

THE FIRST



1 YEARS

OF **SACA-SEEM**

A renewed opportunity to contribute to the effective
enforcement of environmental laws

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THE FIRST



4 YEARS
OF **SACA-SEEM**

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A renewed opportunity to contribute to the effective enforcement of environmental laws

Four years after the binational decision to appoint the first Executive Director of SACA-SEEM, and in compliance with Article 18.8 of the United States – Peru Trade Promotion Agreement (TPA)¹, this institution has become an opportunity for citizens to collaborate effectively with their governments to protect the environment and a regional space for reflection on the best practices and challenges to achieve it.

This document counts up the main legal and administrative milestones, and it also contains a summary and analysis of the submissions made to date, facing the next stages of growth and deployment of SACA-SEEM. The document ends with eight (8) recommendations and opportunities for the new Executive Directorate expected to start in September 2020. It is important to mention that this report compiles information contained in documents that are publicly available on SACA-SEEM's website and information contained in the annual and semi-annual reports issued by SACA-SEEM, in compliance with Decision 1 of the Environmental Affairs Council (EAC)².

1. United States – Peru Trade Promotion Agreement (2009)

2. Decision N. 1 of the Environmental Affairs Council (2016)

Moreover, this document offers a special acknowledgement and calls to continue strengthening the support of the EAC, which is constituted by representatives of the governments of Peru and United States³, as well as the support of other Trade Agreements Secretariats within the region, such as the Commission for Environmental Cooperation including Canada, the United States and Mexico (CEC), the Secretariat for Environmental Matters of the Free Trade Agreement between the Dominican Republic, Central America and the United States (DR-CAFTA), the United States - Panama and the United States – Colombia Trades agreements.

In this context and after completing an important SACA-SEEM's first cycle, it is essential to remember the fundamental principles that distinguish this entity and its projection in the future:

- ✓ **A TRANSPARENT & CLOSE SACA-SEEM.** SACA-SEEM took place physically at the Organization of American States (OAS) premises in Washington D.C., offering access to a physical address for the first time, in addition to a virtual space through its website; which, in addition to be fully bilingual, contains all the institutional support documents and all the actions regarding each submission. This space is permanently updated and contains simplified audiovisual material to facilitate the understanding of the public. Additionally, the SACA-SEEM frequently shares news about it and other matters of interest through its social networks.
- ✓ **AN EFFICIENT AND IMPARTIAL SACA-SEEM.** SACA-SEEM analyzed, processed, and responded on time and efficiently four (4) citizen submissions. Likewise, it received and responded directly other information requests, submitted from both, citizens and government entities.

Regarding the four (4) received submissions, three (3) were closed, and one (1) still remains open. One closed submission reached an advanced analysis phase, which consisted in issuing and making public the first Factual Record in the history of the SACA-SEEM.

SACA-SEEM's impartiality and its reasonable and well-founded decisions have made possible to develop a relationship of trust with the main actors of the civil society.

3. Peru: Ministry of Foreign Trade and Tourism and Ministry of Environment. United States Trade Representative and Department of State.



AN INNOVATIVE & ENGAGED SACA-SEEM. SACA-SEEM adapted its financial and human resources to complex circumstances and environments typical of its initial stages, counting on the support of external professionals and recognized academic personalities and prestigious institutions from both countries. Likewise, SACA-SEEM successfully organized international events with the participation of authorities from other Secretariats implemented as a consequence of Trade Agreements and was recognized in various digital media as an entity that provides real opportunities to contribute to the effective enforcement of environmental law. SACA-SEEM has managed, in its short years of operation, to build a solid reputation among governments and especially among citizens, whose participation in the process of protecting the environment is fundamental.

