of these was with Peru. Peru agreed to several important changes, among them a requirement to fulfill all obligations under multilateral environmental agreements including CITES, and an addendum called the Annex on Forest Sector Governance (Chapter 18.3.4). The Annex was crafted in response to the heavy debate over Peru within CITES at the time, and contains a series of binding obligations related to management and trade of CITES species as well as overall forest governance. Each Party “commits to combat trade associated with

illegal logging and illegal trade in wildlife” and “commits to take action under this Annex to enhance forest sector governance and promote legal trade in timber products.”

If evidence of illegal timber entering US trade streams is found, the US government has the discretion to decide what sanctions will be taken. The Annex states that sanctions may include denying entry to shipments and even, “where an enterprise has knowingly provided false information to Peruvian or United States officials regarding a shipment, denying entry to products of that enterprise derived from any tree species listed in Appendices to [CITES].”⁸⁷

Finally, it is worth noting that the main Environment Chapter (Ch. 18) of the FTA provides that neither Peru nor the US shall waive or derogate from their environmental laws in a way that “weakens or reduces the protections afforded in those laws”, nor “fail to effectively enforce its environmental laws [...]”

Most provisions of US-Peru FTA came into force in January, 2009, when it was certified as “ready” by the US Trade Representative’s office on the final day of the Bush Administration. The Annex on Forest Governance theoretically came into force 18 months later, in July 2010. But by the end of July 2010, it was clear to most observers that Peru was far from being in

compliance with the Annex.⁸⁸ Both the US Trade Representative and members of the US House of Representatives issued strong messages about the consequences of non-compliance and urged Peru to resolve the situation as quickly as possible.⁸⁹

A group of 19 Peruvian and American civil society organizations, meanwhile, released a letter stating: “we would like to reiterate our support for the process of forest sector reform and call upon both countries to develop a plan and reasonable timeframe for the Peruvian government to meet its commitments under the [FTA]. We strongly believe that the United States should take action if this plan is not implemented within the agreed-upon period of time.”⁹⁰

Box V: The Annex on Forest Sector Governance

Amongst the provisions in the Annex, Peru agreed to:⁸⁶

- Increase enforcement personnel in protected areas and implement an anti-corruption plan for forestry officials;
- Establish adequate penalties for a variety of forest sector crimes;
- Implement a series of technical studies and measures required by CITES;
- Improve administration and management of forest concessions, including conducting physical inspections of any concessions cutting CITES-listed species “prior to approving or verifying an operating plan”;
- Make verification reports and annual operating plans publicly available;
- Develop systems to “reliably track specimens [of CITES listed species] from harvest through transport, processing and export”;
- Establish OSINFOR as an independent and separately funded supervisory agency ;
- Take the views of local and indigenous communities, NGOs, and companies into account in forest management, and “strengthen,

protect and increase the capacity of indigenous communities to manage their lands for commercial timber production”.

The Annex also created two specific mechanisms for supporting enforcement and deterring illegal trade:

1. Audit procedures: the United States may request that Peru conduct an audit of a particular producer or exporter evaluate its compliance with relevant laws, regulations and measures, and provide a written summary of its findings to the US.
2. Verification procedures: the United States may request that Peru certify whether “with respect to a particular shipment of timber products from Peru to the United States, the exporter or producer . . . has complied with applicable laws . . .” Verification requires that Peru visit the premises of all enterprises “in the chain of production or transportation for the timber products” unless the Parties otherwise agree. The United States may seek to have its own officials participate in this visit as well.

4.3. THE US LACEY ACT & EU TIMBER REGULATION

On May 22, 2008, the U.S. Congress passed a groundbreaking law banning commerce in illegally sourced plants and their products, including timber and wood products. The new law is actually an amendment to a 100-year-old statute governing wildlife and fish, called the Lacey Act. The amended Lacey Act now does three main things: ⁹¹

1. prohibits all trade in plant and plant products (e.g., furniture, paper, or lumber) that are illegally sourced from any U.S. state or any foreign country - where “illegally sourced” is defined by the laws and regulations of the country of origin;
2. requires US importers to declare the country of harvest and species name of all plants contained in their products;
3. establishes penalties for violation of the Act.⁹²

The Lacey Act’s civil and criminal penalties vary according to how much the company or individual knew about the crime, whether they exercised “due care” in establishing the product’s legality, and the value of the good or shipment in question. The highest possible penalty (only in cases of prior, proven knowledge of illegalities) includes up to five years in prison and \$500,000 fines. At the low end, if the shipment contains illegal material, it can be seized regardless of whether the

Box VI: The Peru Forest Sector Initiative (PFSI)

The US Forest Service's (USFS) International Programs office was created to advance US issues in international forums, increase market transparency, and promote trade in sustainable forest products while improving law enforcement activities. USFS International Programs is funded largely by USAID and works in approximately thirty countries around the world. In Peru, USFS has committed substantial resources to the Peru Forestry Sector Initiative (PFSI), which assists the central government in compliance with the US-Peru Trade Promotion Agreement.

According to the US Forest Service's website, *"the collaboration in Peru focuses on the development of an information and control system for chain of custody for CITES-listed species, support for population studies for mahogany and cedar, design of forest inventories, specialized expertise*

in yield determination and methodology, development of skills in forest and wildlife management, organized design and training to regional governments, anti-corruption plans for the forest sector, and environmental investigation and prosecution training."

In particular, the forest information and control system will assist with chain of custody compliance standards for CITES. The hope is that the new system will help to deter the falsification of harvest records, facilitate detection of fraud, and make information transparent and publically accessible. In addition, PFSI is working closely with groups in other countries such as Brazil to promote communication between key stakeholders, supporting lessons learned experiences between central players concerning emerging policies.⁹¹

importer - knew about it or not. One of the few seizures made under the Lacey Act thus far involved a wood shipment from Peru (see section 1.2).

The concept of due care lies at the heart of the Lacey Act. In essence, companies suspected of violations will be evaluated by the US government for whether, in conducting their due care before buying, they should have known that the wood products in question "were taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any underlying law, treaty or regulation." What, then, constitutes "due care"? There is no one standard. The concept is flexible, and evaluated differently depending on factors such as the size of the company, the riskiness of the source country, the amount of information available publicly, and current tools and best practices used within the industry. For importers buying

timber from a country like Peru, whose high risk for illegal sourcing has been established repeatedly in publicly available sources over the past fifteen years, one might assume that a higher level of due care would be expected by the US government.

The US is no longer the only country to have an enforceable ban on import, export or trade in illegally sourced wood products. The European Union passed its own such legislation in November 2010,⁹³ and Australia is likely to pass a similar statute in 2012.

4.4. REDUCING EMISSIONS FROM DEFORESTATION AND FOREST DEGRADATION (REDD)

The concept of financing developing countries to reduce the carbon emissions from

deforestation and forest degradation (REDD or REDD+) has taken hold since first being endorsed by Parties to the UN Framework Convention on Climate Change (UNFCCC) in Bali, Indonesia in 2007. There is still substantial disagreement on an international level regarding how such a mechanism would work and how it would be financed. There are also significant concerns about the consequences that REDD might have for indigenous peoples' territories and rights.⁹⁴ Even so, the idea has already spurred development of both numerous private projects and "REDD readiness" bilateral and multilateral initiatives.

Peru, as the country with the world's fourth largest expanse of tropical forest, is a major target of REDD interest and donor dollars. Between loans, grants, and projects there are around US\$150 million slated to flow into Peru over coming years for forest conservation and management. Two separate World Bank processes, the Forest Carbon Partnership Facility (FCPF)⁹⁵ and the Forest Investment Program (FIP),⁹⁶ are facilitating Peru's development of a national REDD strategy and subsequent implementation. The early process around this strategy has proved contentious, particularly among indigenous representatives who assert that they have not been sufficiently consulted and that the plans ignore the importance of land titling to protect forests. Nonetheless, Peru's initial grant from the World Bank was approved in 2010.

Illegal logging and forest sector reform are minimally discussed within the preparatory documents for REDD readiness work.⁹⁷ There has been extremely poor coordination between the Ministry of Environment (MINAM) which is charged with leading REDD processes, and the Ministry of Agriculture, where the forest authority is housed. This disconnect is likely to cause problems in creating a coherent and effective strategy. Moreover, unless Peru and its international donors acknowledge the systemic failures of governance in the current forest sector and judicial system, it is unlikely that any REDD strategy will be successful.

Box VII: Logging a Concession, on Paper

Under both the old and new Forestry and Wildlife Laws, to extract wood from a forest for commercial purposes, the would-be logger must first obtain a forest concession from the Government through one of the periodic public auctions. The next step is to prepare a General Forest Management Plan (PGMF) to project what trees are expected to be extracted over the next five years and where. Once the PGMF has been approved, the concessionaire must submit an Annual Operating Plan (POA) for each year of operation, stating which trees are going to be harvested.

While a forest concession in Peru normally measures between 5,000 and 40,000 hectares, the concessionaires cannot extract wood when and where they please. The concession, by law, must be sub-divided into smaller areas, generally measuring about 400 or 500 hectares, which is the entire area that can be utilized for logging during any one year and is known as an Annual Logging Parcel (PCA). Each PCA, in turn, must be logged in accordance with an Annual Operating Plan (POA), and in practice the term "POA" is generally used for both the physical area and the paper plan.

The POA must be prepared and signed by a forest engineer contracted by the concessionaire who is officially registered with the National Board of Engineers of Peru, as well as being registered in a database that the Forest Authority maintains. In the POA, the applicant must present the results of the harvest "inventory" carried out in the field, including a list of trees to be harvested (*árboles aprovechables*) and 'seed trees' (*semilleros*) that will be left standing for the purposes of future reproduction, and identifying the species, DBH, estimated volume, and exact GPS coordinates of each. Should a POA contain an endangered species, such as mahogany or cedar, an official from the Forest Authority must conduct a prior field inspection (*Inspección Ocular Previa*) in order to confirm the trees' existence and verify the accuracy of the information included in the POA.

A Forest Authority official will review the POA information and compare it with the results of the prior field inspection, and will approve a specific number of trees and volume that may be extracted in that area (PCA) over a specified year-long period known as the harvest year or 'zafra'.

The local Forest Authority issues an Administrative Resolution (*Resolución Administrativa*) approving the POA.

As of that moment, the concessionaire may begin to cut and sell wood. Each time a concessionaire removes timber from his concession, it must be accompanied by a document known as the Forest Transport Permit (GTF or *Guía*), which details among other information the species and volume of the material and its place of origin. The GTFs are issued by concessionaires, and checked by regional Forest Authority offices whenever wood is transported. Through the information provided by these permits, the Forest Authority registers the cumulative volumes of timber taken from a concession each year in another document known as the 'Balance of Extraction.'

The "Balance of Extraction" works similarly to a savings account. Once the POA is approved, the concessionaire has a "favorable balance" specifying the number of trees and the total volume of each species that may be extracted and sold during a given harvest year. As wood is extracted and transported to sawmills, the volume is "withdrawn" until the "balance" reaches zero or the *zafra* time period expires. Once the balance of a particular species is exhausted, the concessionaire cannot legally transport any more wood of that species. If by the end of a *zafra*, significant volumes of one or more species have not been extracted and sold, the concessionaire may request the right to "re-enter" the concession and continue logging a POA that has technically expired. This request has to be specifically analyzed and evaluated by the Forest Authority.

As an additional monitoring mechanism, the Supervisory Body for Forest Resources and Wildlife (OSINFOR) - an independent oversight entity attached to Presidency of the Council of Ministers - carries out post-harvest field inspections of select concessions, known as supervisions, to ensure that the wood sold by the concessionaire was, in fact, harvested from the Annual Logging Parcel declared in the POA, and that the concessionaire is acting in a legal, socially and environmentally responsible fashion.

Unfortunately, as this report shows, in practice these procedures are often ignored or not followed, and the officials who enforce them are also often ignored or bought off.

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				09:16:02	
		* Balance de Extracción *			
Nº. Doc. TODOS				406295391	
Nº Documento	Titular	Modalidad	Fec.Inic.	Of. Asignada	Estado
Zafra	Representante	Especie	Fec.Exp.		
POA	Producto		Nº Árboles	Autorizado	Extraído
					Saldo
16-REQ/C-J-038-04	Operaciones Y Export. Amazonicos	22/06/2004			Activo
	Francisco Mantuano -	Concesiones	30/06/2044	Sede Requena	/ /
Area	458,720 Ha. Plan Operativo Anual	R.Aprob.:			
3	MADERA EN ROLLO	Parahancornia amapa (Naranja podrido)	40	137.000	0.000 137.000
3	MADERA EN ROLLO	Quararibea cordata (Sapote)	55	159.000	0.000 159.000
3	MADERA EN ROLLO	Simarouba amara (Marupa)	153	549.000	0.000 549.000
3	MADERA EN ROLLO	Virola sp (Cumala)	350	1279.000	0.000 1279.000
3	MADERA EN ROLLO	Quararibea asterolepis (Zapotillo)	66	182.000	0.000 182.000
Total POA:			2069	7853.000	611.382 7041.618
Total zafra: 2006			2069	7853.000	611.382 7041.618

The Balance of Extraction document works like a saving account, keeping track of wood "harvested" and sold.

5. HOW TIMBER TRADE "SHOULD"

Illegal Logging

No Regulation, happens in indigenous lands, national forests and protected areas



1

Access Rights: Communities/Concession



LEGAL PRACTICES

Community has title

Concession: Obtained through public auction system

POTENTIAL PROBLEMS

Community has no title

Concession: Permit is used to transport wood from another site (state lands, protected areas, etc)

2

Contracts with Third Party Loggers

LEGAL PRACTICES

Contract for logging is approved by the community's council (Asamblea) following correct procedures (e.g. quorum)



POTENTIAL PROBLEMS

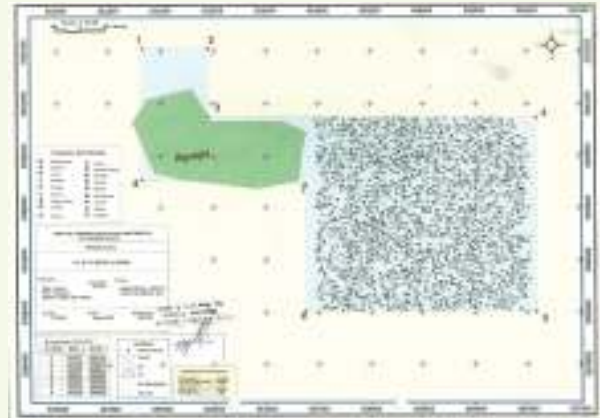
Community members do not know about the contract as it was approved through manipulation of leaders or economic interest

Contractual terms set prices extremely low and leave communities legally responsible for all illegal practices

No contract exists between concession owners and operators that conduct the felling

4

Annual Operating Plan



LEGAL PRACTICES

Drawn up and signed by forest engineer registered with Forest Authority

Approved by regional Forest Authority, based on field inspection, if there are no CITES species inspection may take place after approval

Field verification prior to harvest, if CITES species are included in harvest plan

POTENTIAL PROBLEMS

Created without necessary fieldwork for CITES species (falsified)

Harvest of cedar or mahogany is approved without field inspection (falsified)

False approval of paperwork

Volumes of commercially valuable species falsified in order to "sell volumes" later

3

General Forest Management Plan



LEGAL PRACTICES

Drawn up and signed by forest engineer registered with Forest Authority

Approved by regional Forest Authority

POTENTIAL PROBLEMS

Created without necessary fieldwork (falsified)

Location of trees (GPS coordinates, maps) invented

Volumes of commercially valuable species falsified in order to "sell volumes" later

WORK - AND WHAT GOES WRONG

© Illegal logging (H. berninzon/EIA); GFMP (Toby Smith/EIA); logging (H. Berninzon/EIA); Sawmill (Toby Smith/EIA)

5
Logging



LEGAL PRACTICES

POTENTIAL PROBLEMS

Harvest according to regulations established to protect ecosystem, reduce waste, etc.

Chain saw used to make sawn wood in forest rather than bringing logs to mill

Harvest according to plans indicated in POA

Cutting done too close to waterways

Trees designated as "seed trees" in Management Plan or POA (Step 3/4) are cut down

Harvest only within POA area

Cutting in zones outside of POA

Loggers measure volumes honestly and pay community fair price for wood cut

Loggers understate volume of wood cut and species value, and pay community extremely poor prices

6
Transport to Sawmill



LEGAL PRACTICES

POTENTIAL PROBLEMS

Valid GTF (permit for transport from origin) and lists of species/volumes accompanies logs

GTF is duplicated or falsified

Only wood from authorized forest is transported with valid permit

Permit is used to transport wood from another site (state lands, protected areas, etc)

9
Export

LEGAL PRACTICES

POTENTIAL PROBLEMS

If a CITES species, a valid CITES permit issued by forest authority accompanies shipment

Wood lacks CITES permit
CITES permit does not indicate concession or community of origin

Export company is legal and registered entity

Company does not have legal status

Appropriate export duties and fees are paid

Export totals are underestimated to avoid taxes

Species and value are underestimated to avoid taxes



8
Transportation from Sawmill

LEGAL PRACTICES

POTENTIAL PROBLEMS

Unique GTF (forest transportation permit) issued by Forest Authority accompanies logs

GTF is duplicated or fabricated
GTF is illegally sold

7
Sawmill



LEGAL PRACTICES

POTENTIAL PROBLEMS

Wood is registered in "Operations book" when it arrives at sawmill

Operations book is not filled out

Wood sawn is of known origin and corresponds to GTFs

Wood of unknown or illegal sources is mixed with known sources

Annual harvest fees paid (formula by volume and value of wood logged)

Appropriate fees are not paid



6. HUNDREDS OF SHIPMENTS: THE US-PERU TRADE IN ILLEGAL WOOD

© EIA

Between 2008 and 2010, at least 100 of the CITES permits that were issued for mahogany and cedar exports from Peru to the US included timber which exporters declared as having originated in concessions where the Supervisory Body for Forest Resources and Wildlife (OSINFOR) found evidence of significant illegal activity by concession owners or their contracted loggers. The illegalities identified by OSINFOR included falsification of up to 100% of forest inventories, misuse of permits to launder illegally extracted timber, unlawfully felling trees in the loggers' own concessions, or a combination of the above.

EIA investigated these concessions and documented illegalities by relying on information from two types of official documents obtained from Peruvian authorities through requests for access to public information under Peru's Transparency and Access to Public Information Law N. 27806: export permits issued by Peru under the Convention on International Trade in Endangered Species (CITES), and results from on-site "supervision" inspections of many concessions where *legal* logging allegedly had been conducted. As part of our work, we generated two databases based on the official government data. One database (EIA-CITES) contains information about CITES export permits issued between January 2008 and May 2010, an essential requirement for anyone wishing to export mahogany or cedar from Peru to any country in the world. The second database (EIA-OSINFOR) tracks the results of supervision visits to forest concessions conducted by OSINFOR during approximately the same time period. EIA has made all of

these documents publicly available online at the website for this report. For additional information regarding the process of creating the databases and the information they contain, please see: "6.3. The Databases."

The exporting companies whose shipments to the US are connected to areas of questionable logging activity are found in Section 6.5.1, organized by the number of problematic CITES export permits. They include: Maderera Bozovich SAC, Maderera Vulcano, Transforestal CCC SAC, Comercial JR Molina SAC, Industrias Blanco SAC, and Peru Traders Inc, among others.

The US importing companies include BTP Inc (a subsidiary of the Bozovich Group that owns Maderera Bozovich SAC), North American Hardwood Products LLC, Maderera Gutiérrez y Hernández Ltda., and TBM Hardwoods, among others (see Section 6.5.2).

6.1 ANALYSIS OF THE INFORMATION

As described in the Box VII: "*Logging a Concession, on Paper,*" every concessionaire must have an Annual Operating Plan (POA) approved for the parcel he intends to log that year. This POA must include, among other things, a detailed inventory of trees to be harvested, specifying their measurements (diameter at breast height [DBH], estimated timber volume) and GPS coordinates.

The function of Peru's forestry oversight body, OSINFOR, is to perform site visits to a selection of POAs which have recently been logged. OSINFOR notifies the concessionaire in advance of these supervisions visits; according to OSINFOR's response to EIA's

request for information, the agency selects which concessions it will visit each year randomly, and adds in particular concessions under suspicion for various reasons. During the course of the supervisions, OSINFOR officials are required to inspect the extraction-related activities which have been carried out, assess the degree of compliance with regulations and environmental commitments, and verify the existence and measurements of a sample of trees located at or within 50 meters of the GPS coordinates which the concessionaire specified in the POA. If a tree was harvested, evidence such as a stump should be found. In addition, the supervisor must compare the data collected from the field with the volumes that have been reported and included in the running totals of the trees taken from the concession in the Balance of Extraction (see Box VII for an example of this document). Utilizing all of this documentation, the OSINFOR official prepares the Supervisory Report.

Based on an analysis of the summaries of the Supervisory Reports in the EIA-OSINFOR database, we identified over 200 concessions with different degrees of problems including false inventories, timber laundering, and illegal logging. It is entirely possible that additional concessions having problems identified by OSINFOR have not made it onto this list. (See 6.4 "The Scope of the Report.")

Next, EIA compared this list of problematic Supervision Reports to the "EIA-CITES" database, specifically with the information regarding the timber's concession of origin, focusing on permits that had been used for exports to the United States. This resulted in the identification of over 100 CITES permits

that had been issued and used for wood which, according to the paperwork, came from concessions where OSINFOR identified evidence of serious illegal activity.

6.2. Evidence of the Illegality

All of the shipments identified by EIA are connected to concessions where OSINFOR's supervision visits uncovered serious irregularities. In about one-third of the cases, the export documentation indicates that the cedar or mahogany came from precisely the same POA that is the focus of OSINFOR's report.

This means that the wood that arrived in the US came, in theory, from a site where, when OSINFOR went to the forest, *they found no legal logging*. In most cases, the concessionaire had falsified his inventory to literally invent a "volume" of timber of the desired species from thin air. For example, on a concession with no cedar, documentation is submitted to the Forest Authority stating that there are 100 harvestable cedar trees. The concessionaire would then be authorized to issue invoices and receive Forest Transport Permits (GTFs) for this much cedar, and get them registered in the Balance of Extraction that will eventually show he cut and sold close to 100% of the volume he was authorized to sell. How does this occur? One likely explanation is that the concessionaire in fact sold his GTFs on the black markets for "volume", to be used by a broker to provide "legal" documentation for illegally logged trees from somewhere else. Another possibility is that the concessionaire used his GTFs to launder his own illegal logging.

So if OSINFOR's site visit found that no trees were felled in the POA in question, time after time, where did all of the cedar and mahogany exported to the US come from? Perhaps from a national park. Perhaps from areas reserved for uncontacted peoples. Perhaps from the national forest land not slated for logging. Regardless of origin, if it was not extracted from the POA in which it was declared, the wood was illegally harvested. As such, its sale is illegal in Peru and in the US.

In some cases, the documentation associated with a shipment indicates that the wood came from the same concession that OSINFOR supervised, but a different POA. In such cases, the available information is not sufficient to

demonstrate definitively that the exported timber was of illegal origin. However, as the wood is associated with a concession that had committed grave irregularities in another POA just a year before or after, there are strong indications and a high probability of illegality. A simple field inspection by the Peruvian government or the woods' buyers could lay these doubts to rest.

6.3 THE DATABASES

6.3.1. The EIA-CITES Database

Both mahogany and cedar are included in the Appendices of CITES (see p. 22 for more on how CITES works). Anyone wishing to export these species from Peru must meet specific requirements in order to obtain an export permit, including declaring the place where the wood originated. EIA submitted a request of public information to the Peruvian authority in charge of the CITES permits.

The "EIA-CITES" database subsequently generated by EIA based on this official documentation contains the date and code for each CITES permit, along with the name of the exporter, name of the importer in the country of destination, the species exported and its volume, the place of extraction of the timber (concession or indigenous community permit), and the harvest year of extraction (zafra). It also includes the names of the "owner" and "recipient" of the wood, which are the names that appear on the GTFs who in practice are the individuals or companies that act as intermediaries between the concessionaire and the exporter.

EIA encountered significant obstacles in obtaining this theoretically public information (see Box IX: "Resisting Transparency").

6.3.2. The EIA-OSINFOR Database

EIA also submitted a request for information to OSINFOR regarding the list of supervision visits to forest concessions carried out between 2008 and 2011, including the name of the concession holder, number of the contract, region where the concession is located, and main results or conclusions stemming from their inspections.

The "EIA-OSINFOR" database, prepared by EIA with official information produced by OSINFOR, contains the supervision code, names and numbers of the concession contracts, types of concessions (timber, Brazil nut, etc.), and a summary of the conclusions of the Supervisory Reports. Again, see Box VIII: "Resisting Transparency" to understand the obstacles EIA encountered in this process.

6.4 THE SCOPE OF THE REPORT

This report does not address the entire universe of concessions at the national level. There may be many more concessionaires, intermediaries, exporters, importers, and government officials that are acting outside the law but not mentioned here. Some of the limits to the data sets that EIA analyzed are:

- Missing data. In many cases, OSINFOR did not provide EIA with a summary of the conclusions of the supervision visit and as such, it is impossible to know if the inspected concession complies with or blatantly violates the law.
- Discrepancies between full reports and summaries. In some cases where, in addition to the summaries provided by OSINFOR, EIA obtained access to the full Supervisory Reports, we have found that the summaries often do not reflect the real level of violations and illegalities identified in the report. Therefore, it is possible that we have not paid sufficient attention to cases in which the illegalities are more serious than they appeared in the summaries provided by OSINFOR.
- Selective supervisions. Not all of the concessions in Peru received supervision visits. This means that we do not have data regarding a large number of concessions which may either be operating in accordance with the regulations or committing illegalities.
- Concessions only. For this report, due to the lack of available information and resources, EIA focused on forest concessions in the Amazon, leaving out other sources of timber such as permits and authorizations granted to indigenous communities.

6.5 WHO IS SELLING AND BUYING?

6.5.1. Allegedly illegal CITES wood: Table of Exporters

YEAR (*)	2008			2009	2010	
<i>PRIORITY(**)</i>	1	2	3	1	1	<i>SUM</i>
MADERERA BOZOVICH SAC	27	3	4	31	5	70
MADERERA VULCANO SAC	7		2	4		13
TRANSFORESTAL CCC SAC	7					7
COMERCIAL JR MOLINA SAC	4					4
PERU TRADERS INC SAC	3					3
A & A INVESTMENTS PERU SAC	1			1		2
RAMIRO EDWIN BARRIOS GALVAN	2					2
EXPORTMADERAS SRL	1		1			2
INDUSTRIAS BLANCO SAC	1		3			4
INKA WOOD SAC	1					1
INVERSIONES WCA EIRL	1					1
SOUTH AMERICAN HARDWOODS SAC	1					1
FORESTAL DEL ORIENTE SAC		1				1
LUMAT MADERAS SAC			1			1
<i>SUM</i>	56	4	11	36	5	112

Between January 2008 and May 2010, these companies exported legally questionable mahogany or cedar to the US, according to the Peruvian government's own inspections of forest concessions. The numbers correspond to the quantity of CITES permits that declared a problem concession as the origin of the timber.

*Year in which export to the US occurred

** Priority: an EIA classification of the concessions supervised by OSINFOR based on assessment of the serious nature of the offenses committed, in which the number 1 is the most serious

Timber traceability often stops at the sawmill. Importers need to ask their buyers hard questions to feel any confidence about legality in Peru's current forestry sector.





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6.5.2. Allegedly illegal CITES wood: Table of US Importers

YEAR(*)	2008			2009	2010	
PRIORITY (**)	1	2	3	1	1	SUM
BTP INC	22	3	2	24	5	56
MADERERA GUTIERREZ Y HERNÁNDEZ LTDA	6					6
TBM HARDWOODS	6					6
NORTH AMERICAN WOOD PRODUCTS LLC	5		2	2		9
AYALA MANAGEMENT CORPORATION	3			1		4
CENTRO LAMINADOS Y PANELES LGP	2			1		3
FERRETERÍA TESORO EN MADERAS II	2		2	4		8
SPECIALTY WOODS INC	2		1			3
ALAN MCILVAIN COMPANY	1		2			3
DAN K MOORE LUMBER CO. INC	1					1
DIXIE PLYWOOD COMPANY	1					1
LA VEGA CENTRO	1					1
M. BOHLKE VENEER CORP	1					1
MADERERA Y FERRETERÍA TESORO DEL EBANISTA, INC	1			1		2
MEDLEY HARDWOODS INC	1					1
THE REX LUMBER COMPANY	1					1
BANKS HARDWOODS FLORIDA LLC			1			1
EBANISTERÍA CRESPO				1		1
FERRETERÍA PASTILLO				1		1
GLOBAL PLYWOOD & LUMBER TRADING, LLC		1				1
LANE STANTON VANCE LUMBER CO			1			1
TOTEM FOREST PRODUCTS				1		1
SUM	56	4	11	36	5	112

*Year in which export to the US occurred

** Priority: an EIA classification of the concessions supervised by OSINFOR based on assessment of the serious nature of the offenses committed, in which the number 1 is the most serious

Between January 2008 and May 2010, these companies imported legally questionable mahogany or cedar into the US. The numbers correspond to the number of CITES permits which were associated with those concessions where the Peruvian government's own inspections found evidence of illegal practices. The total number of shipments and importers would almost certainly be higher if non-CITES species were also traceable.

- CITES species only. The only traceable species under current Peruvian documentation requirements are mahogany and cedar, through the information declared in the process of obtaining CITES export permits. There is, in practice, no feasible way to trace other high value species that are also being over harvested, such as shihuahuaco/cumaru (*Dipteryx spp.*) or cumala (*Virola spp.*). While some regulations ask the exporters to provide information about the origin of the timber from these other species, this is not a mandatory requirement for the export process and - as far EIA could ascertain - many exporters are not doing it.



6.5.3. Grupo Bozovich

The company which has by far the greatest number of shipments of wood of questionable origin is part of the Grupo Bozovich. According to its webpage, Bozovich has "its own companies located in Peru, Mexico, the US, and Bolivia; and branch offices for buying and selling products in China and Taiwan and for distribution in Puerto Rico and the Dominican Republic."⁹⁸ For the purposes of this study, EIA has only analyzed the shipments from Peru to the US.

Maderera Bozovich is the largest wood products company in Peru. The family business began in the late 1940s when Batrich Bozovich arrived from Yugoslavia and set up business in Oxapampa, in central Peru. The patriarch joined together with his sons, Drago and Boris Bozovich Balarín, to form Maderera Bozovich S.A.C. in 1973. After Drago was killed in a kidnapping attempt in 2001, his sons took over.⁹⁹

Maderera Bozovich began exporting its wood in the 1980s, primarily to the United States and later Mexico. The company's fortunes rose with the plunder of mahogany that took place throughout the Peruvian Amazon in the late 1990s and early 2000s. Today, Bozovich exports far more cedar than mahogany, and the company has expanded into an array of other species as well.

In 1977, the Balarín side of the family split off to join the sons of another early timber

impresario, Agustín Balarín Gustavson, to form Maderera Vulcano SAC, now Peru's second biggest exporter.¹⁰⁰

The Bozovich Group currently consists of three closely linked companies in a vertically integrated model: the Peruvian mother company; Bozovich Timber Products (BTP) in Alabama, established in 2000, which is the US's biggest importer of Peruvian woods; and Bozovich, S. de R.L. de C.V. (BOZOMEX), opened in 2002 in Querétaro, Mexico. In 2009 the company opened an office in Bolivia. The company has ties to several concessions in Madre de Dios and Ucayali, whose ownership is in the hands of interlocking boards. In addition, it buys timber from other producers around the country through intermediary businesses that include Green Forest SAC, Inversiones La Oroza SRL, and Industrial Volga SAC.

The Bozovich family and key personnel are well-connected within the industry and politics. They have held key leadership positions at the Timber and Wood Products Industry council of ADEX, Peru's primary export industry association, and the Wood and Wood Products Committee of the National Society of Industries (SNI). Both Drago Bozovich and José Alfredo Biasevich Bareto, President of the Bozovich-owned Forestal Otorongo SAC concession, have been members of official Peruvian delegations to international meetings including CITES and

the ITTO. Rafael Tolmos Tolmos [sic], currently the president of BTP Inc. in Alabama, was formerly the Director of Exports at Maderera Bozovich, and the head of ADEX's Timber and Wood Products Committee during 2006-2007, a period when extensive information about illegal logging was made public and discussed in national and international forums.

At the moment, the Bozovich group has three certificates from the Forest Stewardship Council (FSC) that claim to guarantee the legality and sustainability of some of the timber it sells: one for its Otorongo Forest Management Unit, and two Chain of Custody certificates for its Peru and US facilities. According to their own website, the Forest Stewardship Council (FSC) "is an independent, non-governmental, not for profit organization established to promote the responsible management of the world's forests."¹⁰¹ "FSC chain of custody (CoC) certification is for companies that manufacture, process or trade in timber or non-timber forest products and want to demonstrate to their customers that they use responsibly produced raw materials."¹⁰² However, the information gathered and analyzed for this report demonstrates serious problems regarding the legal origin of a significant portion of the products sold by the Bozovich group, if not necessarily the wood harvested or exported under FSC labels.

Bozovich has been the subject of legal complaints before, although they have rarely if ever resulted in any sanction. In 2005, INRENA inspectors reported one of its concessions, Forestal Otorongo, to be extracting higher than allowed volumes;¹⁰³ however, upon the company's appeal INRENA shelved the complaint.¹⁰⁴

6.5.4. Prior legality concerns: a lawsuit in US courts

In 2006, Grupo Bozovich and several other companies became involved in a lawsuit in the United States brought by two Peruvian organizations, Racimos de Ungurahui and the Native Federation of the Madre de Dios River and Tributaries (FENAMAD), supported by the American NGO Natural Resources Defense

Council (NRDC). These plaintiffs sued the U.S. Department of Interior, the U.S. Department of Agriculture, and four importing companies – Bozovich Timber Products (Evergreen, Alabama), T. Baird International Corporation (King of Prussia, Pennsylvania), Maderera Gutierrez y Hernandez Ltda (Gulf Shores, Alabama) and TBM Hardwoods (Hanover, Pennsylvania) – for importing and/or allowing the importation of illegal wood, in violation of CITES and its implementing legislation, the U.S. Endangered Species Act.

The plaintiffs argued that Peru's CITES Management Authority (at the time INRENA), “cannot reasonably be satisfied that bigleaf mahogany is harvested lawfully” given official statements and field findings that the overwhelming majority of mahogany in the country was being extracted illegally. (For example, the Peruvian government's own

investigations had recently found that 92 of the 150 concessions approved for export permits did not actually have the harvestable mahogany they claimed on paper.) US government agencies should therefore not have been allowing imports of Peruvian mahogany when Peru's management authority had clearly not made the “legal acquisition findings” and “non-detriment findings” required by CITES. The companies, for their part, were sued for unlawful trade, importation and possession of Peruvian bigleaf mahogany.

In 2007, the judge on the case ultimately ruled that the Court of International Trade, where the case had been brought by NRDC, was not the correct venue for the matter in question. NRDC ultimately chose not to pursue the case in another court. The substantive issues raised by the case have thus never received a ruling.

“Our main objective is to be the main partner of the Amazon rainforest and help preserve it, selling sustainably harvested wood....It is our hope that lawful, forward-looking business such as ours, ones which pay taxes, give people jobs, help communities, and sustainably manage resources, will provide a way out of the informality and poverty that have long abounded in the region, and that the Amazon may thereby be sustained, not only as a renewable resource, but as a source of hope and prosperity, and of life.” - FROM THE BOZOVICH GROUP WEBSITE

Box VIII: EIA Survey of Exporters and Importers

In order to gain insight into the ways that traders of Peruvian lumber attempt to ensure – or not – the legality of the wood they buy and sell, in March 2012 EIA contacted a sample of the Peruvian exporters and US importers in this report, as well as the Wood and Wood Products Committee of ADEX. We informed each company that we were publishing a report about issues of timber legality and international commerce in Peru's forest sector, and asked for the following information:

- Does your company have specific procedures to guarantee the legal origin of the wood it procures from Peru?
- If so, what are these procedures and since when they have been applied?
- Do you provide your clients with any type of written warranty or documentation regarding the origin of any Peruvian wood you sell, and if so, can you provide an example?
- Other comments regarding Peru's forest sector and/or changes in sourcing practices in response to the passage of the US-Peru Trade Promotion Act in 2007 and/or the Lacey Act plant amendments of 2008.

The responses by EIA varied in level of detail and showed a broad range of due care practices, or lack thereof. In general, there appears to be a gap between the procedures presented in response to EIA's survey and the systemic illegal trade demonstrated by this report. The majority of responses center on the “guarantee” which respondents claim that the Forest Transport Permits (GTFs) offer, while EIA has shown here that the GTFs have no real value.

It is worth noting that in several instances, Forest Stewardship Council certifications for “Chain of Custody” were mentioned to imply that the company's entire supply of wood was sustainably certified when, in fact, COC certificates only guarantee that a company is capable of handling FSC wood.

To retain the original context of the responses, EIA has opted to post them in their entirety rather than extract fragments. They are available online within this report's interactive website: www.peruforests-bosquesperuanos.com

Box IX: Resisting Transparency

To access the data necessary for the preparation of this analysis, EIA had to submit several Requests for Access to Information. This process began during President Garcia's administration in early 2010. Some of these requests were excessively long, complicated, and onerous, which in practice reflects a lack of transparency on the part of the country's forest authorities. On more than one occasion, authorities demanded that we explain why we wanted to access the requested information, which is not required by law. We were not given all of the information and had to repeatedly insist, receiving unpleasant responses from public officials who constantly questioned our access rights. On one occasion, an upset official even went so far as to question the person submitting the request, stating: "This will cost a lot of money - are you sure you'll be able to afford it?"

To build the database of CITES permits - which is available to the public on this report's website (www.peruforests-bosquesperuanos.com) - an EIA representative submitted a request for Access to Public Information to the CITES Management Authority office within DGFFS, at the Ministry of Agriculture, on January 2010. In violation of the law, this office did everything possible on a number of occasions to block access to the information requested. Thus, a process which by law should have taken no more than 12 business days (a regular procedure of seven days with the possibility of a five day extension) ended up taking eight months. The information was provided to EIA only in photocopy format, as the authority claimed the information was not available digitally.

In a similar way, on August 2011, EIA submitted a request for access to information to OSINFOR, to build the corresponding database. OSINFOR only provided part of the information requested, failing to supply EIA with any information for 2008, and did not include the summary of the conclusions for Supervisions conducted in 2009 and 2011, as well as some of the Supervisions carried out in 2010. The office's official response - via email on August 26, 2011 - was that OSINFOR did not have that information available, and that the law only required them to provide information they already have prepared. Nonetheless, just a few days later a source in OSINFOR unofficially provided EIA with the complete tables for 2008 and 2009. This strongly suggests that OSINFOR did have the information and was not fully forthcoming with their official response to EIA's request.

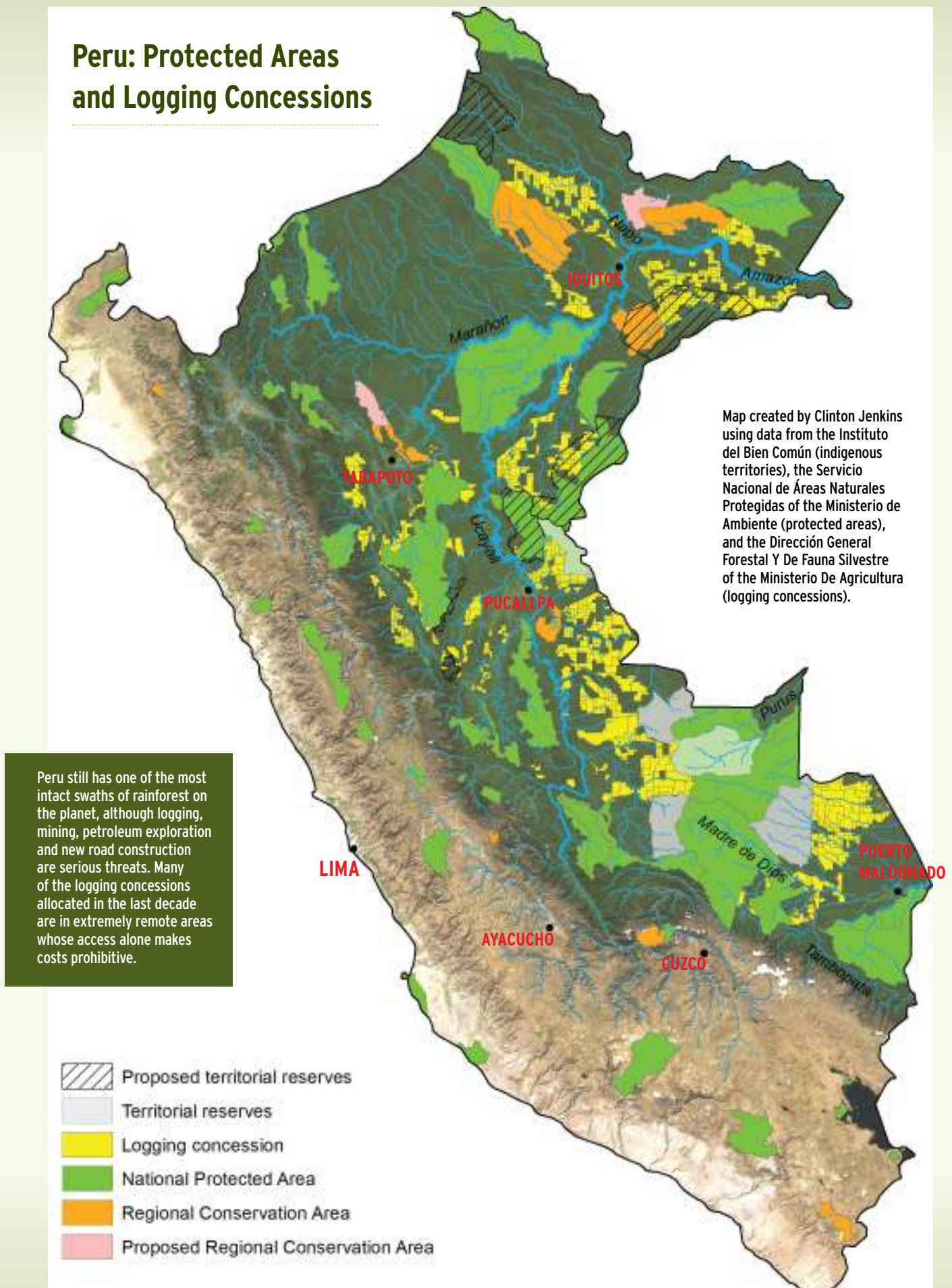
In truth, all of the information utilized in this report should be publicly accessible (without having to pay thousands of soles for photocopies) through the websites of the agencies responsible for them. Making information publicly available for both civil society organizations interested in the forestry sector, and companies interested in conducting due care before buying Peruvian wood, would actually support the work of the authorities in monitoring the sector. The lack of transparency only serves to work against the objectives of the government and the welfare of Peru's citizens and forests.

It is important to note that since the beginning of President Ollanta Humala's administration, both DGFFS and OSINFOR have made significant strides in improving information access. Their websites now feature pages where some CITES permit information and some of OSINFOR's directoral resolutions are publicly available, although not the full files and reports that EIA accessed through its persistent requests.

OSINFOR, in particular, ultimately responded in a relatively time-efficient manner to our requests for access to information (although they did not provide all the information they had, as explained above). Virtually all of this information was provided in digital format, on CDs or via email. However, the data OSINFOR provided to EIA by the second half of 2011 still had a number of blank cells due to information from 2008 that had yet to be processed three years later. We hope that this issue is resolved quickly and that complete information will be uploaded onto the OSINFOR website.



Peru: Protected Areas and Logging Concessions





7. LAUNDERING MACHINES: 14 CASE STUDIES

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Below is a representative sample of case studies that help to demonstrate, in sometimes amusing detail, the methods behind illegal logging. These stories, while vivid, are unfortunately not exceptional, unique, or exotic. In fact, the same scenario was found by EIA to be repeated time and again. The cases cited here are only examples of the most common tricks and flagrant violations reported in dozens of supervisory reports made by OSINFOR between 2008 and 2010.

In the first nine cases presented, the same wood linked (on paper) to the same POAs where OSINFOR's supervisions found serious legal problems was exported to the US. In the other cases, timber exports supposedly came from these same concessions whose legality is seriously challenged, but not necessarily from the specific POA that OSINFOR examined.

It is noteworthy, however, that in cases when OSINFOR has initiated an Administrative Procedure¹⁰⁵ - known in Peru as *Procedimiento Administrativo Unico* (PAU) - to revoke a concessionaire's usage rights on the grounds of illegal practices, the oversight body has applied precautionary measures by simultaneously suspending the whole scope of the General Forest Management Plan and all of the POAs approved for the concession in question. OSINFOR has argued that serious misconduct in one POA on the part of the concessionaires creates significant doubt regarding their activities in the rest of the concession.

In other words, the Peruvian authorities feel that if there are such serious faults in a given POA - such as forging a high percentage of the forest inventory, or selling large quantities of wood that were not actually extracted from the POA in question, thus facilitating timber laundering with concession documents - there are sufficient grounds to doubt the legality of all timber taken from within the concession. To be direct: the precedent of severe illegality in one POA is a strong suggestion that all wood from these concessions is potentially illegal.