Dino Delgado Gutiérrez

Executive Director

SACA-SEEM / United States – Peru TPA



Executive Summary

SACA-SEEM was implemented four (4) years ago, in compliance with articles 18.8 and 18.9 of the United States - Peru TPA⁴. This document gives an account of its trajectory to date and explains how it can contribute to effective collaboration between the citizens of both countries with their respective governments, in order to achieve a better protection of the environment and a regional space for reflection on the best practices and challenges to achieve this. It also provides an in-depth analysis of the normative-institutional basis of the entity and its relationship with the OAS, explaining in detail the sequence of attention of the submissions, as well as the considerations so that they are managed, informed, and shared. In relation to this last point, it is important to emphasize two particularly important issues: (i) SACA-SEEM's capacity for immediate action; and (ii) the axes and key messages as a fundamental part of the dissemination to the public and its communications.

In addition, regarding particular issues, this document contains a summary of each submission answered by SACA-SEEM and its current status, as well as a section on comparative experiences of other trade agreements.

4. United States - Peru Trade Promotion Agreement (2009).



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Finally, three opportunities for improvement are also included:

- i The institutional consolidation of SACA-SEEM, which requires the issuance of guidelines that can support its current actions and help project its future ones, based on agreements and principles developed in the TPA and consolidated through its first precedents. Moreover, SACA-SEEM requires institutional stability and independence based on a reliable and predictable basis of financial contributions of both parties and the hiring of long-term professionals, who, in addition to the Executive Director, contribute to keep building the culture and institutional memory.
- ii The permanent promotion of relations with civil society and academia, in which line it must continue to consolidate its reputation based on transparent actions and reflective, predictable, and lawful decisions.
- iii Strengthen its international connections, improving their integration with other international organizations with similar foundations and objectives, among which are the Secretariats resulting from other trade agreements.



The origins of SACA-SEEM

a CONTEXT

Peru is one of the most environmentally rich and diverse countries in the world. Not surprisingly, it is the fourth country with the largest extension of tropical forests in the world⁵, and the second in amazon forests in Latin America⁶. It also hosts 25,000 species of flora (approximately el 30% are endemic⁷). Eighty-four of the one hundred four Life Zones that exist in the world are in Peru⁸. It is the country that has more types of butterflies in the world, ranks second in terms of birds and third in amphibians and in variety of mammals in the country⁹.

The Political Constitution of Peru establishes the right of each citizen “*to enjoy a balanced and adequate environment for the development of his life*” must be expressly guaranteed¹⁰. In

5. General Directorate of Biological Diversity. Ministry of Environment of Peru (n.d.).

6. General Directorate of Biological Diversity. Ministry of Environment of Peru (n.d.).

7. National Service of Protected Areas (n.d.).

8. Ministry of Environment's National Environmental Plan Action. (2011).

9. National Service of Natural Protected Areas. (n.d.).

10. Peruvian Constitution (1993).



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addition, the Peruvian Constitutional Court ruled in 2007 that *“the environment must be understood as the right to enjoy that environment and the right to preserve that environment”*¹¹. Moreover, the Court has added that *“the former must be understood as the power of people to enjoy an environment in which its elements develop and interrelate in a natural and harmonious way. The intervention of a human being must not suppose, in consequence, a substantive alteration”*¹².

The United States is also a country with great biodiversity. Oregon, Washington and California have the tallest trees in the world¹³, and the latter state shares with Nevada the oldest trees in the world¹⁴. The United States is also one of the pioneering countries in terms of knowledge and conservation of the environment worldwide. Indeed, Yellowstone was the first territory declared as a National Park in the world in 1872, and the National Park Service was also the first institution of this type in the world back in 1916.¹⁵

11. Jaime Hans Bustamante Johnson v. First Decentralized Mixed Court (2007)

12. Jaime Hans Bustamante Johnson v. First Decentralized Mixed Court (2007)

13. LiveScience. (2017).

14. LiveScience. (2016).

15. Library of Congress (n.d.)

The United States has been enacting legislation to protect the environment and the humans and communities that coexist or depend on it since the end of the 19th century (Refuse Act of 1899). Other significant laws are: Federal Water Pollution Control Act (1948), Air Pollution Control Act (1955), Clean Air Act (1963), Water Quality Act (1965 and later amendments), Air Quality Act (1967 and later amendments), National Environmental Policy Act (1969, and subsequent amendments), Resource Conservation and Recovery Act (1976), Emergency Wetlands Resources Act (1986), Oil Pollution Act (1990), and Healthy Forests Initiative (2003), among others. In the international treaties or trade agreements that it has promoted or to which it has been a party, such as NAFTA (1993), the United States has also promoted environmental protection clauses.

b TPA SIGNATURE AND ENVIRONMENTAL PROTECTION

In recent decades, there has been an explosion of free trade agreements, and especially bilateral free trade agreements¹⁶. While in 1960 there were few regional or bilateral trade agreements, in 2000 their number had risen to around 100 globally, rising rapidly and steadily to two hundred in 2010, and three hundred by 2020¹⁷.

As a result of this expansion of bilateral treaties and of global trade, Peru and the US began in 2004 studies and coordination to negotiate a trade promotion agreement that was finally signed in April 2006 and entered into force on 1 February 2009¹⁸.

The TPA includes several crucial aspects of the bilateral relationship such as Customs Administration and Trade Facilitation, Trade Defense, Telecommunications, Intellectual Property Rights, Labor and Strengthening of Commercial Capacities, among others¹⁹. Ar-

16. OMC (Sf)

17. OMC (Sf)

18. United States - Peru Trade Promotion Agreement (2009)

19. United States - Peru Trade Promotion Agreement (2009)



“The United States has been enacting legislation to protect the environment and the humans and communities that coexist or depend on it since the end of the 19th century (Refuse Act of 1899).”

ticle 18 of the TPA focuses specifically on environmental issues, referring such as levels of protection, applicable environmental laws and agreements, measures to improve environmental performance, the creation of the EAC and opportunities for citizen participation and conflict resolution²⁰.

Specifically, Article 18.8 establishes that *“any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws. Such submissions shall be filed before a secretariat or other appropriate body (secretariat) that the Parties designate”*²¹. Said article elaborates in its successive paragraphs, the requirements that such submissions must comply, and how they will be processed²². Article 18.9 specifies the requirements and process for the preparation of Factual Records²³.

Articles 18.8 and 18.9 recognize the possibility of creating a specific body in charge of submissions: a body that would later become known as SACA-SEEM²⁴. These types of entities have already been established in other trade promotion agreements between countries in the region and United States, as it will be explained hereafter.

20, 21, 22, 23, 24. United States - Peru Trade Promotion Agreement (2009)

C TOWARDS THE CONSTITUTION OF SACA-SEEM

After the entry into force of the TPA, the two parties directed their actions towards the constitution and commissioning of SACA-SEEM. Some moments were essential to achieve this milestone.

In the first place, both parties jointly sent in April 2011 (after agreeing between them) two letters to the OAS requesting the latter, to be the SACA-SEEM's headquarters. The OAS agreed to host this institution, as well as to provide administrative and technical support through the Department of Sustainable Development (DSD) in Washington, DC United States²⁵. The relationship with the OAS would be limited exclusively to administrative and technical support²⁶. Regarding the funds and assigned budget, the Understanding to implement Article 18.8 of the TPA (hereinafter "Understanding"), provided that these allocations be covered by both countries, based on an annual economic proposal by the SACA-SEEM²⁷.

The Understanding ratified SACA-SEEM's functional subordination to the EAC, establishing four basic functions around (i) processing citizen submissions; (ii) requesting and evaluating the response of the countries regarding the submissions; (iii) informing the EAC, if applicable, about the necessity to prepare Factual Records and; (iv) preparing those Factual Records upon the order of a member of the EAC, as well as presenting them to the EAC and, if ordered by one of its members, making them available to the public²⁸.

After years of consultations and negotiations, SACA-SEEM was finally created in March 2016²⁹.

25. Understanding to implement article 18.8 (2016).

26. Understanding to implement article 18.8 (2016).

27. Understanding to implement article 18.8 (2016).

28. Understanding to implement article 18.8 (2016).

29. Understanding to implement article 18.8 (2016).



“The OAS agreed to host this institution, as well as to provide administrative and technical support through the Department of Sustainable Development (DSD) in Washington, DC United States ”





SACA-SEEM: Normative- Institutional foundations, relationship with OAS and outreach

The United States and Peru governments committed themselves, through the signature of the TPA, among other environmental aspects, that any person from either country may file a submission alleging that one of the Parties is failing to effectively enforce its environmental laws³⁰.