7.1 CONFESSING TO HIS FALSE POAS

Concession of Jaime Pérez García, contract 16-IQU/C-J-047-04: wherein the representative of the concession confesses that POA 3 was invented without any real field work, and testifies to the authorities that everyone else does the same thing.

Supervisory Report 314-2010-OSINFOR-DSCFFS¹⁰⁶

Exporters:	TRANSFORESTAL CCC S.A.C.
Importers:	AYALA MANAGEMENT CORPORATION MADERERA GUTIERREZ Y HERNANDEZ LTDA
Exported to the US:	194.227 m3 of cedar

Three days before OSINFOR initiated its field supervision of POA 3 in the concessions of Jaime Perez Garcia (contract 16-IQU/CJ-047-04) and Manuel Gatica Grandez (contract 16-IQU/CJ-046-04), the representative of both, José Alberto Bellodas Irrasábal, decided that it was time to confess. He requested a meeting with the OSINFOR supervisors, Cesar Augusto Zorrilla Padilla and Jesus Gonzalez Oliveros, and together they prepared a statement in which Bellodas admitted that POA 3 in both concessions were falsified, that no logging had ever taken place, and that the Forest Authority office was aware of and in agreement with the situation. At the end of the

statement, they added that Bellodas had decided to tell the truth before the supervision took place so that the OSINFOR team "wouldn't be surprised." (See p.37, Transcript of Bellodas statement)

While EIA's review of Supervisory reports demonstrates that what Bellodas describes is quite common, this is one of the few cases in which an open confession has been made. In addition, Bellodas goes beyond recognizing illegalities in his own concessions, stating that this is a normal practice in the Loreto region. As it became increasingly clear to OSINFOR officials during the supervision that the concessionaire had never worked in the area, Bellodas assured them that he was just doing what everyone did. In the field notes from the Supervision attached to the Report for Pérez García's concession, the following information is hand-written:

"[Bellodas] states as well that none of the concessionaires did field work in POAs No. 01, 02, 03. Only starting with POA No. 04 is field work being done in the Loreto Region; he adds that the entity charged with approving the POAs (the PRMRFFS, previous INRENA)"¹⁰⁶ knows this."

Bellodas's statements imply that all timber declared as extracted and traded by Jaime Pérez García (JPG) and Manuel Gatica Grandez (MGG) from POAs

1, 2 and 3 is illegal. He argues that the inventories were created "in-cabinet" - that is, the geo-referenced lists of trees produced for the POAs were simply fabricated at a desk - and that there were no harvesting activities - that is, they did not go into the concession to cut and remove the trees. If the volumes of wood corresponding to these lists were traded but not actually extracted from these POAs, it implies that the concession documentation was used to launder illegally logged timber from other areas.

According to the official Balances of Extractions provided for POAs 1, 2, and 3, these concessions laundered nearly 21,000m³ of illegal wood, including a variety of species. Of this total, almost 2,200m³ is cedar that has been extracted illegally.


For those interested in the details, it is worth noting that the POA number on the official Balance of Extraction for Jaime Pérez García's concession does not correspond with the "real" POA number--that is, the POA referred to by the Administrative Resolution (RA) that the PRMRFFS emits to approve each year's harvest plan. So while the Balance links extraction from POA 4 with the 2007 harvest and cites Administrative Resolution No. 459-2007-INRENA-IFFS-ATFFS-IQUITOS, that RA actually approved POA 3 for the 2007-2008 harvest. In many cases, moreover, we cannot know for sure if the POA mentioned in the Balance of Extraction is the "real" one or not, since it doesn't cite the corresponding RA. This is a

000039

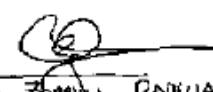
Acta

IQUITOS 09 DE DICIEMBRE 2010. EN LA OFICINA DESCENTRALIZADA DE OSINFOR- IQUITOS A LAS 16:30 HORAS SE REUNE EL REPRESENTANTE LEGAL DE LAS CONCESIONES FORESTALES:
JAIME PEREZ GARCIA CON Nº DE CONTRATO Nº 16-IQU/C-J- 046-04
MANUEL GATICA GRANDEZ CON Nº DE CONTRATO Nº 16-IQU/C-J- 047-04
EL SR. JOSE ALBERTO BELLODAS IRRASABAL CON Nº DE DNI- 05397012 CON DIRECCIÓN EN LA AV. NAVARRO CAUPER Nº 980- IQUITOS PARA LA SUPERVISIÓN A LAS CONCESIONES ANDES MENCIONADAS POR EL OSINFOR; MANIFESTANDO QUE LOS POAS Nº 03 Y ANHAS CONCESIONES DE JAIME PEREZ GARCIA Y MANUEL GATICA GRANDEZ NO HUBO TRABAJO DE CAMPO SINO SE REALIZARON EN GABINETE CONSENTIDAS POR EL ENTE ENCARGADO ANDES "EX-INRENA" TRATANDO DE NO CORROMPERLOS Y DEJANDO LA VERDAD ANTES DE LAS SUPERVISIONES MENCIONADAS

FIRMAN ESTANDO DEACUERDO LOS PRESENTES:


NOMBRE: José Alberto Bellodas Irrasabal
DNI: 05397012


NOMBRE: JESUS A. GONZALES CERVANTES (OSINFOR)
DNI: 23007472


NOMBRE: Cesar Zumbala Padilla
DNI: 10117233

Handwritten confession by José Alberto Bellodas, legal representative for Manuel Gatica Grandez's and Jaime Pérez García's concessions. Bellodas tells OSINFOR that both concessions "had no field work, they were only 'in cabinet' [on paper] with consent by the responsible entity, ex-INRENA." Full transcript at online version of this report.

common documentation inconsistency that makes monitoring concessions even more difficult. Nonetheless, the illegality shines through in this case.

From what was found, or rather, not found in JPG's POA 3 - that is to say, "there are no boundaries, no forest census, no logging, no field-verified cedar trees within a circumference of 50 m [around each GPS point],"¹¹⁰ the supervisors concluded that the concessionaire could not account for the wood he'd sold. "In the case of cedar, according to the Balance of Extraction, the concessionaire has traded 303.256 m³ (99.9%) of the volume, while the supervision found no cedar; thus there is no justification for the presence, location, and trade of 303.256 m³ of cedar."¹¹¹

CONCESSION	POA ¹⁰⁷	ZAFRA (HARVEST SEASON) ¹⁰⁸	REAL POA ¹⁰⁹	CEDAR APPROVED IN POA (M ³)	CEDAR TRADED DURING YEAR (M ³)	% OF CEDAR TRADED	TOTAL WOOD TRADED (INCLUDING CEDAR) M ³
JPG	POA 1	2004	1?	400.000	369.805	92.45%	3728.836
JPG	POA 2	2004	?	--	--	--	4467.512
JPG	POA 3	2006	?	432.594	432.594	100%	432.594
JPG	POA 4	2007	POA 3	303.000	303.256	99.92%	3530.884
MGG	POA 1	2004	1?	400.000	399.842	99.96%	2927.902
MGG	POA 2	2006	2?	411.076	410.883	99.95%	2042.877
MGG	POA 3	2007	3?	281.799	281.793	99.99%	3829.963
					2198.173		20960.568

Source: Balances of Extraction filed on the supervisory reports 314-2010-OSINFOR-DSCFFS, folios (0032 - 0033) and 313-2010-OSINFOR-DSCFFS, folios (0048 - 0049)

7.2 HE HAD TO FALSIFY ONLY TO "BUY TIME"

Forest Concession Valera SAC, contract 16-IQC/C-J-090-04: in which the trees in the POA don't exist, nobody extracts wood from the concession, it is admitted that the POA has false information, but nonetheless they have traded 9,145 m³ of wood, including 831 m³ of cedar.

Supervisory Report 225-2010-OSINFOR-DSCFFS¹¹²

Exporters: MADERERA BOZOVICH SAC

Importers: North American Wood Products LLC
TOTEM FOREST PRODUCTS.
BTP INC
BOZOVICH S DE RL DE CV
FERRETERIA TESORO EN MADERAS II

Exported to the US: 169.955 m³ of cedar

Situation: Suspended by OSINFOR Resolution

In a handwritten note signed after OSINFOR verified that none of the trees in POA 4 actually existed on the ground, the concession representative admitted to the OSINFOR supervisor that, in fact, all of the information submitted for this POA was fake. The inventory, the measurements, the georeferencing data - all false. "Generated in cabinet" is the phrase commonly used in Peruvian forestry circles to refer to data that is invented at a desk rather than gathered from the field. The reason that all this information was fabricated, explained the representative, was that they hadn't had the time to do the field work. The POA they submitted, he states, was merely "to buy time".

Under the cover of the false documentation, the idea was that they would slowly populate the inventory with real information taken from the forest, and use this information to replace the false figures. However, due to the concessionaire's "bad luck", the POA was approved before they could finish the job and replace the old information with real data.

Regardless of whether or not this story is plausible, it does

not explain why, how, or from where the concessionaire was able to trade 9145.459 m3 of wood, including 831,078 m3 of cedar¹¹³ when there is no evidence of logging activities ever having been carried out in POA 4,¹¹⁴ no cedar trees were found in the area, and a concession representative admitted that when they actually did the inventory of the entire POA, they only found one cedar tree - which they didn't even cut.¹¹⁵ Yet the false POA lists 176 cedar trees of harvestable size, and the Balance of Extraction claims to have harvested all of them¹¹⁶ in order to be able to trade 99.99% of the total authorized volume.

There is another important detail: the prior visual verification by ATFFS that supposedly took place in 2009, and claimed to have actually found all of the trees detailed in the fake POA. The technical report detailing this clearly false visual inspection is 25 pages of pure fiction and fabrication.¹¹⁷ The OSINFOR supervisor drew attention to this matter, noting that "it was confirmed that the field report by a staff member at ATFFS-Iquitos (Kenjy Bruno Teran Piña) reports 38 harvestable trees (97.44%) found in the forest, which is completely inconsistent with present supervision, as the entire route (Annex 3) revealed no cedar in any state, whether standing or stump."¹¹⁸

The Supervisory Report concludes that "the concessionaire fails to justify the volume traded, rather, to the contrary, the wood was mobilized from an area outside of the PCA ". Besides the 831,078 m3 of cedar admitted to by the concessionaire representative, the concession illegally mobilized an additional 2168.499 m3 of capinuri and 250.011 m3 of tornillo.¹¹⁹

7.3 SURPRISED BY HIS OWN FALSE POA

Forest Concession San Juan Bosco, contract 16-IQU/C-J-098-04: in which the concessionaire requests a voluntary supervision, accompanies the supervisors and claims to be completely surprised that 80% of the trees declared don't exist.

Supervisory Report: 087-201-OSINFOR-DSCFFS¹²⁰

Exporters:	MADERERA BOZOVICH SAC
Importers:	BTP Inc CENTRO LAMINADOS Y PANELES LGP FERRETERIA TESORO EN MADERAS II
Exported to the US:	155.44 m3 of cedar

In a letter sent in February 2008, a concerned concessionaire asked for the support of OSINFOR to distance himself from people committing illegal logging and to prove that his concession was operating appropriately.

"As you know, the forestry sector in the Loreto region has collapsed due to a lack of economic and financial resources on the part of the concessionaires, in what we consider should be declared an emergency. Concessionaires interested in obtaining voluntary forest certification have been working very responsibly

in our areas, and we are interested in how to have our own inspections to certify that we are doing well (...). In this sense, the undersigned, the legal representative of San Juan Bosco Forestry SAC, requests your office to conduct a VOLUNTARY forest supervision on my current PCA, in this case the fourth POA, and communicates as well that POA 3 was also supervised by OSINFOR."¹²¹

The general manager of the concession, Roger Reátegui Rengifo, acknowledged and participated in the supervision. According to the supervisor, Reátegui Rengifo demonstrated surprise upon finding that 82 of the cedar trees georeferenced in POA 4 (that is to say, 80% of the supervision sample) didn't exist in the real world.¹²² Although cedar volumes corresponding to 190 trees were declared in POA 4, in the forest they only found evidence of 11 cedar trees being cut down.

OSINFOR's report states: "Of the 103 trees in the sample chosen for the supervision, 94 were listed as of harvestable size and 9 were seed trees; we found these trees to be in the following state:

- Harvestable trees: two naturally fallen trees rotting in their entirety, 5 standing trees, 11 stumps, 74 trees that don't exist and 2 trees that could not be verified due to inaccessibility of the terrain.
- Seed trees: 8 trees didn't exist and 1 tree could not be verified due to the inaccessibility of the terrain."¹²³

According to the Balance of Extraction, the concessionaire extracted 99.9% of the approved cedar volume in POA 4, that is, 784.612 m3 of a total approved of 784.624 m3. Adding the other species declared in the Balance of Extraction, the concessionaire extracted a total of 6,678.196 m3 of wood under this POA. The Balance of Extraction for the previous year's POA 3 registers the extraction of 905.006 m3 of cedar out of an approved total of 905.022, corresponding to 170 trees, reaching a total of 12,929.877 m3 of wood from all species taken from - or rather, laundered by - the POA.¹²⁴

OSINFOR has argued that serious misconduct in one POA on the part of the concessionaires creates significant doubt regarding the legality of their activities in the rest of the concession.

7.4 THEY GOT THEIR POAS “CONFUSED”

Maná Forest Concession, contract 16-IQC/C-J 194-04: in which the concessionaire says that he got confused and worked in POA 4 instead of POA 2, and therefore sends an alternative list of trees to be reviewed, most of which don't exist either.

Supervisory Report: 002-2008-INRENA-OSINFOR-USEC¹²⁵

Exporters: RAMIRO EDWIN BARRIOS GALVAN
Importers: NORTH AMERICAN WOOD PRODUCTS LLC
Exported to the US: 40.648 m3 of cedar

OSINFOR's supervision of POA 2 in this concession didn't encounter any of the trees that were supposed to be there: neither standing trees, nor evidence of stumps or any evidence of logging activity was found. The trees simply never existed, although the Balance of Extraction registers the extraction of 1,091.996m3 of wood and CITES permits show 40.648 m3 of cedar exported to the US.

It is doubtful that these results would have been a surprise to the concessionaire, since from the moment of receiving notification of the supervision he attempted to delay it for as long as possible.

He was initially advised of the impending visit in June 2007. In July, the concessionaire sent a letter saying that the river level was too low to access the concession, and that it should be postponed until November. In October he sent another letter saying that there was no way to access it before January. Finally, in January 2008 he sent yet another letter saying that he had confused his POAs – that instead of extracting wood from POA 2, he had harvested from POA 4 – and requesting that they inspect the one in place of the other. He provided an alternative list of trees in POA 4 for OSINFOR to supervise – in theory, equivalent to the sample the oversight body had prepared – and suggested that he would just log POA 2 when it came time to log POA 4 in the future. However, the problems turned out to go well beyond this simple solution.

Not only was there no cutting in POA 2, but the trees marked for survey didn't exist in the forest. This means that the inventory submitted for POA 2 was false, that it wasn't a simple matter of confusion and there would be no possible way to “harvest POA 2 when it was time for POA 4”.

When, at the request of the concessionaire, OSINFOR looked for the 17 trees in the *alternative* list provided for POA 4, they only found three trees (1 cumala tree, one cedar stump, and one standing cedar) within the POA 4 area. Another 10 trees (4 cedar stumps, 4 cumala stumps, and 2 standing cumala trees) were found in a zone scheduled within the General Forest Management Plan to be harvested as part of POAs 10 to 15¹²⁶ – that is, 8 to 13 years after POA 2 was up for harvest in use – which means that all of these trees were illegally logged. The four remaining trees did not exist.

To clarify: the concessionaire attempted to justify the harvest of 1,091.966 m3 of wood for the 2006-2007 harvest, including 199.992 m3 of cedar and 496.532 m3 of cumala, with a single cedar stump discovered in POA 4.¹²⁷ All of this wood was thus extracted illegally from other areas, both inside and outside his concession, and then laundered with the documentation from POA 2.

The Supervisory Report mentions that the Administrative Resolution from the Forest Authority which approved the POA “shows discrepancies between the volumes requested and authorized”, and states that “an additional 183.722 m3 of cumala were approved” over the volume requested by the concessionaire.¹²⁸ That is to say, none of the trees actually existed, and the solution was to reward the concessionaire with even MORE volume for production than initially requested. The systematic complicity of local Forest Authority offices in the sector's laundering practices could hardly be made clearer.



Local forest authority offices lack the personnel or resources to effectively oversee the timber industry, and the pressure to accept bribes or remain silent is high. © Toby Smith/EIA

7.5 THEY SENT FALSE INFORMATION TO RESOLVE QUESTIONS ABOUT FALSE INFORMATION

Maderera Kalinowski Concession, contract 17-TAM/C-J-022-03: in which the concessionaire “resolves” OSINFOR’s concerns regarding non-existent trees by presenting more non-existent trees.

Supervisory Report 131-2010-OSINFOR-DSCFFS¹²⁹

Exporters:	MADERERA BOZOVICH S.A.C
Importers:	BTP INC.
Exported to the US:	1.995 m3 of cedar

The Supervisory Report 028-2007-INRENA-OSINFOR-USEC, from October 2007, encountered a series of problems that should be grounds for revocation of the concession. Out of 27 cedar trees sampled during the supervision process, only 6 trunks and 13 standing trees were found, failing to justify the volumes declared as extracted.¹³⁰ In response, OSINFOR initiated an Administrative Procedure (PAU, for its initials in Spanish), and as a precautionary measure ordered the

suspension of the General Forest Management Plan, POA 3, and any subsequently approved POAs, as well as the suspension of any issuance of transport permits (GTF) from POA 3 in the future.¹³¹ In parallel, the concessionaire was required to justify the sale of 115,036m3 of cedar outstanding from POA 3.

Despite the gravity of the situation, the concessionaire responded to the allegation of fraudulent information with more fraudulent information. When OSINFOR returned to the field to verify the new information provided by the concessionaire in his letter from January 19, 2010, which included 27 new trees taken from POA 3, OSINFOR found only 11 stumps. Five trees remained standing, one had fallen over naturally and the remaining 10 trees didn’t exist - that is to say, they still could not justify the volumes of cedar declared as extracted from POA 3.¹³²

7.6 THE MAGICAL CEDAR TREE THAT YIELDED 311 M3 OF TIMBER

Productores Forestales Atacuari Concession, contract 16-IQU/C-J-207-04: in which a sample of 49 cedar trees found only one tree cut down, but its “extraction” yielded 99.45% of the total approved volume.

Supervisory Report 195-2010-OSINFOR-DSCFFS¹³³

Exporters:	MADERERA BOZOVICH S.A.C
Importers:	BTP INC.
Exported to the US:	30.663 m3 of cedar

OSINFOR’s supervisory trip only encountered one harvested tree out of a sample of 44 cedar trees. 31 of the trees listed and georeferenced in the POA didn’t exist, 11 were found still standing, and one was found cut but abandoned in the forest. According to estimates made by the supervisor, the one approved tree that was found to have been harvested could justify the sale of 12.25m3, but in no way the 311 m3 recorded in the Balance of Extraction, which represented 99.45% of the

total approved volume for this POA. According to the same POA, production of the 311 m3 of cedar recorded in the Balance of Extraction should require the wood from 44 trees.¹³⁴

For those who are unfamiliar with units of forest measurement, this may be slightly confusing. One cubic meter (m3) of lumber is equivalent to 424 board feet of lumber. A board foot is equivalent to a piece of wood about a foot wide (30.48cm) by a foot long (30.48cm) by one inch thick (2.5cm). Thus, if we cut a cubic meter (m3) into sheets 2.5cm thick, we could cover an area of 39,391m2, or the equivalent of about four parking spots. Using this data, we find that we have a “super tree” in this concession that would have yielded enough wood to cover two soccer fields or parking spots for 1200 cars with 2.5cm-thick boards.

This case implies, amongst other things, that the inventory presented in the POA was predominantly false, prior verification by the forest authority was fraudulent, and that the concessionaire never entered the concession to harvest even the few trees that did exist, but instead used the approved volume to launder and export cedar to the United States from unknown locations.

See page 47 for further irregularities associated with Productores Forestales Atacuari and their US importers BTP, Inc.

7.7 THERE WERE NO TREES BUT THE TIMBER WAS STILL CUT - CASE I

Hector Murayari Macaya concession, contract 16-IQU/C-J-022-04: in which the concessionaire extracted 200 m3 of cedar, but not a single one of the 85 trees existed in the real world.

Supervisory Report 188-2010-OSINFOR-DSCFFS¹³⁵

Exporters: COMERCIAL JR MOLINA S.A.C.
Importers: TBM HARDWOODS INC
Exported to the US: 17.999 m3 of cedar

This is one of the most straightforward cases. According to the Balance of Extraction, the concessionaire harvested 200.000 m3 of the 220.558 m3 authorized for cedar,¹³⁶ but during the field visit OSINFOR supervisors' could not find a single one of the 85 cedar trees chosen as samples: there were no stumps, no harvestable cedar trees, no seed trees, nor even a remote sign of harvest.¹³⁷

At the end of the report, the supervisor made the obvious recommendations: "the concessionaire should indicate the exact location of the harvested trees,"¹³⁸ "explain the total volume of cedar supposedly traded", and "indicate the location of the seed trees". However, another level of explanation should be required (and suspension should have been initiated). For example: how could the forest consultant could sign off on a completely false inventory?

7.8 THERE WERE NO TREES BUT THE TIMBER WAS STILL CUT – CASE II

Hugo Sanchez Zegarra Concession, contract 16-IQU/C-J-044-04: in which the concessionaire "extracts" 99.57% of the approved cedar volume in the POA, even though not a single tree exists in the concession.

This case is similar to the one above, but with one additional detail. This concession was at some point legally represented by the same Jose Alberto Bellodas Irrasabal

Supervisory Report 008-2010-OSINFOR-DSCFFS¹³⁹

Exporters: INVERSIONES WCA EIRL
Importers: AYALA MANAGEMENT CORPORATION
Exported to the US: 202.424 m3 of cedar

The supervision of POA 3 in this concession demonstrated that none of the 29 trees actually existed in the field, meaning that there is no way the concessionaire could justify the extraction of cedar or any other species - yet he claims to have traded almost 2,040m3 of wood. Although there were initially 4 cedar trees found close to the GPS coordinates indicated on the POA, once the supervisors compared the volumetric features (diameter at breast height and commercial height) of the trees in the field to the list in the POA, they concluded that they were in no way a match and that their location in relation to the marked GPS points was merely a coincidence.

As in the previous case, there were no trees, stumps, or signs of logging in the POA. According to the Balance of Extraction, "the concession of Mr. Hugo Sanchez Zegarra has extracted... 99.892% for cedar, 99.566% for cumala, 42.687% for lupuna and 99.4% for shihuahuaco."¹⁴⁰ However, according to OSINFOR's findings, it is impossible for the concessionaire to justify this extraction, which came out to 423.894m3 of cedar, 1162.559 m3 of cumala, and 453.894m3 of lupuna.¹⁴¹

7.9 THE 21 APPROVED MAHOGANY TREES THAT SOMEHOW ESCAPED SUPERVISION

Agroindustrial Victoria Concession, contract 17-TAH/C-J-038-02: in which an unusual Supervision sample included only a single mahogany seed tree, despite the fact that the concessionaire harvested almost 150m3 of mahogany, that is to say, 99.7% of the volume approved in the POA.

While the Supervisory Report of the POA in this concession claims to have found all of the trees recorded in the sample, it is noteworthy that the sample design does not include a single harvestable tree of the two most valuable species in the POA: mahogany and cedar.

Untouched lowland rainforest in the middle of a POA supposedly logged in 2007. The high biodiversity and difficult access make many concession areas more suitable for conservation, research or subsistence activities.



© Toby Smith/EIA

from Case 1, who, while accompanying the Supervision visits of other concessions he represented, admitted the POAs were false and assured OSINFOR's officials that this was just the normal practice for all concessions, fully accepted by the pertinent forest authorities. He also asserted that none of the region's concessionaires had actually cut in their POAs 1, 2, or 3 (see case: Confessing to his false POAs).



Supervisory Report: 003-2008-INRENA-OSINFOR-USEC¹⁴²

Exporters: MADERERA BOZOVICH SAC
Importers: BTP Inc
Exported to the US: 62.114 m3 of cedar

OSINFOR's current Manual for the Supervision of Forest Concessions mandates that - given the importance of mahogany - the supervisor must design two sets of tree samples for the concessions authorized to log mahogany: one set for all the species and a second set focusing only on mahogany. The mahogany sample set, according to the manual, must include at least three *fajas* (or transect lines) with five trees each, it is, a minimum of 15 trees. It is true that OSINFOR's web page has not posted the current manual, but EIA got access to it through an official request for public information. In any case, a review of the Supervisory Reports found frequent references to the manual, showing that the supervisors are familiar with it.¹⁴³ In addition, among the criteria to be considered during the selection of the sample is the commercial value of the species present in the POA.

21 mahogany trees were approved for POA 5 in this concession, for a total volume of 150.406 m3; of which 149.941 m3 were supposedly extracted. Likewise, six cedar trees with a total volume of 29.520m3, of which 15.236 m3 were extracted. None of these trees were included in the 27-tree supervision sample, "of which 10 are stumps (1 ana caspi, 2 azucar huayo, 2 estoraque, 1 ishpingo and 4 shihuahuaco), and the remaining 17 are still standing and correspond to the species ana caspi (3) azucar huayo (2) cedar (1) estoraque (2), ishpingo (3), pumaquiro (4), quinilla (1), and shihuahuaco (1)."¹⁴⁴ The only mahogany tree included in the survey was a seed tree.

Despite having zero information about the 27 most valuable trees in the POA, the supervisor concluded that the volumes of timber the concessionaire declared he had extracted were justified.

7.10 NOBODY TOUCHED A SINGLE TREE, BUT WOOD WAS STILL EXTRACTED--CASE I

Maderera La Foresta Concession, contract 16-IQU/C-J-007-04: in which they are able to extract and export wood without having to enter the forest to cut the few trees listed in the POA that actually exist.

OSINFOR's report on this concession demonstrates all of the ingredients for laundering illegal timber: a POA that lists trees that don't exist,¹⁴⁶ over-estimation of the size of existing trees,¹⁴⁷ a falsified prior visual verification by ATFFS,¹⁴⁸ no sign of logging activities in the POA in question,¹⁴⁹ and a Balance of Extraction showing the movement of 770.589 m3 of wood.¹⁵⁰

Supervisory Report: 094-2010-OSINFOR-DSCFFS¹⁴⁵

Exporters: MADERERA BOZOVICH SAC
Importers: BTP Inc
CENTRO LAMINADOS Y PANELES LGP
LA VEGA CENTRO
NORTH AMERICAN WOOD PRODUCTS LLC
Exported to the US: 20.621 m3 of cedar
Situation: Suspended by OSINFOR Resolution

Of the 45 individual trees in the supervision sample, only 31 were found in the forest: 30 still standing and 1 naturally fallen. Among the 14 missing are the 3 harvestable shihuahuacos and 11 of the 14 cedars (8 harvestable, 3 seed trees).¹⁵¹ The absence of stumps, logging camps, or any evidence of the passage of logging machinery confirms that the timber in the Balance of Extraction was not taken from this POA.¹⁵²

An anecdotal detail worth noting is that the technical report of ATFFS's prior visual verification is dated December 22, 2009, but claims to analyze a POA document dated the 28th of December, 2009. According to the documents, the POA was approved on December 30, 2009. Quick turnaround, indeed.

7.11 THEY PLANTED CEDAR “STUMPS” IN THE GROUND

Oroza Wood S.A.C. concession, contract 16-IQU/C-J-228-04: in which a second visit after the original supervision discovered that the concessionaire had planted pieces of wood to appear as stumps.

In this case, OSINFOR’s original Supervisory Report found no major problems in the concession. It was a subsequent investigation which revealed that 14 of the cedar stumps “found” in the supervised POA were in fact disks of roundwood cut from logs and planted in the ground for the benefit of the supervisors. According to Directorial Resolution (RD, by its initials in Spanish) 149-2011-OSINFOR-DSCFFS from September 26, 2011, which initiated the Administrative Procedure (PAU) against the concessionaire, OSINFOR found irregularities in reviewing the supervision and decided to conduct another verification visit.¹⁵⁴ This PAU is being processed as we write this report.

Supervisory Report: 209-2010-OSINFOR-DSCFFS¹⁵³

Directorial Resolution: 149-2011-OSINFOR-DSCFFS

Exporters:	MADERERA BOZOVICH SAC MADERERA VULCANO S.A.C COMERCIAL JR MOLINA S.A.C.
Importers:	BTP Inc MADERERA Y FERRETERIA TESORO DE EBANISTA SPECIALTY WOODS INC
Exported to the US:	136.603 m3 of cedar
Situation:	Suspended by RD 149-2011-OSINFOR-DSCFFS

According to the Balance of Extraction for POA 2, Oroza Wood traded 326.026 m3 of cedar, but the trees found in the field only justify the trade of 59.193 m3, leaving them to justify the additional 266.833 m3.¹⁵⁵ The discovery of the planted “stumps” and other irregularities suggests that “the concessionaire had: 1) extracted wood without the corresponding authorization, upon determining that the majority of the volume traded was not obtained from the authorized area; ii) cut 12 trees below the minimum diameter allowed for harvest; (...) iv) submitted an Annual Operating Plan for 2009-2010 that contained false information; v) facilitated through its concession the transport, processing, and or commercialization of forest resources extracted without authorization.”¹⁵⁶

It is extraordinary to consider the amount of effort and resources that moving these large pieces of trees and placing

them in the ground at specific locations demanded. Imagine how the same effort and resources could have been used if invested in the sustainable management of the concession.

The RD not only suspended the POA in question, but also suspended the transport permits (GTFs) for all approved POAs as well as the Forest Management Plan for the entire concession, arguing that the severity of the problems in this POA affects the entire concession. The RD thus “proposes to suspend the execution of the General Forest Management Plan, as the concessionaire’s actions do not guarantee that he has formulated POAs with the information necessary to ensure the sustainable use of the forest resources, nor that his execution is suitable. Under such a suspension, the concessionaire will not be able to harvest by any method the POAs that were previously approved and correspond to the Annual Harvest Parcels described in the general management plan. Consequently, this injunction includes the approved POAs and corresponding GTFs.”¹⁵⁷

As usual, the false information in the forest authority’s technical report 056-2009-AG-DGFFS-ATFFS-IQUITOS-Sede Iquitos/LVA, filed December 30 2009, must be noted. The report contains the results of the prior visual verification of POA 2 and recommends approving the POA, having found all of the trees in the field. If all of the trees had, in reality, existed, the concessionaire presumably wouldn’t have had to go through the trouble of planting stumps.

It is extraordinary to consider the amount of effort and resources that moving these large pieces of trees and placing them in the ground at specific locations demanded. Imagine how the same effort and resources could have been used if invested in the sustainable management of the concession.

Supervisory Report 286-2010-OSINFOR-DSCFFS¹⁵⁸

Exporters:	MADERERA BOZOVICH SAC
Importers:	BTP Inc FERRETERIA TESORO EN MADERAS II TESORO EN MADERAS II, INC.
Exported to the US:	152.699 m3 of cedar

7.12 NOBODY TOUCHED A SINGLE TREE, BUT WOOD WAS STILL EXTRACTED - II

Jose Zumaeta Ramirez concession, contract 16-IQU/C-J-072-04: in which it was possible to extract more than 1000 m3 of wood, including 165 m3 of cedar, without cutting down a single tree in the POA.

According to the Balance of Extraction for this concession, over 1000 m3 of wood was harvested from POA 5 between 2009 and 2010, including 165.200 m3 of cedar, 608.057 m3 of cumala, 149.942 m3 of andiroba and 97.772 of marupa.¹⁵⁹ However, OSINFOR found

that the trees in the POA were still standing or didn't exist at all, indicating once again that the wood was extracted illegally from elsewhere.¹⁶⁰

Of the 52 trees selected as a sample for OSINFOR's field visit, they found only 39, all still standing - including 15 harvestable cedars and one cedar seed tree. The other 13 trees in the sample - 10 cedars and 3 andirobas - didn't exist. There were no signs of extraction activities in the area .

What stands out in a case with illegalities as blatantly obvious as this one is that OSINFOR's Supervisory Report failed to point them out directly, failing to address the problem. While part of the report does refer to the Balance of Extraction and in other parts the field findings are mentioned, in no place are these two facts put together to demonstrate that this is clearly a case of illegal timber laundering.

For the detail oriented: The Balance of Extraction for this concession shows an incongruity between the number of the POA that was registered and the number of the POA that actually corresponds to the year's harvest. The problem stems from a 171 m3 of cedar that were "returned" in 2006. Under current regulations, when a concessionaire detects illegal logging by third parties on their land, the state seizes the stolen timber and returns it to the concessionaire.¹⁶¹ This return was registered as a new POA in the Balance of Extraction, after which all future POAs were one number ahead. Thus, the plan approved as POA 5 by the Forest Authority becomes POA 6 on the Balance of Extraction. This appears to be a simple clerical error, but it is a relevant one in that it creates confusion and hinders the possible actions of monitoring or enforcement by officials or civil society. We have found this same problem in several concessions.

7.13 NO LOGGING HAPPENED DUE TO LACK OF FUNDS, BUT WOOD WAS STILL TRADED

Supervisory Report: 192-2009-OSINFOR-DSCFFS¹⁶²

Exporters:	EXPORTMADERAS S.R.L. MADERERA VULCANO S.A.C
Importers:	SPECIALTY WOODS INC DAN K MOORE LUMBER CO. INC
Exported to the US:	11.031 m3 of cedar

Jesus Dionisio Villagaray Gutierrez concession, contract 17-TAM/C-J-024-03: in which the concessionaire lacked sufficient funds to enter the concession and cut trees, but simultaneously managed to extract over 2000 m3 of wood.

In this concession all the trees in the supervision sample were found still standing by OSINFOR. The representative of the concession present at the supervision explained that they couldn't actually conduct any logging "due to economic problems and the recession in the [forestry] sector."¹⁶³ But despite never having entered the field to extract timber, according to the Balance of Extraction the concessionaire still managed to

mobilize 2,120.740 m3 - of an approved total of 2,969.390 m3 - which included 67.200 m3 of cedar, out of a total of 67.210 m3 approved.¹⁶⁴

The concessionaire did not personally participate in the field supervision - he sent a representative instead - but he signed the official documents at the beginning and the end of the supervision, where a paragraph was added by hand stating that "he signed the documents accepting the veracity of the field data."¹⁶⁵

One unclear aspect of this supervision concerns the endlessly confusing issue of how the harvest years (zafra) correspond to the POAs. While the first paragraph of the Supervisory Report states that OSINFOR is focusing on "the Annual Operating Plan for the sixth zafra, 2008-2009,"¹⁶⁶ the report uses the Administrative Resolution approving the POA for the "fifth zafra, 2008-2009."¹⁶⁷ In addition, the letter from OSINFOR officially notifying the concessionaire of the supervision refers to POA 5, zafra 2008-2009¹⁶⁸ while the Balance of Extraction records that the 2008 zafra corresponds to POA 8.¹⁶⁹ Comparing the volumes from the Balance and the details from the RA, it can be seen that all of these references are in practice to the same POA; however, these types of incongruities do not contribute to transparency, and make it quite difficult for all - authorities, buyers and civil society - to effectively monitor what is happening.

7.14 HE GOT THE LUMBER FROM ROTTING STUMPS

Concession of Lombardo Villacorta Pérez, contract 16-IQC/C-J-204-04: in which 60% of the trees don't exist, 28% remain standing, 13% are old stumps, there are no signs of logging in the POA, and yet 1600 m3 of wood were extracted.

Supervisory Report: 316-2010-OSINFOR-DSCFFS¹⁷⁰

Exporters:	MADERERA BOZOVICH SAC A&A INVESTMENTS-PERU SAC MADERERA VULCANO S.A.C
Importers:	BTP Inc AYALA MANAGEMENT CORPORATION THE REX LUMBER COMPANY
Exported to the US:	43.62 m3 of cedar

According to the results of OSINFOR's supervision of this concession, all of the wood that was declared as extracted from POA 5, zafra 2008-2009, was illegally cut and laundered. A full 13% were cedar stumps that had clearly been felled years prior to the approved period of harvest.¹⁷¹ Moreover, according to the conclusions in the report prepared by OSINFOR, the stumps "appear to have been planted".

The supervisor described the stumps in the following words: "the level of sap rot is well advanced, if not completely rotten; the heartwood also exhibits advanced decay. Moreover, no evidence has been found of branches or foliage that would have come from this tree, from which we can observe that it was

harvested a long time ago. Also, in the clearing generated by the felling of the tree and its canopy one can already see natural regeneration occurring, principally by pioneering species approximately 4-5 meters in height and 10 to 12cm in diameter. It should also be noted that there is no evidence of sawdust, which would have been the case if they had cut the logs into pieces [for transport]. Nor were there any skidtrails in evidence to indicate that logs were mobilized for transport."¹⁷²

The supervisor continued saying that "it is also very important to mention that no evidence exists justifying the volume of the wood extracted, clearly demonstrating that the harvested wood came from an area other than PCA No. 5."¹⁷³ The supervision file includes a letter from OSINFOR notifying the concessionaire of the planned Supervision visit.¹⁷⁴ Although the letter has a signature of receipt in the name of the concessionaire, he did not participate nor delegate anyone to participate on his behalf.

The situation concerning the stumps also contradicts the prior visual verification that supposedly took place before the POA's approval, in which the local forestry official claimed to have found all of the trees in the field and recommended approval for harvest.¹⁷⁵ If the analysis regarding the age of the stumps is correct, it is impossible that there were standing trees at the time of this verification. Add to this the problems with the existing volumetric measurements - 80% of the trees found were outside the acceptable harvest range due to insufficient diameter at breast height (DBH), and 36% were not yet tall enough.¹⁷⁶

In the Balance of Extraction for this concession, as in various others, there is confusion and lack of correlation between the zafra and the POA. The lack of correspondence between official documents makes it extraordinarily difficult to monitor activities taking place in the concessions.

Table 1: Wood "harvested" or laundered through the Lombardo Villacorta Pérez Concession over 5 years. CITES-protected cedar was only one of over 15 species that the concession's fabricated documents helped to launder during this time period through the methods described in this report.

POA AS PER BALANCE OF EXTRACTION	REAL POA ¹⁷⁷	ZAFRA	CEDAR AUTHORIZED	CEDAR TRADED	NUMBER OF CEDAR TREES	TOTAL AUTHORIZED WOOD (ALL SPECIES)	TOTAL TRADED WOOD
POA 1	?	2004	485.027	485.018	112	7,500.501	4,258.657
POA 2	?	2004	109.973	109.973	26	2,277.499	1,216.439
POA 3	?	2006	175.185	175.009	48	6,181.235	1,810.084
POA 4	?	2007	359.300	359.296	90	6,571.845	4,361.738
POA 5	?	2008	---	---	---	2,035.594	540.691
POA 6	POA 5	2009	114.235	114.155	13	3,126.540	1,599.596
			1,243.720	1,243.451	289	27,693.214	13,787.205

Source: Balance of Extraction Supervisory Report 316-2010-OSINFOR-DSCFFS, pages 0045 - 0047. Volume in m3. Note that according to the Balance of Extraction for this concession, the 2009 zafra corresponds to POA 6. However, the Resolution cited by the Balance for approving POA 6 (Resolution Sub-Directorial N° 079-2010-GRL-GGR-PRMRFFS-DER-SDPM, April 15 2010) actually approves POA 5 for zafra 2009-2010.

BOX X: False Verifications in Loreto

While OSINFOR is the body charged with uncovering the great majority of the irregularities which occur in the forest sector, the forestry authority itself also has the right and responsibility to do so. EIA was able to review a dossier of official documents which bring to light a series of cases in Loreto in 2010 in which the national Forest Authority (DGFFS) had itself investigated actions by the Loreto's Regional Government's Forestry authority (PRMRFFS) and found serious cases of false information. Despite the fact that this indicates the grave nature of the problems in Loreto, this example is also hopeful, as it indicates that the administration in Lima is willing to act on the basis of trustworthy information which it receives regarding possible irregularities. It is EIA's hope that the examples contained in the present report also merit the same level of attention.

Apparently, DGFFS had cause to doubt the way in which several POAs for forest concessions and indigenous communities were approved by the regional Forest Authority office of Iquitos (the ATFFS in its last days before decentralization) during the final days of 2009. After sending fieldwork teams to investigate a number of cases, Nélida Barbagelata Ramírez, the Director of Forest and Wildlife Management in Lima, sent the final field reports to Wilfredo Panduro Cárdenas, Chief of the PRMRFFS, noting their conclusion that the POAs contained false information.

PRMRFFS responded by referring at least nine cases to the environment division of the regional Public Prosecutor's offices in Iquitos, requesting formal actions be taken. (Some of these cases are also listed on the EIA-OSINFOR database due to the problems found during the field supervisions conducted by OSINFOR.) The nine concessions/communities are as follows:

- Alex Tello Grandez (Concession No. 16-IQU/C-J-220-04)
- CN Santa Rosa de LoretoYacu (Permit No. 16-IQU/P-MAD-A-023-06)
- CN Sumac Allpa (Permit No. 16-IQU/P-MAD-A-011-05)
- Aserradero y Carpintería Don Pepe S.R.L. (Concession No. 16-IQU/C-J-030-04)
- Forestal Valera S.A.C. (Concession No. 16-IQU/C-J-090-04)
- CN Nativa San José de LoretoYacu (Permit No. 16-IQU/P-MAD-A-022-06)
- Luz Angelica Cabrera Arcentales (Concession No. 16-IQU/C-J-214-04)
- Valmer Ruthilio Bardales Arévalo (Concession No. 16-IQU/C-J-205-04)

PRMRFFS also suspended all transport permits associated with POA 5 of at least three other concessions to which DGFFS had sent its fieldwork teams. They are as follows:¹⁷⁸

- Agrupación Madera Anidolly S.A.C. (Concession No. 16-IQU/C-J-022-04)
- Manuel M. García Linares (Concession No. 16-IQU/C-J-049-04)
- Empresa Productores Forestales Atacuari (Concession No. 16-IQU/C-207-04)

Two cases that deserve more detailed information are Comunidad Nativa Sumac Allpa and Productores Forestales Atacuari.

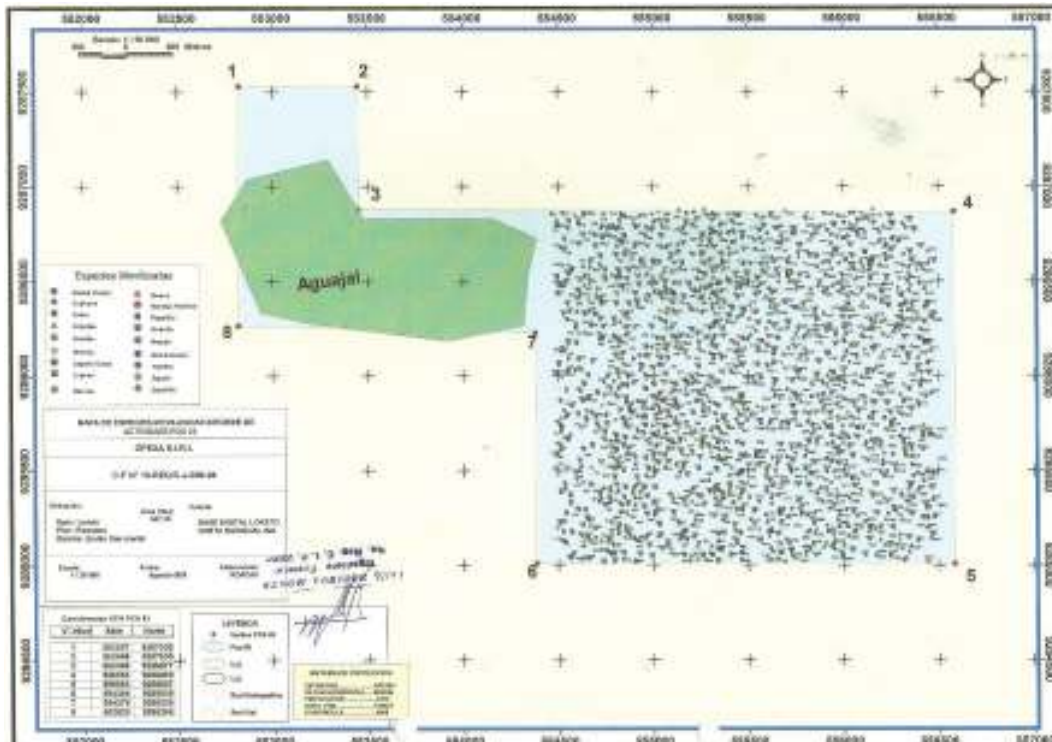
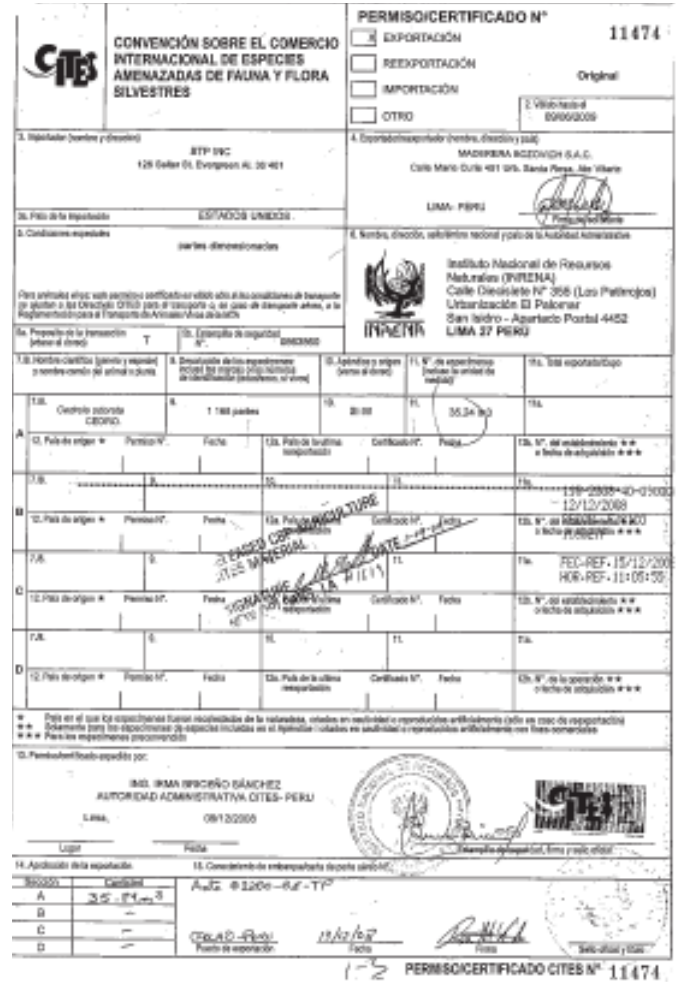
In the case of the **Indigenous Community Sumac Allpa**, the POA was approved based on the recommendations in Technical Report N° 073-2009-AG-DGFFS-ATFFS/IQUITOS-Sede Iquitos/KBTP dated December 28, 2009, whose author Kenjy Bruno Terán Piña stated that he had verified in-situ the trees and inventory field work done. The POA included 65 harvestable trees and a volume of 341.861 m³ of cedar. The Balance of Extraction for the year reported that the Sumac Allpa indigenous community had transported 341,846 m³ of cedar: that is, 99.99% of the authorized amount. Nonetheless, the fieldwork team sent from Lima in September 2010 documented the nonexistence of the harvestable and seed trees, neither as standing trees or stumps.¹⁷⁹ Clearly, however, the volume was sold on the black market.