SACA-SEEM's regulatory framework was subsequently consolidated and expanded through institutional regulations, including provisions endowing this mechanism with procedures and decision protocols.

“ After its creation and confirmation of its incorporation within the OAS, the EAC proceeded to put together a regulatory framework to support the operation and composition of SACA-SEEM's staff. ”

30. U.S. – Peru Trade Promotion Agreement. (2009)

Table 1: Specific applicable rules and decisions of the SACA-SEEM

- ⇒ Chapter 18 of the TPA³¹
- ⇒ Understanding³²
- ⇒ Memorandum of Understanding (MoU) between the Government of United States, the government of Peru, and the General Secretariat of the OAS regarding the SACA-SEEM, in accordance with the TPA³³.
- ⇒ Decision N.1 of the EAC – SACA-SEEM procedures³⁴.
- ⇒ Decision N.2 of the EAC - Promote Awareness to help understand the Public Request Proceedings and Factual Records³⁵.
- ⇒ Decision N.3 of the EAC - Selection and Appointment of the Executive Director, Dino Delgado Gutierrez³⁶.
- ⇒ Decision N.4 of the EAC - Alternation of the Nationality of the Executive Director³⁷.
- ⇒ Decision N.5 of the EAC - Selection and Appointment of the Executive Director³⁸.
- ⇒ Decision. 6 of the EAC - Selection and Appointment of the Executive Director, call for the appointment of the new North American Executive Director ³⁹.

31. U.S. – Peru Trade Promotion Agreement. (2009)

32. Understanding to implement article 18.8 (2016).

33. Memorandum of Understanding between the United States, Peru and OAS (2016).

34. Decision N. 1 of the Environmental Affairs Council (2016)

35. Decision N. 2 of the Environmental Affairs Council (2016)

36. Decision N. 3 of the Environmental Affairs Council (2016)

37. Decision N. 4 of the Environmental Affairs Council (2016)

38. Decision N. 5 of the Environmental Affairs Council (2018)

39. Decision N. 6. of the Environmental Affairs Council (2020)

The institutional foundations of SACA-SEEM rest primarily on articles 18.8 and 18.9 of the TPA⁴⁰. The characteristics of its existence, as well as its legal support, can be summarized in the following aspects:

a SACA-SEEM establishment: Organization and functionality

After its creation and confirmation of its incorporation within the OAS, the EAC proceeded to put together a regulatory framework to support the operation and composition of SACA-SEEM's staff.

In this sense, EAC Decision No.1 developed a series of detailed aspects so that SACA-SEEM could finally be created and enabled to operate shortly. Decision 1 included the following aspects: (1) clarification of the Executive Director's competences, as well as its election process and responsibilities; (2) the selection process and the professional requirements for hiring permanent or temporary personnel of a general, legal or technical nature, as well as administrative support and consultants, if required; (3) the procedures for preparing and submitting reports on semi-annual and annual activities from SACA-SEEM to the EAC; (4) communications between SACA-SEEM and the EAC; (5) requirements that the website should contain and the documents that may be uploaded to it; as well as (6) the budget of the SACA-SEEM and the expenses procedure of the aforementioned entity⁴¹.

Among the basic functions of SACA-SEEM, those already included in Article 18.8 of the TPA were gathered and ratified, especially highlighting: (i) the reception of submissions from the public; (ii) requesting a Party to respond to said submissions, if appropriate; (iii) inform the EAC if any submission might ultimately

40. United States – Peru Trade Promotion Agreement (2009)

41. Decision N. 1 of the Environmental Affairs Council (2016)



“The OAS agreed to host this institution, as well as to provide administrative and technical support through the Department of Sustainable Development (DSD) in Washington, DC United States.”

merit a Factual Record; and (iv) develop a Factual Record pursuant to Article 18.9 of the TPA, when appropriate⁴².