Similarly, in the case of **Productores Forestales Atacuari SAC** - whose magic cedar tree from a previous POA is featured in Case 6 above - the regional Forest Authority approved POA 5 on December 28, 2009,¹⁸⁰ based on a Technical Report dated December 23, 2009. This Report was drafted by the same engineer (Kenjy Bruno Terán Piña) who had supposedly conducted the prior visual verification of Sumac Allpa - in a totally different remote watershed - just a few days earlier.¹⁸¹ The harvesting of 215 cedar trees, with a total volume of 1,232.494 m³, was authorized for this POA. The Balance of Extraction indicates that the company then extracted a volume of exactly 1,232.459 m³ of cedar.

Nonetheless, when the DGFFS team conducted its inspection (work which took 12 days to complete, although apparently engineer Terán Piña managed to do his prior visual verification visit in much less time), the team found that "of a total of 237 trees of the species *Cedrela odorata* declared in the POA which have been the object of verification, 236 trees do not exist physically in the field in the UTM coordinates declared in POA 05 and the single cut tree [found] has a DBH less than the legal minimum (...). No recent indications exist of forest harvesting (...). We suspect that the volume transported was of illegal origin."¹⁸²

Who would have received timber extracted from these concessions? The information which EIA has been able to find to date does not allow us to estimate the percentage of timber from these concessions subsequently exported to the United States or another country. It is possible that the majority of the cedar has remained in a warehouse in Pucallpa; however, it is also possible that it has already left the country under several CITES permits, laundered with documents from other concessions. At least one shipment of 109.195m³ of likely illegal cedar with documents from the Sumac Allpa indigenous community POA in question sailed for the Jalisco, Mexico-based company Grupo Tenerife in 2010. Earlier, in 2009, two shipments of cedar with Sumac Allpa documents were also exported by Grupo Vulcano to Oregon-based North American Wood Products and Texas-based Intrading Hardwoods and Lumber. While the authorities had not conducted inspections in 2009, it seems likely that a similar laundering scheme was employed.

HOW FRAUD AND CORRUPTION IN PERU'S CONCESSION SYSTEM ARE DESTROYING THE FUTURE OF ITS FORESTS



Bottom Left: A map of OPEXA's POA 3, showing the entirely fabricated location of over a thousand trees never harvested.

Satellite image of OPEXA concession. The bright pink area is a wetland of exceeding biological richness, which contains no harvestable trees. The terrain in the heart of the concession is a forest of undulating ridges and swampy depressions.



8: THE OPEXA CASE: INSIDE THE MAGIC FOREST

Exporters:

MADERERA BOZOVICH SAC
FORESTAL DEL ORIENTE S.A.C.

Importers:

BTP Inc
GLOBAL PLYWOOD & LUMBER TRADING, LLC

Exported to the US:

120.030 m3 of cedar

Francesco Mantuano, an Italian living in Peru with a timber concession in Loreto, discovered after his arrival to the country that his ex-partner had been performing magic tricks, pulling hundreds of trees out of thin air and into their concession, Operaciones y Exportaciones Amazónicas SAC (OPEXA). That is, although these trees existed on paper in the inventories - supposedly verified by the Forest Authority - they were not actually growing in the physical forests. He also discovered that, despite the fact that those trees had never existed and no one had ever entered the concession to extract them, by all official accounts and paper records they had been felled, extracted, transported, and sold.

Mantuano has obtained two official documents which directly contradict each other, although both claim to be the result of in-situ verifications: one from the Forest Authority (in this case the Loreto Regional Government's office, PRMRFFS) and the other from OSINFOR. Clearly, one of them is lying. Since April 2011 Mantuano has been asking the authorities to decide which one is correct and which one is not, but has yet to receive a response.

But Mantuano is not waiting with his arms crossed. During the last year he has compiled extensive information about both his case and the Loreto forest sector. He has documented a series of irregularities which he has submitted, in highly organized and thorough fashion, to authorities not only in Peru but in the United States and Europe, in an attempt to draw attention to the corruption and impunity with which illegally sourced wood is sold in Peru. The Mantuano case is instructive in demonstrating the daily, systematic illegality which exists throughout the forest sector.

"[P]ractically speaking, it was not an area for a timber concession. The Ministry of Agriculture's ministries and officials, with their maps, wherever they see a pair of streams, they put a concession there. The same thing happened with my concession. But it is impossible to harvest wood from there. (...) Practically speaking, the concession has been useful only for selling volume."

FRANCESCO MANTUANO

8.1 WHO IS LYING: THE FOREST AUTHORITY OR OSINFOR?

Mantuano got into the forestry business remotely, from Italy, through a childhood friend who came to Peru named Felice Cosentino. Cosentino obtained a timber concession (16-REQ/C-J-039-04) at public auction in 2006 in the Requena District of the Loreto region, and they became partners in OPEXA SAC. In October 2007, when Mantuano moved to Iquitos, Cosentino was the General Manager and managed the day-to-day operations, while Mantuano was the Comercial Manager. (Mantuano would become the General Manager in October 2010, when Cosentino left the company.)

It was only in May 2010 that Mantuano began to suspect that something strange was happening in their concession, as the result of a contract for the sale of standing timber which his then-partner recommended he sign with timber merchant Mauro Paredes Sandoval.

Paredes' company entered OPEXA's forests in July and worked for only eight days, but soon afterwards was pressuring OPEXA for the GTFs (permits) to transport the harvested wood. Mantuano found this curious, because not only is eight days hardly enough time to log hundreds of trees - the average harvest operation lasts months - but the low water levels and lack of rain at that time of year in Loreto make it difficult to transport timber on the rivers. After putting two and two together, Mantuano concluded that Paredes was only interested in obtaining OPEXA's GTFs in order to launder timber which had already been illegally extracted from other areas. Mantuano was opposed to giving Paredes the GTFs and threatened to file a formal complaint against

his ex-partner if Cosentino handed them over.

In parallel, OSINFOR was conducting a Supervision on the concession's POA 5, which had been prepared late in 2009 by engineer Víctor Raúl Noriega Montero and submitted to the Forest Authority by Felice Cosentino. According to Mantuano, his partner had assured him that there was no need to worry, as the POA was perfect. But when Mantuano managed to get a copy of OSINFOR's Supervisory Report, he found statements like "the technical document (POA), being a sworn statement, contains false information presented to the ex-ATFFS-Requena by the concessionaire."

Cosentino told Mantuano that the OSINFOR inspector had asked for a bribe of 10,000 *Nuevos Soles* (approximately US\$3,700) in order to issue a positive report about the POA 5, and that Paredes had lent him the money in exchange for the right to extract timber from OPEXA's concession. But if POA 5 were "perfect", why would the inspector request a bribe? And if Paredes had lent the money to pay off a bribe, why did the report still come out unfavorable to OPEXA?¹⁸²

8.1.1. A Convenient Theft

In view of so many inconsistencies, Mantuano demanded that his partner hand over all of the company's documentation. Unfortunately, however, just then (August 17, 2010, according to the formal police complaint) Cosentino's house was robbed and the thieves made off with two things: a DVD player and a cardboard box for a printer filled with papers having no value to third parties. What papers were stolen? Among other OPEXA documents, all of company's invoices issued "from number 001 to number 258 from the years 2004 to 2009"; "the invoices for purchases from those same years"; and "the cash ledger for purchases and sales".

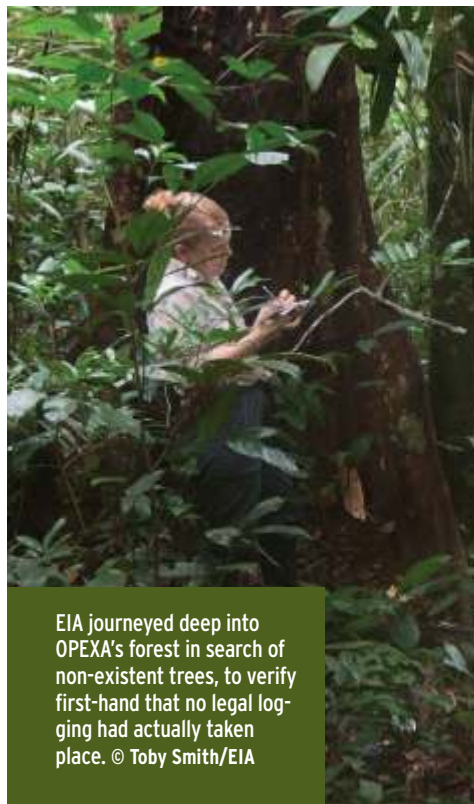
In October 2010, Mantuano succeeded in getting Cosentino to leave the company. Mantuano also later filed a formal complaint alleging that Paredes again entered Mantuano's concession in February 2011 – when the river flow was higher – and removed wood with neither an authorization nor a GTF.

While all of this was going on, Cosentino was busy with his electoral campaign. In September

2010, he was elected mayor of the district of Alto Nanay in the Loreto region, and took office on January 1, 2011.

8.1.2 Fake POAs and False Signatures

As described in the Box VII "Logging a Concession, on Paper", before being able to cut timber a concessionaire must have on file a five-year General Forest Management Plan and an Annual Operating Plan (POA) with a 100% GPS-referenced census of commercial trees to be extracted. OPEXA's POA 5 contains the signature of the consulting forestry engineer Víctor Raúl Noriega Montero, even though Mantuano asserts that this person never entered the concession. OPEXA's POA 5 was approved by the Forest Authority after a



EIA journeyed deep into OPEXA's forest in search of non-existent trees, to verify first-hand that no legal logging had actually taken place. © Toby Smith/EIA

supposed prior visual verification by engineer Roy Robin Hoyos Trigo and sign-off by Requena's Technical Administrator Henry Martín Lagunas Pilco (who now holds a senior position in PRMRFFS).¹⁸³ Hoyos' technical report makes only one correction to OPEXA's POA, concerning the number of cubic meters of

capirona presented: he recommends granting the permit for only 1,526 m³ instead of the 1,607 m³ requested. He even includes photos of the capirona in the report. It would appear that the attention to detail in the inspection yielded very precise figures. Nevertheless, the subsequent inspection by OSINFOR could not find even one capirona tree in the POA 5 parcel.

In fact, a few days after the POA was approved, Mantuano began receiving calls from parties who wanted to "comprar volumen" [buy volume] – that is, buy only the GTF papers which authorize the transport of timber, but not the timber itself. Someone, perhaps from the Forest Authority itself, was clearly spreading the word that a new source of magic trees had been approved and would soon be on the black market.

It is important to note that POA 5 covered the part of the concession that was flattest and most accessible by river routes. According to the reconstruction that Mantuano has made of POAs 1, 2, 3, and 4 with the limited papers he has been able to get his hands on, legal timber was never removed from these POAs, although the GTFs based on approved volumes were, indeed, utilized. While Mantuano had put in the money in October 2007 for the extraction of the wood from POA 3, the geographic characteristics of the area and OPEXA's technical and financial capacity would, in practice, have made extraction impossible. EIA was able to verify this data first hand (see page 52 for more details).

8.1.3 No worries

OSINFOR's Supervisory Report of OPEXA's POA 5 took a sample of 76 trees in order to verify their existence, location, and diameter, but was only able to locate 41 of them: 46.05% of the sample simply did not exist. As shown in the image on p. 51, the only species found in the field in the quantity stated was cumala. Engineer Hugo Ríos Paima did not find any capirona, or 71% of the Shihuahuaco, or 33% of the cedar. The forestry consultant invented numbers, the Forest Authority inspector lied when he claimed to have verified the existence of these trees, and the Technical Administrator did not ensure that the information was actually coherent. (Note: OSINFOR official Ríos Paima has previously been implicated in fabricating

information contained in POAs elsewhere and that he signed as a private forest consultant – see Box XII: “False Verifications in Loreto”. Given the obvious concern with assuming that any document signed by him would be credible, EIA visited OPEXA to corroborate the case first-hand).

However, almost two years later, OSINFOR has yet to issue an Administrative Resolution regarding the consequences of the findings of their Supervision on OPEXA. Neither, to be sure, have they forwarded the case to Loreto’s Public Prosecutor for follow-up. Had Mantuano not voluntarily halted operations upon learning

of the scam, OPEXA could still be operating normally. That is, despite the fact that OSINFOR has already verified that almost one-half of the trees declared do not exist, OPEXA could still have sold the ‘volumes’ approved fraudulently and thereby helped launder hundreds of cubic meters more of illegal cedar and other wood.

During the 21 months since suspending his own operations, Mantuano has also denounced three successive Directors of Supervisions at the regional OSINFOR office for not producing the aforementioned Administrative Resolution with the results of OPEXA’s Supervision: José Ríos Trigo, Hernán Alberto Gutierrez Merino and

Francisco Palomino García.

Mantuano has almost depleted all his savings and has no income in Iquitos to support himself. Had he sold the “volume” from his POA 5 GTF on the black market, he would have obtained about 200,000 soles (aprox. US\$ 75,000). As he says, this money would have made his life a lot easier, but would have also destroyed his conscience. His actions have also turned him into a pariah among his colleagues in the Iquitos timber business, and he has even been threatened.

“99% of the concessions in Loreto have been run in this fashion. This is necessary to supply Peru’s timber export industry. In this sense, illegal logging is not a phenomenon of thieves, of outlaws, who take a few chainsaws into the forest, cut what they find, and then escape with their logs. Illegal logging is a real industry – productive, organized -- very well organized -- very well protected. But just the proverbial tip of the iceberg can be seen, the illegal worker, the guy in the forest, with his crew. . . . All this mass of wood is exported, and only a very small part goes to the domestic market.”

FRANCESCO MANTUANO

Las acciones de supervisión, se realizaron en función a los indicadores de evaluación establecidas en el formato de evaluación, que lleva el análisis siguiente:

- Para la supervisión se tomo 76 individuos (70 árboles en pie aprovechables y 06 Semilleros) de los cuales solo se encontraron 41 individuos (39 árboles en pie aprovechables y 02 semilleros), y 35 individuos (46.05%) no se encontraron cuadro N° 08.

Cuadro N° 08. Comparación entre los arboles a supervisar y los arboles encontrados en campo.

Especie	Arboles a supervisar			Arboles encontrados en campo				
	N° de arboles aprovechables	N° de arboles semilleros	Total	N° de arboles aprovechables	N° de arboles semilleros	Total	Diferencia de individuos	Diferencia en %
Azucar huayo	5	2	7	1	1	2	5	71.43
Capirona	4	3	7	0	0	0	7	100.00
Cedro	15		15	10		10	5	33.33
Cumala	14	1	15	14	1	15	0	0.00
Estoraque	6		6	2		2	4	66.67
Lupuna	8		8	6		6	2	25.00
Shinuahuepo	7		7	2		2	5	71.43
Tornillo	11		11	4	0	4	7	63.64
Total	70	6	76	39	2	41	35	46.05

Fuente elaboración propia

Table of results from OSINFOR’s Supervision visit to POA 5, showing the percentage of trees they didn’t find. Capirona, for example, was 100% fabricated.

8.2 “NO ONE’S EVER SET FOOT HERE”: A JOURNEY TO POA 3

Please visit www.shootunit.com/eia to view an interactive, GPS-referenced map with photos and videos from EIA’s investigation into OPEXA’s laundering and the forest industry in Loreto.

The rampant corruption and timber laundering within Peru’s forest sector is an openly acknowledged secret, but documenting the full chain of evidence required to demonstrate it has long proved a challenge. Francesco Mantuano’s willingness to not only denounce his own concession but open it to EIA for inspection allowed for a groundbreaking look into a system that allows timber cut from unauthorized areas to be systematically laundered using “volume” created by concession documents full of fabricated information.

While OSINFOR’s 2010 supervision focused on OPEXA’s POA 5 (as described in Section 8.2 above) from which Mantuano blocked the extraction or sale of any timber, the EIA-CITES database shows that the majority of US-bound shipments that supposedly contained OPEXA timber were linked to documents that correspond to the adjacent POAs 3 and 4.¹⁸⁴ In order to investigate, EIA journeyed to these POAs – at the center of Mantuano’s concession – in October 2011.

EIA conducted aspects of the mission in a covert manner, in order to protect against potential intimidation or reprisal both investigators and the local guides and community members whom the team employed during the journey. No guides, boat drivers or other individuals traveling with EIA are aware that the ultimate purpose was to collect documentation of possible illegal logging and timber laundering.

On a map (see interactive version at the link above), the OPEXA concession is located in lowland rainforest between two small winding rivers, the Guanache/Buncuya and the Shincuya. Public boat transport halts one to two days upriver from Iquitos at Tamanco, a one-phone frontier logging town on the banks where the Guanache empties into the Ucayali River. EIA travelled four days upriver from Iquitos, past Tamanco, to the native community of Victor

Raul, upon whose traditional hunting lands the concession is superimposed. From here, the team walked inland using satellite images and GPS units to attempt to locate stumps of some of the 58 cedar trees that had supposedly been cut and taken from the POA 3 parcel.

According to the Balance of Extraction, OPEXA traded 322.030 m3 of cedar in total from this POA.

In 2008, Maderera Bozovich presented GTF documents totaling 53 m3 of cedar volume from OPEXA’s POA 3 to support CITES permits for exports to its US affiliate, Bozovich Timber Products.

8.2.1 The POA on Paper

OPEXA’s POA 3 document, provided to EIA by Mantuano, had been completed by a private forest engineer named Raul Noriega Montero (C.I.P. 22099) and eventually approved by Antonio Solano Vargas in the Regional Program office. It included various maps of the parcel – an area approximately two by two kilometers (about 400 ha) – dense with georeferenced points color-coded by tree species. The maps indicated harvestable trees, trees harvested, trees left uncut, and seed trees. POA 3 also included a 38-page list containing every tree species, its precise volume, suitability for harvest, and GPS coordinates. Tornillo, cumala, quinilla, lupuna, marupa, and capirona were some of the most common among the 2070 trees on the list, totaling 7866.880 m3 of commercial volume.

The yearly Balance of Extraction indicates that 322.013 m3, or 99.93% of the cedar volume in POA 3 was extracted and sold. This precision would indicate that (a) all trees in the list were actually harvested, and (b) the forest engineer consultant who wrote the POA was so precise in his original field measurements that the resulting lumber volumes reached an accuracy level of two decimal places. (A precision noted in the majority of cases involving POAs with fabricated data, as the case studies found above in this report show.) In OPEXA’s Balance, most volume of other species is indicated as extracted and sold as well. These documents all suggest that evidence of inventory (e.g. marking tape, trails), harvest (e.g. stumps) and transport

should be found in the forest.

In remote parts of the Amazon such as this, timber must be transported by river to any point of sale. Even on a map, it is clear that POA 3 is at least four to five kilometers as the crow flies from any flowing waterways. The closest body of water is the large wetland, or cocha, that occupies much of the western half of the concession near Victor Raul. One would expect that the extraction of thousands of trees from POA 3 would have necessitated temporary clearings and construction of skid trails to either the Shincuya or the Guanache, the remains of which would be visible in some form three years later, even if a tractor had not been used (although the permanently boggy soil would make it impossible for forest tractors to get there). Finally, one would expect that members of the community of Victor Raul would be aware of the logging in the region.

8.2.2 The POA in Practice

It took EIA several days even to arrive at POA 3, because between the site and Rio Guanache lies dense Mauritia palm swamp called *aguajal*. Adjacent to the *aguajal* for the north-south length of the concession lies the essentially impenetrable and treeless expanse of the *cocha*, into whose grassy muck anyone and anything over 50 kilos sinks deep. It would be exceedingly difficult, slow and expensive to extract timber to the west.

The terrain of POA 3 itself is low hills whose steep slopes descend in and out of small pockets of swamp. These hills, in practice, double the distances shown on maps, suggesting that it would require the construction of 5-10 kilometers of difficult trail to move logs or sawn timber to Shincuya creek to the east. There is almost no potable water or flat area for establishing camps.

Indeed, there was no sign that anyone ever had logged in here. EIA’s team found no signs of skid trails, walking trails, or timber inventories (either in POA 3 or the adjacent POA 4 through which the team passed en route). In three days of surveying the POA 3, no stumps were seen. Moreover, the ecosystem type was not one in which several of the species contained in the OPEXA documents would be likely

to be encountered. For example, capirona (*Calycophyllum spruceanum*), 229.039 m3 of which was supposedly taken from POA 3, is generally found only along the floodplains of major rivers such as the Ucayali. Neither did the team find any cedar trees, standing or cut.

In order to prove the fabrication of the POA data with additional certainty, EIA conducted a survey using a random stratified sample. The forest inventory, as per the norm, had supposedly been conducted using 22 fajas, or transect lines running north to south through the POA area. Using the data from the 38 page list of GPS coordinates, we grouped the fajas into adjacent pairs and generated one cedar tree coordinate randomly from every pair, to ensure a sample that included points from along the full east-west range. Using GPS units, teams located the chosen points (within a ten meter error zone) and, within a 25-meter radius, recorded any stumps or signs of logging as well as all trees above 40 cm dbh. Trees were identified by the knowledgeable local guides

when EIA could not do so. Again, no evidence of logging was encountered, nor a single cedar tree.

After a week of work to arrive and survey the POA, EIA could corroborate what our local guides said:

"No one's ever entered here, no one's ever logged, no one's ever set foot in this terrain.... because it's so difficult to get here." **LOCAL GUIDE REFERRING TO POA 3**

8.3. Logging Everywhere Except Where It Should Be

The lack of logging in POA 3, or indeed in surrounding areas, invites the question: where did the timber sold by Mantuano's business associate actually come from? This we will never know for sure. But it was clear that logging was occurring everywhere *except* in the concession. During EIA's journey up the Amazon, Ucayali, and Guanache rivers, evidence of logging was ubiquitous, the vast majority of it illegal. Historic and fresh logging camps dotted the banks of the Guanache, while chata barges loaded with enormous logs plied the Ucayali. Towns like Requena and Tamanco have burgeoned from the proceeds of logging and the migrant workers who arrive as part of logging gangs. Local timber bosses, EIA was told, prefer to bring laborers from locales too distant and expensive for them to return to of their own volition before harvest season is over (see box IV for more on these laborers' plight).

Zafra : 2007						
Area	547.790 Ha. Plan Operativo Anual	R.Aprob.:	/ /			
4 MADERA EN ROLLO	Aniba sp (Moena)	168	507.230	439.825	67.405	
4 MADERA EN ROLLO	Calophyllum brasiliense (Lagarto caspi)	72	225.650	219.841	5.809	
4 MADERA EN ROLLO	Calycophyllum spruceanum (Capirona)	69	229.190	229.039	0.151	
4 MADERA EN ROLLO	Cariniana decandra (Papelillo caspi)	132	380.120	380.029	0.091	
4 MADERA EN ROLLO	Cedrela odorata (Cedro)	58	322.030	322.013	0.017	
4 MADERA EN ROLLO	Cedrelinga catenaeformis (Tornillo)	99	522.030	512.442	9.588	
4 MADERA EN ROLLO	Celiba pentandra (Huimba)	138	597.540	198.021	399.519	
4 MADERA EN ROLLO	Chorisia integrifolia (Lupuna)	85	622.440	621.661	0.779	
4 MADERA EN ROLLO	Copaifera reticulata (Copaiba)	92	446.150	421.654	24.496	
4 MADERA EN ROLLO	Coumarouna odorata (Shihuahuaco)	48	229.140	220.020	9.120	
4 MADERA EN ROLLO	Guarea trichiloides (Requia)	62	224.780	223.516	1.264	
4 MADERA EN ROLLO	Hymenaea spp (Azucar huayo)	97	426.880	241.047	185.833	
4 MADERA EN ROLLO	Manilkara bidentata (Quinilla)	286	824.960	402.226	422.734	
4 MADERA EN ROLLO	Parahancornia amapa (Naranjo podrido)	40	137.150	0.000	137.150	
4 MADERA EN ROLLO	Quararibea cordata (Sapote)	55	159.830	7.624	152.206	
4 MADERA EN ROLLO	Simarouba amara (Marupa)	153	549.330	60.741	488.589	
4 MADERA EN ROLLO	Virola sp (Cumala)	350	1279.690	1279.130	0.560	
4 MADERA EN ROLLO	Quararibea asterolepis (Zapotillo)	66	182.740	29.454	153.286	
Total POA		2070	7866.880	5806.283	2058.597	
Total zafra: 2007		2070	7866.880	5806.283	2058.597	

Despite the impossibility of any logging in POA 3, OPEXA's Balance of Extraction indicates that over 50 trees worth of cedar alone were taken from the area. The resulting 322 m3 of volume could be worth hundreds of thousands of dollars on the international market.

The human toll is as evident as the environmental consequences. The men and women in the logging camps are paid poorly, without benefits, safety equipment or adequate supplies. They are expected to fish and hunt for bushmeat, depleting biodiversity throughout the zone. When injuries ensue, a common occurrence, people are expected either to work through the pain or are sent away without wages to independently find treatment. During EIA's trip down the Guanache, our boat became a floating ambulance for teenagers gravely injured in logging camps. One young man's finger was swollen and gangrenous while another had recently been operated on after breaking his leg when a log fell on him. Neither was older than 16.

Finally, the developmental benefits of this environmental pillaging remain far from clear. Despite the fact that Victor Raul was located alongside a concession and many of

the young men in the community were able to earn some cash income in the logging camps, the community has not prospered in any appreciable way. Village chiefs and elders reiterated to EIA how many bare necessities are still lacking.

8.4. On Paper Only, but Real Harm

The OPEXA concession is a perfect example of the perversities of Peru's concession system - and by no means unique. It has always been a poorly-constructed piece of fiction. The concession is exceedingly remote and a sizeable portion of it is actually treeless *cocha* or *aguajal* with no commercial timber value. Its value for biodiversity and habitat conservation is probably far higher than what any legal logging could bring. OPEXA's borders were drawn on a map ten years ago and the area was auctioned

to men who lacked any intent to actually manage it, even if they'd had the capital to do so. Its purpose, from the start, has been to enable the fabrication of documents allowing someone to sell timber "volume" to traders who need to get illegally-logged wood from somewhere else into the market. The entire system is supported by officials willing to sign off on fictitious documents created in offices far from the forest. And the wood, in the end, winds up as cabinets, doors and floors in the US.



Loggers are frequently injured and receive no care or health benefits. A log fell on this boy, 16, while working at an illegal camp in southern Loreto. EIA gave him a ride to Iquitos where he hoped an operation would help him walk again.
© Toby Smith/EIA



9. IGNORING INCONVENIENT LAWS: THE WATERSHED BANS, 2000-2010

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Over the past decade, a large but unknown quantity of cedar and mahogany has been illegally extracted from protected watersheds, and sold using illegal documentation under the averted eyes of government officials. The vast majority of this wood was exported under CITES permits to the United States, Mexico and Dominican Republic.¹⁸⁵ While the story may appear absurd on its face, the officials and companies involved did it with success and, to date, with impunity.

Despite Forestry and Wildlife Law N. 27308, which established a ten year ban (2000 to 2010) on extraction of cedar and mahogany in four sensitive watersheds, officials from the Ministry of Agriculture, INRENA and the General Directorate of Forestry and Wildlife (DGFFS) decided to flaunt the ban by authorizing the extraction, trade and eventual exportation of these species from the areas in question. This process involved the systematic violation of Peru's legal system, sidestepping both the original law and a subsequent decision by Peru's highest court, the Constitutional Court. The existence of the ban was publicly known by the loggers, traders and exporters of Peruvian mahogany and cedar. (Examples of press materials from the time available via online version of this report.) Over seven years, in fact, at least four different attempts to eliminate the ban failed.

The chronology presented here has been reconstructed based on documentation that EIA has accessed through official publications, honest officials discontent with the state of their institution, and the laborious processes of public information access requests. (All documents mentioned and available have been

scanned and are publicly available through the online version of this report.)

9.1 THE ORIGINAL BAN

By the time negotiation of the 2000 Forestry and Wildlife Law N. 27308 began, the unsustainable harvest of mahogany and cedar had already become a topic of concern. The law therefore contained the following paragraph, called the "Seventh Transitory Provision" as a legally binding provision during a defined 'transitional' time period: "Upon entry into force of this Law, there shall be a ban for 10 (ten) years on the extraction of mahogany (*Swietenia macrophylla*) and cedar (*Cedrela odorata*) from the watersheds of the Putumayo, Yavarí, Tamaya, and Purús Rivers as well as from other areas declared or yet to be declared by means of a Supreme Decree."

Authorizing this extraction involved the systematic violation of Peru's legal system, sidestepping both the original law and a subsequent decision by Peru's highest court, the Constitutional Court

Because there were concessions located in the four watersheds with authorization to extract mahogany and cedar at the time of the law's promulgation, those involved reacted

immediately. Within weeks, congressmen associated with the timber sector asked the Constitutional Court to declare the ban unconstitutional, arguing that it violated Article 62 of the Constitution (establishing that a contract cannot be modified by laws subsequently passed) as well as rights to property and to freedom of labor.

9.2 FIRST ATTEMPT TO ELIMINATE THE BAN: SUPREME DECREE

While waiting for the Constitutional Court's decision, and perhaps already predicting that it would not fall in their favor, the ban's opponents fixed their attention on the creative interpretation of another provision in the Forestry and Wildlife Law, Article 24.2. They managed to get two paragraphs inserted into a seemingly technical Supreme Decree 019-2000-AG entitled, "Approval of technical study of procedures for promotion and determination of size of Harvesting Unit in Permanent Production Forests."¹⁸⁶ This Decree mentions casually among its 'considerations' that while the Seventh Transitory Provision of Law N. 27308 declares the ban, Article 24.2 of that same Law "establishes that those areas granted in concession shall not be affected by bans if the management plan includes the conservation of the species." In other words, without really modifying Law N. 27308, this Supreme Decree re-interprets one of its Articles and one of its Transitory Provisions, creating a loophole in the new provision.

However, according to the interpretation of legal specialists (and as the Constitutional

Court would reiterate), Article 24 refers to future bans issued by the Ministry of Agriculture, while the Seventh Transitory Provision is an exception for ten years issued by the Congress of the Republic, and therefore supersedes Article 24.

9.3 CONSTITUTIONAL COURT: THE LAW IS IN EFFECT

In April 2002, after analyzing the situation in detail, the Constitutional Court declared the petition of unconstitutionality to be unfounded and specified that the ban on logging in the four watershed areas applied to concessions already given as well as those to be approved in the future. In its sentence, the Court reiterated the validity and necessity of the ban in order to try to restore environmental equilibrium and preserve resources that belongs to all Peruvians, "not only to the current generations of citizens, but also to those yet to come."

"While the Congress of the Republic, in conformity with Article 62 of the Constitution, should not modify through subsequent laws the terms of a contract among individuals whose object belongs in the sphere of private property, it should however be interpreted that the Congress can and should intervene when the object of the contract are natural resources that are property of the Nation and regarding which the State has the constitutional obligations to protect and conserve, thus preventing their destruction in the name of the general interest", stated the Constitutional Court, making things quite clear.¹⁸⁷

9.4 SECOND ATTEMPT: THE OAJ REPORT

Due to external pressure from investors, four months after the Court's clear opinion, the Office of Legal Counsel (OAJ) within INRENA issued a report based on the revisionist Supreme Decree, concluding that the ban did not apply to concessionaires in the four watersheds who were in compliance with their General Forest Management Plans.¹⁸⁸ This report failed to even mention the Constitutional Court's sentence. Furthermore, it ignored the hierarchy of legal norms, within which a

Supreme Decree is considered 'below' any law passed by Congress and in no way can modify it.

Basing their actions on the OAJ report's interpretation rather than the Court's initial sentence, INRENA went on to permit the extraction, transport and exportation of cedar and mahogany wood from dozens of concessions and native communities within the banned watersheds. During the following five years little was done to address the problem, until a shake-up began in 2007 with the arrival of a new Forests and Wildlife Administrator.

9.5 2007-2008: ATTEMPTS TO CLEAN UP THE SECTOR

Edgardo Lizárraga Leguía took the post of Administrator in 2007. During this time period, the high levels of illegal logging in Peru had become the focus of significant concern in both the tri-annual meeting of the Conference of the Parties to CITES and at the negotiations table where the US and Peru were finalizing a free trade agreement. In order to begin meeting the commitments Peru had made in these different forums, Lizárraga settled on several actions to clean up some of the most egregious illegalities. The most significant of these actions were conducting field inspections in strategic areas; reducing the so-called yield factor;¹⁸⁹ a major laundering mechanism; and enforcing the watershed bans (see Box XIII: "A Real Reform Effort, Foiled".) Unfortunately, the new Administrator's efforts soon ran up against resistance so fierce it resulted in his termination.

9.6 THE OPINION OF CITES

During this time, the apparent contradiction between Law N. 27308 and the Supreme Decree 019-2000-AG even reached the offices of the CITES Secretariat in Geneva, Switzerland (see Section 4.1 re CITES). In a letter dated November 8 2007, the Secretary General of CITES, Willem Wijnstekers, requested then-head of INRENA and thus Administrative Authority of CITES in Peru, Robert Angeles, to clarify Peruvian official interpretation of the issue. (In reality, there was no need for additional consultation, given that the answer had been given in 2002 by the

COMUNICADO AL SR. MINISTRO DE AGRICULTURA, REPÚBLICA, AL SR. MINISTRO DE AGRICULTURA, LA OPINIÓN

Los productores y empresarios del sector forestal, a la Amazonía y a la Madre de Dios, advierten al Gobierno del gran daño que las Resoluciones Jefaturales 017-2008-INRENA, emitidas por el Sr. Ministro de Recursos Naturales – INRENA, el 17 de Enero respectivamente.

Estas Resoluciones legislativas, que determinan la exportación de productos forestales, determinan que no (Art. 2º), y con aplicación de la Ley 27308, afecta gravemente al sector forestal, causando un daño económico y social a la Amazonía.

Sr. Presidente, le pedimos que impida "que el perro de la Amazonía, el Gobierno, imposibilite las exportaciones y la generación de riqueza en la Amazonía."

Finalmente, deseamos expresar nuestro apoyo incondicional al ordenamiento del sector y reafirmar nuestra gestión, a la del Sr. Ministro de Agricultura, Gobierno en general; pero le pedimos una intervención en este caso para evitar un daño irreparable a la Región Amazónica.

ASOCIACION DE INDUSTRIALES MADEREROS Y AFINES DE LORETO

CONFEDERACIÓN PERUANA DE LA MADERA

CONCESIONARIOS FORESTALES DE MADRE DE DIOS

After INRENA passed regulations in early 2008 the associations banded together to publish this note "making exports and the generation of wealth in the Amazon a priority for the government. The government intervene in this case in order to avoid irreparable damage to the Amazon. These regulations were forced to resign.

R. PRESIDENTE DE LA STRO DE AGRICULTURA Y A N PÚBLICA

esarios forestales deseamos
ve daño que causan al sector
al país en su conjunto, las
N° 002-2008-INRENA y N°
s por el Instituto Nacional de
IA con fechas 10 de Enero y 19

an respecto al comercio de
minando qué es exportable y
ción retroactiva (Art. 4°), lo cual
formal y causará un enorme
a gente de nuestra región.

nos respetuosamente que
el hortelano" trabaje en su
o el desarrollo de las
eración de riqueza en la

esar de manera pública nuestro
en y la legalidad en nuestro
compromiso y apoyo a su
tro de Agricultura y a la del
reiteramos la necesidad de su
particular para evitar un daño
zónica.

Comité de Madera y Derivados



Asoc. Productores Forestales de Ucayali

Constitutional Court.) In the same communication, Wijnstekers asked if INRENA had issued CITES permits for mahogany originating in the banned areas. (EIA was not able to confirm if Peru responded to these concerns.)

Twenty days later, CITES scientific authority in Peru, Ignacio Lombardi, officially recommended to the Peruvian government that they "maintain the extraction ban (for mahogany) for the watersheds defined by the Forestry and Wildlife Law (Law N. 27308)" as part of a series of measures for the management of the mahogany.¹⁹⁸

9.7 LIZÁRRAGA'S DEPARTURE

On January 29, 2008, Lizárraga sent a communication to the director of the legal office at the Secretary of Agriculture (OAJ), Carmen Beltrán Vargas, and the newly appointed chief of INRENA, José Luis Camino Ivanissevich, explaining that during a recent meeting he'd had with representatives of the timber sector, they acknowledged the watersheds ban and were only asking for authorization to trade the timber they had already logged. This would mean that it was not necessary to eliminate the Seventh Transitory Provision.

At the same time, Lizárraga informed his superiors at the Forest Authority that, according to the verifications conducted by his personnel, all the POAs approved for Yavarí basin contained significant amounts of false information, signifying that illegal wood was being sold at both national and international levels. That same day, Lizárraga issued a Resolution nullifying the POAs in the banned watersheds and ordering the suspension of all transport permits generated from these POAs.¹⁹⁹

Through his attempts to reduce laundering, conduct actual field inspections, and enforce a ban mandated by the Peruvian Congress, Lizárraga invited the wrath of the logging sector. It was apparently too much of a legal crack-down too quickly, Peru's commitments under CITES and the US-Peru FTA notwithstanding.

Two days later, under intense pressure from both inside the government and from the impacted industry – in January of 2007, Loreto's main timber industry association,

AIMAL had sent a letter to the President of the Republic, Alan García, complaining about the ban and INRENA "being against their interests" – Lizárraga resigned and left his position.²⁰⁰

Almost immediately, the Resolutions that reduced yield factors and nullified the POAs in banned watersheds were repealed.

9.8. THIRD ATTEMPT: INRENA'S NEW ADMINISTRATION CHANGES OPINION

On March 18, 2008, the new Head of INRENA, José Luis Camino, issued a Directorial Resolution reviving the harvest, transport and sale of cedar and mahogany originating in the banned watersheds, going against the Law and the decision of the Constitutional Court.²⁰¹ This Resolution was based upon a report by then-Manager of INRENA's Office of Legal Counsel, Nicanor Asmat Vega. A closer look, however, reveals an embarrassing attempt by Asmat Vega to negate his own previous opinions. In the space of two years, Asmat Vega wrote two contradictory reports, for two different INRENA administrators, supporting opposing resolutions about whether mahogany and cedar could be harvested in the watersheds subject to the ban.

In 2007, in response to a request from Administrator Lizárraga for a definitive opinion, Asmat Vega had concluded that the Seventh Transitory Disposition was in effect and not subject to Article 24 of the Law N. 27308. Asmat's principle reasoning is based in Article 24 being intended for bans that the Ministry of Agriculture might order through Supreme Decrees – which, as per the legal hierarchy, are below the law – while the ban in question is being ordered by Congress, (at the highest level of law), and does not permit exceptions. This first report²⁰² served as legal substantiation for the Managerial Resolution whereby Lizárraga nullified the POAs in banned watersheds and suspended the transport of all wood extracted in those zones.²⁰³

However, in 2008, Asmat appears to have radically changed his opinion. Catalyzed by the protracted protests of the affected loggers and Lizárraga's departure, Asmat prepared an alternative report in which he justified *repealing* the same Resolution that nullified the POAs.²⁰⁴ In his new environmental analysis, the lawyer cited Supreme Decrees as though they took

to close a major laundering loophole, regional timber
ice in Peru's paper of record. They accuse INRENA of
in the Amazon impossible" and "reiterate the need to
le damage". Days later, the officials responsible for

Box XI: A Real Reform Effort, Foiled

During his brief time as Forestry and Wildlife Administrator, engineer Edgardo Lizárraga Leguía focused in on the watershed logging bans and several other glaring sources of illegality in Peru's forest sector.

ENFORCING THE BANS

On September 27, 2007, Lizárraga sent Memorandum 4872-2007-INRENA-IFFS to his regional offices (ATFFS) across Peru, reminding them of and asking them to enforce compliance with the bans in the four watersheds by annulling any POAs or transport permits (GTFs) for these zones. To incentivize compliance with this memo, Lizárraga reminded his technical administrators that ignoring the Seventh Transitory Provision and authorizing logging from those watersheds was illegal under Peruvian law. He added that any resolution opposing the ban was illegal, null, and carried administrative and legal consequences.

In an internal document from December 2007, Lizárraga estimated that there were approximately 1.2 million board feet of mahogany and cedar (excluding wood still in transit) that had been extracted from the watersheds and were now being held in Lima, Pucallpa and Iquitos, which should be seized as soon as possible.¹⁹⁰ According to the same document, one of Lizárraga's primary concerns with respect to the seizure and decommission of this wood was the security of his staff "given the likelihood of confrontations as owners attempt to impede the

*decommission. One must not forget the well-known events in the city of Puerto Maldonado, where an attempt was made on the life of engineer José Carlos Barahona Sánchez, Administrator of the ATFFS office in Tambopata, Manu."*¹⁹¹

Lizárraga doubtless anticipated that, in addition to the physical risks to which his staff would be exposed, his insistence of compliance with the law would expose him to intense political pressure that would ultimately force his removal from office within weeks.

THE INSPECTIONS IN YAVARÍ

Lizárraga also sent technical teams into concessions across the country in late 2007 to verify the presence or absence of the mahogany and cedar that concessionaires claimed to be harvesting, including in the banned watersheds. INRENA officials inspected POAs in 11 of the 46 concessions in the Yavarí, and found almost no evidence of the thousands of cedar trees that the Plans purported to be harvesting. Just as in the other examples cited in this report (see "Hundreds of Shipments" chapter), every one of the POAs which the regional Forest Authority had signed off on was systematically fabricated; the presence of trees and the maps of their whereabouts had been invented so that the concessionaires and traders with whom they were connected could obtain documents authorizing sale of cedar. In reality, though, this cedar was being cut elsewhere - in national

forest lands, native territories, perhaps even in Brazil - and laundered with use of the concessions' "official" documents.

Some indicative quotes from the verification inspection reports that EIA obtained copies of:

- **"There have been no recent harvest activities** within the POA verified; at all times during the field verification, proof was seen of a 90% absence of cedar trees or stumps, hauling roads, collection patios, machinery, and forest equipment.... According to the field evaluations carried out, it can be concluded that the POA was developed with **nonexistent information.**"¹⁹²
- "The cedar sawn wood that has been transported and sold with documentation from the second POA of this contract **is of illegal provenance**, as it has not been extracted from the annual harvest parcel that corresponds to said POA."¹⁹³

"Out of the eleven (11) field inspections, it has been proved that no one had the trees declared by the concessionaires", stated Lizárraga on December 2007.¹⁹⁴ After inspection, these 11 concessions were ultimately suspended and administrative proceedings initiated against them. Ten now have precautionary measures placed, and at least two judicial processes have been initiated in the Caballococha courts.¹⁹⁵ However, all of the wood seized as a result of these inspections was released back to the

precedence to the law passed by Congress, when the legal hierarchy - and his previous analysis - clearly establishes the contrary. Likewise, he suggested "the elaboration of a proposal that will nullify the ban declared by the Seventh Complementary Transitory Provision".²⁰⁵

INRENA's new head Camino, justifying the reversal, explained that it was vital to move forward in a full frontal attack against the illegal wood trade, and that his personnel would closely supervise compliance and apply corresponding sanctions to any infractions committed. However, in an interview given to *El Comercio* published nine months later, Camino

recognized that "the State doesn't have the capacity to monitor its forests", that "regional personnel do not have sufficient motivation to supervise" and that lack of oversight has meant that much wood "which probably should only have gone to meeting community needs, ends up being exported."²⁰⁶

9.9 A BAN ONLY FOR ILLEGAL LOGGERS?

In his second report, Asmat makes it utterly clear that the ban doesn't apply to those who already have a Management Plan. The question

is, then: for whom does the ban apply, if according to the law, all commercial extractors must present Management Plans?

According to Article 15 of Law N. 27308, "any modality of harvest of forest resources, for commercial or industrial purposes, requires a Management Plan approved by INRENA, oriented at assuring the sustainable production and conservation of biological diversity and the environment". In that sense, to say that the ban does not apply to concessions that do not have Management Plans that include conservation of the species is equivalent to saying that the ban only applies to illegal loggers. Why would a law create a ban to prohibit already illegal activity?

markets in 2008 based on Administrative Resolutions issued by Manuel Pesantes Rebaza and Reden Suarez Gonzalez.

THE YIELD FACTOR PROBLEM

Another issue of concern raised by Lizárraga was the “yield factors” for cedar and mahogany. A yield factor refers to the percentage of export-quality wood that can be extracted from a standing tree. Even someone with no forestry experience can imagine that upon cutting a tree that has lived for hundreds of years in the middle of the forest, removing the tree, bark, and sections with holes or imperfections, and converting it all into boards, a high percentage of wood is lost.

A standing tree with an estimated volume of 10 m³ will yield far less than 10 m³ in export-quality timber. Expert studies have suggested that mahogany yield factors are less than 25%, yet for years the yield factors that Peru’s Forest Authority used to approve POA volumes and export quotas for mahogany and cedar were set as high as 80%. This allowed the industry to launder 2-3 illegal trees into the supply chain for every one tree that might be legitimately cut. (See graphic on p. 21.)

According to the results of technical studies which Lizárraga used as the basis for two Resolutions he issued to reduce the yield factors to realistic levels,¹⁹⁶ the previously inflated production percentages meant that at least 50%

of the wood sold was of illegal origin. It is no wonder that the industry was loathe to give up such a productive laundering machine.

HARASSMENT OF PERSONNEL

In yet another sorry chapter, five of the staff foresters who had been tasked by Lizárraga with conducting field verifications and yield factor studies were terminated almost immediately by the subsequent INRENA management. These employees later filed an official complaint for “arbitrary firing”, asserting in their statement:

“as forestry and law professionals we witnessed the inobservance of the Seventh Complementary and Transitory Provision of Law N. 27308 which prohibited logging cedar and mahogany in the watersheds of Purús, Yavarí, Tamaya and Putumayo ... Among other activities, we cooperated with the yield studies for cedar and mahogany, in order to prevent illegally logged wood from entering the national and international markets.

“During these nearly seven months of work we attempted to restore the rule of law or bring players from the forestry sector to justice, with the aim of upholding the Forestry and Wildlife Law...These activities impacted the interests of representatives from the timber sector that worked with illegally logged wood. The first result was the departure of the ex Director of INRENA Roberto Isaac Ángeles Lazo, followed by the former Administrator of

Forestry and Wildlife Edgardo Lizárraga Leguia. Following the appointment of José Luis Camino Ivánisevich as the new director of INRENA, there was a series of harassment acts against the personnel that had participated in the control activities. With the appointment of the current Forestry and Wildlife Administrator, Rafael Mauricio Ramírez Arroyo, the unilateral decision to cancel our work contracts was taken. The purpose of this was to violate our constitutional rights and was a direct retaliation against the personnel that had participated in the activities to control, supervise, intervene and sanction.”

A resolution by the Constitutional Court on 3 January 2011 mandated that these employees’ jobs be restituted, but the sentence has been only partially implemented as of this writing.¹⁹⁷

It is worth noting that the US Trade Representative’s office was informed by international NGOs about each of these troubling developments as they occurred, including the firing of personnel without cause. But although USTR was working closely at the time with the Peruvian government to “reform” the Forestry and Wildlife Law and others (the controversial Legislative Decrees of 2008), it appears that they did not yet understand the true depth of perversity in the forest sector.

Another issue, of course, is whether there is any reason to trust in the Management Plans approved by INRENA during this time, when the inspections conducted in POAs approved in the Yavarí in 2007 found that every one contained blatantly false information. Not only were any “conservation activities” included in the Management Plans not being implemented, but concessionaires, with active facilitation by government officials, were illegally logging precisely the species the ban was intended to protect.

9.10 THE COMPTROLLER'S INVESTIGATION

Eight years after fighting intensely and systematically against the system, the ban’s detractors must have thought they had finally succeeded. But no. In October of 2008, an official in the dispatch of the General Comptroller of the Republic was tasked with undertaking a special examination of INRENA, in order to see if it had been complying with the ban ordered by the Seventh Transitory Provision of Law N. 27308.

In response to a specific question from the Comptroller regarding the status of the

ban, in May 2010 the Director General of the DGFFS Office of Legal Counsel, Pedro García Córdova, stated that “the Seventh Transitory Disposition of the [Forestry and Wildlife] Law, given its special character, is not subject to any exceptions whatsoever.”

The special exam of the Contraloría found criminal responsibility for abuse of authority and incompatible negotiation by high-level INRENA officials. However, what legal actions will follow as a result of these findings are not clear.

9.11 THE BAN EXPIRED, THE PROBLEM SURVIVES

After ten years of legal wrangling while the remaining specimens of mahogany and cedar were cut in an uncontrolled and unsustainable way in all four watersheds as well as across Peru, the inevitable happened: the ban expired in 2010. Amidst all the controversies that swirled around drafting and passage of a new Forestry and Wildlife Law between 2008 and 2011, a ban on logging cedar and mahogany in the Putumayo, Yavarí, Tamaya and Purús watersheds was not incorporated into law.

In 2002 the Constitutional Court had expressed its hopeful opinion that *"the Seventh Complementary and Transitory Provision of the Law (...) temporarily prohibits the extraction of the cited timber species, with the expectation that - once the period of the ban is over - the*

country shall recuperate the environmental equilibrium of its forests and the citizens may continue to use them . . .". But there was no ecological study done or scientific rationale ever given to determine whether the populations of cedar or mahogany had recovered in the four watersheds by 2010. This is highly unlikely, given the intense selective logging of these species in these regions during this time period.

To date, none of the officials who contributed to violating Law N. 27308 and the sentence of the Constitutional Court, and none the individuals in the private sector who have benefited from the illegal exploitation of Peruvian's natural resources, have been brought to justice. The Contraloría's report offers hope that, finally, the rule of law will be imposed and those responsible punished.

9.12 WHO BOUGHT AND SOLD THE ILLEGAL WOOD?

During the time period that the watershed ban was in effect, an untold amount of mahogany and cedar was taken from the four regions. Even an official calculation based on the volumes authorized in POAs is certain to underestimate the total, because both official inspections and NGO documentation [see Box XIV: "Trouble in the Alto Purús watershed"] prove that large numbers of trees were being removed from protected areas, state lands and indigenous territories in those watersheds but outside the concessions or native communities. For the same reason, it is impossible to identify the destination of much of this illegal wood, since it was laundered into a larger supply chain and could have appeared to be from anywhere.

Based on our systematization and analysis

Box XII: CITES Export Permits for Cedar from the Yavarí Watershed

CITES PERMIT NUMBER	DATE	EXPORTER	IMPORTER	COUNTRY	VOLUME EXPORTED (M3)	Nº OF GTF	CONCESSION CONTRACT	TITLE	VOLUME (M3)	ZAFRA
11291	19/09/2008	PERU TRADERS INC. S.A.C.	TBM HARD-WOODS INC.	ESTADOS UNIDOS	89.878	222666	16-IQU/C-J-118-04	ALTO YAVARÍ DE APROV. FORESTAL Y MANEJO SOSTENIBLE	17.212	2006-2
11266	02/09/2008	TRANS-FORESTAL CCC S.A.C.	GRUPO TENERIFE, S.A. DE C.V.	MÉXICO	159.272	172950	16-IQU/C-J-017-04	FORESTAL SAN LUIS DEL YAVARÍ S.A.C.	3.68	2006
11132	15/07/2008	COMERCIALJR MOLINA S.A.C.	TBM HARD-WOODS INC.	ESTADOS UNIDOS	148.81	217289	16-IQU/C-J-035-04	FELIPE JAVIER POR-TOCARRERO ROMERO	11.903	2007-3
11009	28/05/2008	MADERERA BOZOVICH S.A.C.	BOZOVICH S. DE R.L. DE C.V.	MÉXICO	71.58	164099	16-IQU/C-J-006-04	MARCEL DELGADO VÁSQUEZ	19.108	2006-2
11003	28/05/2008	MADERERA BOZOVICH S.A.C.	BOZOVICH S. DE R.L. DE C.V.	MÉXICO	42.44	161695	16-IQU/C-J-250-06	AMAZON LUMBER RIVER S.R.L.	26.823	2006-1
10621	15/01/2008	TRANS-FORESTAL CCC SAC	MADERERA GUTIÉRREZ Y HERNÁNDEZ LTDA.	ESTADOS UNIDOS	392.8340	178331	16-IQU/C-J-059-04	ENITH VILLANUEVA RÍOS	3.537	2006-3

Box XIII: Another Constitutional Court Decision Ignored in Mazán

The Constitutional Court's decision affirming the validity of the watershed ban in Law N. 27308 is not the only time the Court has weighed in on logging matters - nor the only time its decision has been roundly ignored by the forest authority, local government and logging industry.

In 2007, the Court overturned a decision made by the Civil Division of the Superior Court of Justice of Loreto regarding forestry concessions in the Mazán watershed east of Iquitos.

Between 1965 and 2010 multiple resolutions were passed approving the creation of permanent production forests in Loreto, including in the Mazán basin. A group of civil society plaintiffs, led by the Asociación de Promotores de Salud del Vicariato San José del Amazonas (APS) and

represented by Abraham Vílchez Muñoz, brought a legal case regarding the environmental impacts of this logging.

The plaintiffs argued that because the land was zoned and allocated for concessions without prior consultation with local stakeholders and indigenous groups, without environmental impact studies, and in violation of the precautionary principle, the concessions of Mazán should be annulled. The groups argued that concession logging constituted a certain and imminent threat of their constitutional right to a balanced and appropriate environment.

On April 14, 2004, APS filed an initial petition for relief against INRENA and the Regional Government of Loreto, requesting suspension of logging in the concessions and requesting that the Mazán basin be re-zoned. The Loreto Public Prosecutor claimed that the complaint was unfounded and in 2004 and 2007, Loretan courts agreed, finding that the plaintiffs had failed to demonstrate the accuracy or impending violation of the right to a balanced environment.

However, the Constitutional Court found differently, stating that *"despite the competencies granted to INRENA and the Ministry of Agriculture, respect for the rights to enjoy a balanced and adequate environment (Article 2.22 of the Constitution) and the preservation of biological diversity (Article 68 of the Constitution), impose the obligation not to delay the care of other aspects of the environment that could be affected by logging conducted under the administration's supervision (...)* The petition is declared to be JUSTIFIED; consequently, all concessions established by INRENA in the Mazán watershed are declared void, and a new evaluation should be conducted in keeping with the valid zoning [of the watershed]."²⁰⁹

It will come as little surprise that five years later this order has yet to be carried out by the government of Loreto or the forest authorities at any level.



Illegal logs floating just outside the port at Mazán, May 2011. © EIA

of CITES permits from 2008, 2009 and 2010 obtained in Peru, EIA found six CITES exports permits for cedar from concessions located fully or partially within the Yavarí watershed where mahogany and cedar logging was banned. Taking extra precautionary measures, EIA then analyzed official Forest Authority maps defining the boundaries of the watershed.²⁰⁷ This analysis confirmed that the actual Annual Logging Parcels corresponding to those permits were, indeed, located in the Yavarí watershed. Note that this was the period during which the bans were already publicly controversial (see above), and it is safe to assume that far more wood from the four watersheds was explicitly

exported in years prior.

This analysis shows that at least three shipments whose documents irrefutably indicate that they "contained" wood from the banned watersheds were shipped to US companies: TBM Hardwoods, Inc, and Maderera Gutierrez y Hernández Ltda. More cedar from Yavarí went to the Mexican branch of Grupo Bozovich and Grupo Tenerife.

But the story is even more surreal, since we have already seen that the data contained in most POAs is fabricated. The only one of these six concessions that received a supervisory visit by OSINFOR, Forestal San Luis Del Yavarí

S.A.C., was indeed shown to be falsifying its information.²⁰⁸ The other concessions in Box XII have never been inspected and may continue to cut and sell their wood to this day. However, every concession that was inspected in Yavarí was found to be including false information in its POAs to create volumes of cedar.

The wood coming from a concession like this can therefore be thought of as "triply illegal": (1) wood cut in unknown, unauthorized places, (2) accompanied by permits that are the product of systematically falsified documents, (3) from a concession operating in a banned watershed.

Box XIV: Trouble in the Alto Purús Watershed

The Purús region includes one of the four watersheds where mahogany and cedar logging were banned by the 2000 Forestry and Wildlife Law N. 27308. Illegal logging has been a serious problem both for the communities within the watershed and in nearby protected areas.

When formed in 2004, Alto Purús became Peru's largest national park, stretching over 2.5 million hectares. Home to the largest remaining stands of bigleaf mahogany in Peru, the park borders the 200,000-ha Purús Communal Reserve and the 477,000 ha Murunahua reserve, home to at least two groups of uncontacted or voluntarily isolated indigenous tribes.²¹⁰ Some 3000 indigenous peoples live on bordering titled lands.²¹¹

Along the Alto Purús River, from approximately 2000 to 2007, logging teams from outside the region brokered agreements with community chiefs to trade their trees for overpriced manufactured goods such as shotgun shells, outboard motors, and food. With limited experience in monetary transactions and poor reading skills, these leaders were easily manipulated, often accruing exorbitant debts with the loggers and with the state for unpaid timber taxes. At the end, they had literally nothing to show for the sale of trees worth tens of thousands of dollars each on the international market.²¹²

When, in 2007, the government conducted its first-ever audits of these community logging operations, infractions were found throughout

the region. In many cases the loggers had simply bought the community's permit and used it to launder wood cut illegally from protected areas nearby (as this report has shown to be a ubiquitous practice).²¹³ Stricter enforcement was implemented, but in 2009 the region's most notorious logger and transporter, Roland Patrógic Rengifo, was arrested along with two police pilots for flying a shipment of illegal mahogany from the Alto Purús to Pucallpa on a police plane.²¹⁴

As of 2012, only a handful of communities have legal permits and logging teams on their lands. Illegal and exploitative activities continue.

In the Reserves north of Alto Purús National Park, smaller logging groups have moved in, utilizing old tractor roads left behind by larger companies to extract mahogany from the banks of small rivers. Over the last few years, all of the most easily accessible trees near the border of the park have been extracted. Once out of the park, wood is floated in rafts down to the main channels of the Sepahua and Inuya Rivers, where it is either mixed in and laundered with other timber or simply floated down the river to Pucallpa at nighttime.²¹⁵

Round River Conservation Studies, now called Upper Amazon Conservancy (UAC), an NGO that works with indigenous communities and the local government, published reports on widespread illegal logging in the Purús using photos and first-hand evidence in 2004 and again in 2007. In 2009, Round River,

SERNANP and the administration of the Alto Purús National Park conducted an over-flight assessment of the area and found three active logging camps inside the Murunahua Reserve for Voluntarily Isolated People, as well as one inside the Park.²¹⁶

Again in 2010, the organization documented ongoing illegal logging as well an extensive road network throughout the Murunahua Reserve. The new road network only serves to extend the invasion by farmers, drug traffickers, hunters and miners, as well as facilitating the transportation of mahogany from the Reserve and Alto Purús Park across to the Ucayali River and downstream. As the UAC report noted:

By the time the wood reaches Pucallpa, a regional Amazonian hub, officials are unable to pinpoint its origin and assume it legal, giving it the government permits that allow it to be sold internationally. While an individual mahogany tree may not make or break an ecosystem, their extraction and sale from these remote protected areas have placed unprecedented pressure on voluntarily isolated peoples in a reserve explicitly established to protect them. These tribes willingly avoid outside contact of any kind. If logging continues unabated, they will have no place to go and their unique culture will be eliminated. Such activity explicitly violates both the Convention on the International Trade of Endangered Species (CITES) as well as the Peru-United States Trade Promotion Agreement.²¹⁷



Illegal wood awaits floating downstream inside Murunahua Reserve for Voluntarily Isolated Peoples, February 2012 © Chris Fagan, Upper Amazon Conservancy



Wood being loaded onto a police plane in Puerto Esperanza for transport to Pucallpa (December 2008) © Chris Fagan, Upper Amazon Conservancy



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This report contends that in Peru's forest sector today, despite years of scrutiny and policy efforts aimed at cleaning things up, illegal logging is still the norm. While there are certainly companies and communities whose logging practices are responsible, they are the exception to the rule. Wood from Peru should be currently be considered very 'high risk' for international buyers concerned about legality and compliance under laws such as the Lacey Act or the European Union Timber Regulation, or about possible actions under the US-Peru Free Trade Agreement Annex on Forest Governance.

Moreover, the systemic corruption and illegality described in this report casts significant doubt over Peru's ability and political will to implement serious or effective plans to reduce emissions from deforestation and degradation (REDD+). The World Bank and other institutions have pledged many millions of dollars to Peru's REDD+ efforts without a clear understanding of how little control the government has over its own forests. EIA believes it is critical for these donors and the Peruvian institutions responsible for developing REDD+ strategies and projects to meaningfully incorporate the logging industry - and the lessons its failures have to teach - into their plans.

Timber trade and forest management in Peru requires serious reform. Neither the model of allocating concessions, the systems for granting logging permits, the mechanisms for control and monitoring, nor the procedures for issuing export documents including CITES permits are functioning to prevent large quantities of illegal timber from being harvested and traded both domestically and internationally.

Indeed, as the OPEXA case study in this report demonstrates so clearly, the model is set up to fail: by granting impossibly remote concessions on paper to individuals unqualified to operate them, by allocating funds insufficient to hire the personnel and maintain the equipment necessary to oversee them, by providing no support to many indigenous communities' efforts to obtain legal land titles and build capacity for participating in the sector, and by allowing corruption and impunity to flourish, the Peruvian government over the past 12 years has created a system that almost by default conducts its business illegally. The most important reform set in motion by the 2007 US-Peru FTA, the creation of a stronger and independent OSINFOR, has increased the amount of oversight - and made clear the extent of the problems that remain.

Some commentators will contend that, legal or not, the logging industry provides thousands of jobs and supports the economy of the Peruvian Amazon. But the current model has nothing to do with meaningful economic development. Rather, it is leading - and not slowly - to a future where the populations of commercial timber species within profitable distance from river or road transport are extinguished, and the native communities and migrant workers

who were paid a pittance to extract these trees remain in poverty. As the stories in this report show, the real human toll of illegal logging is demeaning and ugly. Peru is selling not only its own economic future but its most disenfranchised citizens down the river, as it were.

But it doesn't have to go this way - we must not let it go this way. The Peruvian Amazon is a treasure whose cultural richness, biodiversity, watershed protection, and carbon storage is of incalculable value to the entire world. Many different actors bear responsibility to ensure that the long-term future of the forest takes priority over short term gain. In this case, cleaning up the sector will mean turning off the laundering machine and taking a hard look at what's actually happening.



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RECOMMENDATIONS

PERU'S NATIONAL AND REGIONAL GOVERNMENTS SHOULD:

- Raise reform of the logging industry and enforcement against illegal timber trade to a national priority
- Strengthen the capacity of, and increase the resources and personnel available to the Special Prosecutor for Environmental Crimes [*Fiscalía*] and the Attorney General's office specializing in Environmental Crimes [*Procuraduría*], as well as its regional entities, to address illegal logging cases against corrupt officials, forestry consultants and companies that have engaged in facilitating or conducting illegal wood trade
- Significantly increase financial and political support to build the capacity for indigenous community forestry, in order to promote a legal and more socially and economically sustainable model
- Amend the new Forestry and Wildlife Law in line with AIDESEP's proposals to: facilitate legal logging by indigenous communities, prevent concessions from overlapping community lands, better protect voluntarily isolated peoples, and prevent perverse consequences such as the establishment of monoculture agriculture plantations in Peru's permanent forest estate
- Conduct a thorough assessment of the weaknesses of the current system as part of the process of developing regulations for the new Forestry and Wildlife Law
- Raise the standards of technical proposals for forest timber concession allocation processes, and establish mechanisms to ensure traceability in the commercialization chain of wood products.
- Focus on ensuring legal and responsible logging in existing Permanent Production Forest rather than allocating new areas for concession forestry - since many concessions haven't actually been logged, despite what the documents say
- Ensure that REDD+ planning, led by the Ministry of Environment, include representatives from forestry and enforcement agencies - the Ministry of Agriculture, the General Comptroller of the Republic, OSINFOR, and the Prosecutor's Office - and integrate reform of the current forestry model in Peru
- Take legal action to follow up on the conclusions of the Comptroller General's report regarding INRENA's failure to enforce the watershed bans under the Seventh Transitory Disposition
- Follow up on cases of illegality already referred to the Prosecutor by OSINFOR or the forest authority at both regional and national levels
- Include trade in illegal timber as a crime under the Criminal Code
- Promote alternative finance sources for forest products extraction and commercialization, in order to end the current system of *habilitación*

- Improve conditions for accessing public information provided by the regional authorities
- List additional species, beginning with shihuahuaco (*Dipteryx micrantha*, *Dipteryx spp.*), on Appendix III of CITES, in order to improve data collection and protection against over-exploitation

OSINFOR SHOULD:

- Emit long-delayed Resolutions such as OPEXA's (p. 49), to begin administrative procedures for concessions where irregularities have been found, and put these Resolutions online in a timely manner
- Improve the regulation relating to the deadlines of Administrative Procedures (PAUs) to make them shorter and clearer
- Make all Supervisory reports available online, to allow exporters and importers to better conduct due care
- Review and improve compliance with methodologies under the Manual for Supervision of Forest Concessions, and make this Manual available online
- Give citizens and organizations the possibility of participation in supervisions, in order to guarantee that they are conducted to high standards
- Not hire officials who have poorly performed their duties or former forestry consultants who have abused the responsibilities of their profession

FOREST AUTHORITIES (DGFFS/SERFOR AND REGIONAL OFFICES) SHOULD:

- Require that information regarding concession(s) of origin be included on all CITES permits (for both mahogany and cedar), and also accompany all shipments of timber, CITES species or not, and make this data available online in a timely manner
- Make public the results of prior visual verification of all POAs containing mahogany, as stated in Article 9 of the Departmental Resolution N° 331-2006, and modify Article 8 of Departmental Resolution N° 166-2008-INRENA, in order to ensure that the publication of the results of the POA verifications containing cedar is also mandatory
- Not hire officials who have poorly performed their duties or former forestry consultants who have abused the responsibilities of their profession
- Remove any Forestry Engineers proven to have fabricated POAs from the official list of registered engineers and initiate administrative and legal actions against them
- Investigate and sanction officials proven to have signed off on

fabricated POAs, fake inspection visit reports or other false documents and initiate legal actions against them

- Revise its procedures so that every GTF and Balance of Extraction contains the POA number, Administrative Resolution, and zafrá, in order to reduce the ability to obfuscate and hide irregularities
- Check the operational books of sawmills as a regular aspect of oversight
- Give citizens and organizations the possibility of participation in supervisions, in order to guarantee that they are conducted to high standards
- Assess the ecological and trade situation of other timber species traded in the international market in high volumes - including cumala (*Virola spp.*), Iryanthera spp., lupuna (*Chorisia integrifolia*), tornillo (*Cedrelinga cateniformis*), shihuahuaco or cumaru (*Dipteryx micrantha*, *Dipteryx spp.*) and capirona (*Calycophyllum spruceanum*) - and strengthen the measures used to ensure their legal origin

US GOVERNMENT SHOULD:

- Request and participate in verifications by the Peruvian government, under the US-Peru FTA Annex on Forest Governance, of the exporters and intermediaries implicated in import shipments that contain wood from any concessions where OSINFOR or DGFFS have found illegal activity
- Request audits by the Peruvian government, under the US-Peru FTA Annex on Forest Governance, of all additional POAs linked to export shipments in concessions where OSINFOR or DGFFS has found illegalities during a supervision of one POA
- Investigate whether Bozovich Timber Products or any other company should be held liable under the Lacey Act for its trade in illegally sourced CITES-listed wood products
- Continue to support and strengthen the work of the US Forest Service's Peru Forest Sector Initiative (PFSI) program, whose technical support is focused on increasing timber traceability, sectoral institutional capacity, and viable community forestry

THE GOVERNMENTS OF THE EU, CHINA, MEXICO AND PERU'S OTHER TRADING PARTNERS SHOULD:

- Pass and/or implement and enforce legislation to prohibit import, export, or trade of illegally-sourced wood
- Establish customs cooperation agreements with Peru to allow for data sharing, capacity building, and greater inspection and control of timber shipments

THE WORLD BANK AND OTHER DONORS SHOULD:

- Dedicate a substantial portion of the REDD+ monies allocated for Peru to financing a program to title native community territories, as the first step towards formalizing any logging on these lands
- Encourage Peru to implement a priority program of forest sector reform, including improvements in the systems of control and increased support for community forestry models

INTERNATIONAL AND PERUVIAN BUYERS SHOULD:

- Request that their suppliers provide credible information regarding facts like: concessions or communities of origin of all timber, and any OSINFOR Supervision report or outstanding administrative procedures linked to these sources
- When possible, conduct site visits to Peru to understand and inspect their supply chains back to the forest
- Be aware that illegal logging is the norm for *all* species from Peru, not just mahogany and cedar
- Be aware that Chain of Custody certification does not guarantee the legality of all the timber being sold by a certain company

INDIGENOUS FEDERATIONS AND CIVIL SOCIETY ORGANIZATIONS SHOULD:

- Partner with each other or government entities in teaching legal practices for measuring and evaluating timber, to prevent fraud or deception
- Communicate more clearly and regularly with communities involved in logging to provide them with the information necessary to conduct proper business negotiations, such as the fundamentals of legal and fair contracts and the market prices for timber, equipment and basic goods
- Request action under paragraph 3(i) of the US-Peru FTA Annex on Forest Governance, which requires Peru to "Strengthen, protect and increase the capacity of indigenous communities to manage their lands for commercial timber production, including by ensuring that any commercial timber production has the approval of the Peruvian government."

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GLOSSARY

ADMINISTRATIVE PROCEDURE (PROCEDIMIENTO ADMINISTRATIVO ÚNICO--PAU)

Procedure that is carried out in order to investigate and determine the administrative responsibilities of the title holders in order to check for any potential legislative violations. Through this process, OSINFOR may determine any infractions, impose sanctions and corrective measures, and demand the forfeiture of rights regarding the use of any forest resources.

ANNUAL LOGGING PARCEL (PARCELA DE CORTE ANUAL, PCA)

The physical area of a concession (first defined in the General Forest Management Plan) which has been approved for annual logging operations. A POA document contains the plan for logging one PCA.

ANNUAL OPERATING PLAN (POA)

Annual Operating Plan. A one year operational plan that forest managers must create and theoretically follow during their operations in the annual logging parcel. (one year, which may or may not coincide with the calendar year)

APPROVED VOLUME

The volume of wood authorized for harvest by a PGMF or POA as approved by the forest authority.

ATFFS

Technical Administration for Forestry and Wildlife. Created in 2001 as the local forestry and wildlife authorities under DGFFS, offices with this name remain in regions where the management responsibilities over forest and wildlife resources have not yet been transferred to the regional governments.

BALANCE OF EXTRACTION

Document maintained by the local forest authority for every concession or community, containing an ongoing registry of (a) volumes of wood authorized for extraction as per the Annual Operation Plan, and (b) volumes actually harvested and sold as per the GTFs submitted to the forest authority by traders during the course of each year's trade.

BOARD FOOT

A board foot equals the volume of a piece of wood about a foot long, a foot wide, and an inch thick.

CENSUS / INVENTORY

A representative sample of the forest area in question. Commercial census is an inventory that samples 100% of the individual commercial species in a PCA that have reached a minimum diameter. The census is carried out in order to complete the Annual Operating Plan.

CITES (APPENDICES I, II, & III)

The Convention on International Trade in Endangered Species, CITES is an international treaty to which both Peru and the US are parties; which aims to ensure that trade in wildlife is not detrimental to that species' survival. The Appendices contain species under different levels of threat, I being the greatest.

CONCESSION

Forest area titled to an owner by an administrative act that confers the right to use the land in question under the conditions and limitations established by the respective title. The land ultimately remains the property of the State. In Peru concessions are given for a variety of purposes, not just timber.

CUBIC METER

1 m3 of sawn timber is equivalent to 424 board feet of lumber

1 m3 of lumber equals 1.92 m3 of roundwood

DBH (DAP)

Diameter at breast height – the diameter of a tree measured at a height of one meter and thirty centimeters (1.3 meters) above the ground.

DGFFS (GENERAL DIRECTORATE OF FORESTS AND WILDLIFE)

In 2001, DGFFS was established within INRENA. Two years later, DGFFS was replaced by the Forestry and Wildlife Administration (IFFS). In 2008, after INRENA was dissolved, a new DGFFS was established within the Ministry of Agriculture as the National

Authority on Forestry and Wildlife.

DIAMETRO MINIMO DE CORTE

Minimum diameter required for cutting, indicating a mature tree (varies by species in Peru's regulations).

EIA – CITES

Database created by EIA concerning the the compilation and analysis of CITES export permits for mahogany and cedar between January 2008 and May 2010.

EIA – OSINFOR

Database created by EIA of OSINFOR Supervisory reports for Supervisions that took place between 2008 and 2010.

EXTRACTED VOLUMES (VOLUMEN MOBILIZADO)

The volume of wood extracted from a forest concession or permit that has subsequently been transported with a GTF and recorded in the Balance of Extraction.

FOREST CONCESSIONS FOR TIMBER EXTRACTION

A concession located in a permanent production forest where the right to harvest timber is conferred from the state to the individual.

FOREST USE (APROVECHAMIENTO FORESTAL)

A set of operations, including the planning and assessments related to the harvest of trees and tree parts useful for sale and/or industrial processing, which are made to ensure that appropriate techniques are used to allow for ecosystem stability as well as long-term resource sustainability.

GENERAL FOREST MANAGEMENT PLAN (PLAN GENERAL DE MANEJO FORESTAL, PGMF)

The long-term plan by which the forest manager intends to intervene in the forest, including description of habitats or species populations present in a forestry concession area. The PGMF is formulated for the entire period in which the concession is valid.

GTF (GUÍA DE TRANSPORTE FORESTAL)

The Forest Transport Permit, commonly known as a Guía

or GTF, is the official document allowing the legal transport of wood products in both their natural (log) and processed forms. When logs leave a concession, the concessionaire must issue a sworn statement along with his own transport permit, known as the Natural State Transport Permit, or Transport from Origin Permit (GTO), which is verified at the first forest authority checkpoint. Once wood products are transported to a secondary processing facility, shop or premises, a secondary permit is required for legal transportation - the Forest Transport Permit or GTF, which is issued by the regional forest authority (e.g. ATFFS or equivalent).

HARVESTABLE TREE

A harvestable tree belongs to one of the commercial species authorized to be harvested within a licensed PCA, which has a DBH greater than or equal to the DMC for that species and whose characteristics make it desirable for harvest.

ILLEGAL LOGGING

Activities in contravention of relevant laws. Includes the removal of trees without permission, the extraction of unauthorized species and logging in unauthorized areas.

INRENA / EX-INRENA

The National Institute for Natural Resources, created in 1992. In 2000, the Forestry and Wildlife Law (Law N. 27308), made INRENA responsible for the management and administration of forest resources and wildlife. In 2006, INRENA's responsibilities were transferred to the Regional Governments, and two years later it was dissolved into the Ministry of Agriculture and replaced by DGFFS.

MINAG

Peruvian Ministry of Agriculture

MINAM

Peruvian Ministry of Environment

NRDC

The Natural Resources Defense Council is a United States based NGO dedicated to environmental defense.

OSINFOR

Supervisory Body for Forest Resources and Wildlife, this

is the public agency responsible for overseeing and monitoring the sustainable use and conservation of forest and wildlife resources.

PERMANANT PRODUCTION FOREST (BOSQUE DE PRODUCCION PERMANENTE)

Areas of forest production made available by lease to individuals for the preferential use of forest resources and wildlife; property rights remain with the Peruvian state.

PERU FOREST SECTOR INITIATIVE (PFSI)

The US Forest Service International Programs has been working in Peru to strengthen institutions, promote transparency, participation, and to build systems to track and verify the legal origins of timber. Through the Peru Forest Sector Initiative, the US Forest Service assists the Government of Peru in complying with the obligations of the US-Peru Trade Promotion Agreement.

PRIOR VISUAL VERIFICATION

Required visual inspection carried out before the approval of a POA that contains mahogany or cedar.

REDD

Reduction of Emissions from Deforestation and Forest Degradation.

SEED TREE (ÁRBOL SEMILLERO)

A seed tree is a specimen of any commercial species set aside within a concession's management plan in order to allow future regeneration. Its harvest is prohibited.

SUPERVISORY REPORTS

Document prepared by OSINFOR supervisors based on the results of field monitoring and other information previously analyzed including POAs, Balances of Extraction, etc.

THE LACEY ACT

In May 2008, U.S. Congress passed an amendment to a 100-year old statute, banning commerce in illegally sourced plants and their products, including timber and wood products. To address illegal logging and other illegal plant trade, the Lacey Act now does three main things: prohibits all trade in plant and plant products (e.g., furniture, paper,

or lumber) that are illegally sourced from any U.S. state or any foreign Country; requires importers to declare the country of origin of harvest and species name of all plants contained in their products.; and establishes penalties for violation of the Act, including forfeiture of goods and vessels, fines and jail time.

THE US-PERU FREE TRADE AGREEMENT (FTA)

The US-PERU Free Trade Agreement (FTA), officially called the Trade Promotion Agreement, liberalizes trade between the two countries. It was first signed in Washington D.C. on April 12, 2006, but amended and subsequently ratified by the US Congress in December 2007. It became effective on February 1, 2009.

TRANSPARENCY AND ACCESS TO PUBLIC INFORMATION LAW

The Transparency and Access to Public Information Law is designed to promote transparency of government actions and regulate the fundamental rights of access to information as determined by the Constitution of Peru.

USAID

The United States Agency for International Development is the principal U.S. agency focused on international assistance to countries for programs ranging from disaster assistance to environmental protection.

USFS

The United States Fish and Wildlife Service (USFS). The United States Fish and Wildlife Service (USFS) is a federal agency within the United States Department of the Interior dedicated to the management of fish, wildlife, and natural habitats. They are the lead agency on the U.S. side for the Peru Forest Sector Initiative program.

USTR

Office of the United States Trade Representative. Focused on trade issues, USTR negotiates directly with foreign governments to create trade agreements, resolve disputes, and to participate in global trade policy organizations.

ZAFRA (HARVEST SEASON)

The harvest (zafra) is the season when the weather allows the extraction of timber, which varies subject to rainfall.

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165. Supervisory Report 192-2009-OSINFOR-DSCFFS, folio 0030
166. Supervisory Report 192-2009-OSINFOR-DSCFFS, folio 0001
167. Supervisory Report 192-2009-OSINFOR-DSCFFS, folio 0002. It is about RA N° 1868-2008-INRENA-ATFFS-TAM-MAN from December 17, 2008.
168. Supervisory Report 192-2009-OSINFOR-DSCFFS, folio 0016
169. Supervisory Report 192-2009-OSINFOR-DSCFFS, folio 0030
170. Supervisory Report: 316-2010-OSINFOR-DSCFFS
171. Supervisory Report 316-2010-OSINFOR-DSCFFS, folio 0011
172. Supervisory Report 316-2010-OSINFOR-DSCFFS, folio 0011
173. Supervisory Report 316-2010-OSINFOR-DSCFFS, folio 0016
174. Supervisory Report 316-2010-OSINFOR-DSCFFS, folios 0071 - 0072
175. Supervisory Report 316-2010-OSINFOR-DSCFFS, folios 0055 - 0064
176. Supervisory Report 316-2010-OSINFOR-DSCFFS, folio 0017
177. That is to say, the number of the POA indicated in the resolution that approved the POA.
178. Memorandum N. 202-2010-GRL-GGR-PRMRFFS-DER, October 27, 2010. Field verification reports remitted to PRMRFFS by engineer Nelida Barbegelata Ramirez, Official Letter No. 1134-AG-DGFFS-DGEFFS, received October 20, 2010.
179. Directorial Resolution N° 0359-2010-AG-DGFFS-DGEFFS dated August 11, 2010 approved the creation of the fieldwork team lead by engineer Gestión Chucos Lazo; field verification of the Sumac Allpa indigenous community's forest permit N° 3018-2010-AG-DGFFS-DGEFFS. DGFFS reported to ATFFS Iquitos by means of Official Letter N° 1070-2010-AG-DGFFS-DGEFFS dated September 24, 2010.
180. R.A. N. 446-2009-AG-DGFFS-ATFFS-Iquitos. POA 5 had been developed by the same forestry consultant, Hugo Paima Ríos, who developed the POA for Alex Tello Grandez, and later went to work for OSINFOR.
181. N. 065-2009-AG-DGFFS-ATFFS-/Iquitos-Sede Iquitos/KBTP
182. Report N. 3103-2010-AG-DGFFS-DGEFFS, September 28, 2010.
183. Technical report 012-2009-AG-DGFFS-ATFFS-REQUENA/rrht; Administrative Resolution 064-2009-AG-DGFFS-ATFFS-REQUENA
184. OPEXA can be found in supporting documentation for the following CITES permits from 2008: 11474, 11444, 11313, 11262, 11252, 11233 (exporter Maderera Bozovich); and 11301 (exporter Forestal del Oriente). The supporting documentation indicates zafras or harvest periods that correspond to POAs 3 and 4.
185. CITES Trade Database, <http://www.unep-wcmc-apps.org/citestrade/trade.cfm>
186. DS No. 019-2002-AG
187. Sentencia del Tribunal Constitucional, Exp. N. 006-2000-AI/TC. <http://www.tc.gob.pe/jurisprudencia/2002/00006-2000-AI.html>
188. Report No. 142-2002_INRENA-OAJ
189. Yield factor: the percentage of a standing tree's volume that can be converted into export-quality lumber.

190. Memo 6029-2007-INRENA-IFFS, 11 December 2007
191. Memorandum error. His real name is Juan Carlos (rather than José Carlos). According to an article published November 22 2007 in the ATFFS Tumbes Piura blog, "Jose Carlos Barahona Sanchez was savaged by illegal loggers, who spoke last Sunday, in an area of the town of Puerto Maldonado.
192. Technical verification report of 2do POA No. 792-2007-INRENA-IFFS(DACFFS)-RCU-IHM (Anexo N.16), concesión No. 16-IQU/C-J-167-04 Forestal San Vicente SAC.
193. Technical verification report 2do POA NO. 773-2007-INRENA-IFFS(DACFFS)/IBRR (Anexo N.20), concession No. 16-IQU/C-J-214-04 Luz Angelica Cabrera Arcentales.
194. Memo 6029-2007-INRENA-IFFS, 11 December 2007
195. <http://diariolaregion.com/web/2010/11/09/edictos-169/>
196. Directorial Resolution 002/2008 (for mahogany) and 017/2008 (for cedar)
197. A resolution of the Eighth Court of the Constitutional Court, passed on January 8th 2011, provides that the plaintiffs be reinstated to their jobs along with all previously mandated benefits. February 2011 was the first time that lawyer Rodolfo Valcarel, Director of the personnel unit of MINAG, informed them that there was no budget for their positions. Months passed, and after the third diligencé they were offered a temporary contract. Three of the five functionaries accepted. To date we have been informed that the officials will be informed immediately when they may return to their jobs.
198. Letter from Ignacio Lombardi , scientific authority, CITES Universidad Nacional Agraria La Molina, Facultad de Ciencias Forestales, a Edgardo Lizárraga, Intendente Forestal y de Fauna Silvestre del INRENA. La Molina, 28 de noviembre del 2007.
199. Managerial Resolution (Resolución de Intendencia) 020-2008-INRENA-IFFS
200. <http://elcomercio.pe/edicionimpresa/html/2008-02-01/funcionario-inrena-renuncio-discrepancias-madereros.html>
201. Directorial Resolution No. 076-2008-INRENA, just a few days after the implementation of the US - Peru FTA, which has explicit forestry standards.
202. Asmat Vega's report, No. 407-2007-INRENA-OAJ
203. Resolución de Intendencia 020-2008-INRENA-IFFS, January 29, 2008
204. Asmat Vega's report, No. 084-2008-INRENA-OAJ
205. ibid
206. Amancio, Nelly Luna. El Comercio. Interview with Jose Luis Camino. December 8, 2008
207. POAs are annual harvesting plans created for smaller units of land within a 40,000 ha concession, so it is theoretically possible that a concession may lie partly "inside" and partly "outside" the watershed, and the application of the ban would depend on which part of the concession in which a POA unit lies.)
208. "the inventory data is false, as none of the harvestable trees or seed trees included in the supervision were found; additionally, there are signs that the volume of harvestable wood has been over-estimated"
209. Sentencia del Tribunal Constitucional, Exp. N. 1206-2005-PA/TC. Loreto. Asociación de Promotores de Salud del Vicariato San José del Amazonas "Blandine Masicote Peru". 20 April 2007. <http://www.tc.gob.pe/jurisprudencia/2007/01206-2005-AA.html>
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216. Overflight Reveals Illegal Logging Camps in the Murunahua Territorial Reservé. Round River Conservation Studies, 2009
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The leader [apu] of Victor Raul, the village at the edge of the OPEXA timber concession in southern Loreto, stands with two of the community's founding members, both indigenous Capanahua. Victor Raul still lacks basic necessities like a regular school teacher or medical post, or even title to its lands, despite the influx of logging concessions and oil exploration. Communities such as Victor Raul deserve a better chance at meaningful development, not empty promises. © Toby Smith/EIA

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Cuadro 3.

Árboles a supervisar PCA N° 03

N°	Faja N°		N° árbol (marca)		Coordenadas en POA		Coordenadas en campo		DAP (cm)	AC (m)	Condición	Especie	Observ.					
	POA	C*	POA	C	Este	Norte	Este	Norte										
1	1	-	13	-	659251	9696756	-	-	69	-	16	-	NO EXISTE EN UN RADIO SOM.					
2	1	-	45	-	658236	9696843	-	-	66	-	16	-	NO EXISTE EN UN RADIO SOM.					
3	3	-	403	-	658290	9697056	-	-	66	-	15	-	NO EXISTE EN UN RADIO SOM.					
4	4	-	300	-	658280	9697151	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
5	4	-	304	-	658350	9697101	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
6	6	-	1036	-	65825	9697358	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
7	6	-	1037	-	65820	9697330	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
8	6	-	1051	-	658049	9697355	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
9	6	-	1038	-	658792	9697330	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
10	8	-	1393	-	657964	9697503	-	-	70	-	17	-	NO EXISTE EN UN RADIO SOM.					
11	9	-	1430	-	657947	9697601	-	-	66	-	17	-	NO EXISTE EN UN RADIO SOM.					
12	9	-	1441	-	658066	9697619	-	-	77	-	17	-	NO EXISTE EN UN RADIO SOM.					
13	9	-	1442	-	657917	9697589	-	-	65	-	17	-	NO EXISTE EN UN RADIO SOM.					
14	9	-	1443	-	657903	9697616	-	-	74	-	17	-	NO EXISTE EN UN RADIO SOM.					
15	9	-	1444	-	657892	9697631	-	-	65	-	15	-	NO EXISTE EN UN RADIO SOM.					
16	11	-	1356	-	658036	9697855	-	-	65	-	15	-	NO EXISTE EN UN RADIO SOM.					
17	13	-	2125	-	657735	9698010	-	-	65	-	15	-	NO EXISTE EN UN RADIO SOM.					
18	13	-	2135	-	657611	9698017	-	-	65	-	15	-	NO EXISTE EN UN RADIO SOM.					
19	13	-	2136	-	657588	9698007	-	-	66	-	15	-	NO EXISTE EN UN RADIO SOM.					
20	13	-	2140	-	657546	9698057	-	-	66	-	15	-	NO EXISTE EN UN RADIO SOM.					
21	12	-	2151	-	657362	9698000	-	-	66	-	15	-	NO EXISTE EN UN RADIO SOM.					
22	13	-	2152	-	657322	9697995	-	-	66	-	15	-	NO EXISTE EN UN RADIO SOM.					
23									65	-	15	-	NO EXISTE EN UN RADIO SOM.					
24									65	-	16	-	NO EXISTE EN UN RADIO DE SOM.					

C* = Campo

AC = Altura comercial

En señal de conformidad firmo:

en observaciones colocar si coinciden con los criterios de selección establecidos en la norma

Supervisor OSINFOR

Aprov. =

C* = Campo AC = Altura comercial
En portal de conformidad firmen:

Supervisor OSINFOR

Concesionario

Aprov = Aproximable.

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