SACA-SEEM would be led by an Executive Director (national of one of the Parties)⁴³. A budgetary obligation, that both parties had to fulfill, was also established, renewing the budget every year based on the Executive Director's proposal. Finally, some obligations of transparency and dissemination of activities were also established, as well as confidentiality clauses regarding the identity of the applicants and other participants in a submission or record⁴⁴.

In the Decision N.2, it was agreed that there was a need to develop a Plan to make public SACA-SEEM's activities⁴⁵. During 2017, the SACA-SEEM adopted a Communications Strategy, with the purpose of disseminating the process of receiving and reviewing submissions.

42. Decision N. 1 of the Environmental Affairs Council (2016)

43. Decision N. 1 of the Environmental Affairs Council (2016)

44. Decision N. 1 of the Environmental Affairs Council (2016)

45. Decision N. 2 of the Environmental Affairs Council (2016)



b Appointment of the SACA-SEEM's staff

The TPA states in its article 18.8 that the countries would designate SACA-SEEM's staff, also through an exchange of letters or understandings between the Parties. The Understanding determined that the maximum authority of the SACA-SEEM would be an Executive Director with a two-year mandate, being able to be re-elected, although the nationality shall be alternated after the reelection⁴⁶. The removal of the Executive Director would be a faculty of the EAC⁴⁷.

EAC's Decision No. 3, dated November 3, 2016, ratified the appointment of the Peruvian lawyer, Dino Delgado Gutiérrez, as Executive Director for a period of 2 renewable years⁴⁸. Delgado Gutiérrez was reappointed in 2018 through Decision No. 5⁴⁹. In April 2020, the EAC began the selection process for the new Executive Director of SACA-SEEM with Decision's No. 6 approval⁵⁰.

c Submissions: What is the procedure that is followed to file a submission?

The procedure in which the submissions are processed by the SACA-SEEM is at the TPA level in the articles 18.8 and 18.9⁵¹. The following flowchart and decision tree explain the conditions, requirements and actions of SACA-SEEM.

46. Decision N. 4 of the Environmental Affairs Council (2016)

47. Decision N. 4 of the Environmental Affairs Council (2016)

48. Decision N. 4 of the Environmental Affairs Council (2016)

49. Decision N.5 of the Environmental Affairs Council (2018)

50. Decisión N. 6 of the Environmental Affairs Council (2020).

51. U.S - Peru Trade Promotion Agreement



What is the procedure that is followed to file a submission?

Step 1: Citizen files a Submission before SACA-SEEM.

Step 2: SACA-SEEM:

- **Acknowledges its receipt**
- **Assigns a submission number**
- **Verifies if the TPA's admissibility requirements were met**
 - a** Art. 18.8.1: The Submission must be submitted before the SACA-SEEM
 - b** Art. 18.8.2: The Submission must comply with the following requirements:
 - Must be written in Spanish or English
 - Identifies the submitter(s).
 - Offers sufficient information that allows SACA-SEEM to review the Submission, including documentary evidence on which the submission may be based and identifies the environmental laws of which the failure to enforce is asserted.
 - Appears to be aimed at promoting enforcement rather than at harassing industry.
 - Indicates that the matter has been communicated in writing to the relevant authorities of the Party and indicates the Party's response, if any.
 - Is filed by a person of a Party, except as provided in paragraph 3 or article 18.8.2.



Step 3: SACA-SEEM:

➤ Issues a Determination, in compliance with article 18.8.2 requirements.

- a** If the requirements were not fulfilled ⇒ The process concludes.
- b** If the requirements were fulfilled ⇒ SACA-SEEM analyses, if it merits requesting a response from the Party, based on the considerations of Art. 18.8.4:
 - The Submission is not frivolous and alleges harm to the submitter.
 - The Submission, alone or in combination with other submissions, raises matters whose further study in this process would advance the goals of TPA's Environmental Chapter and the Environmental Cooperation Agreement (ECA) taking into account guidance regarding those goals provided by the Council and the Environmental Cooperation Commission established under the ECA.
 - The private remedies available under the Party's law have been pursued.
 - The Submission is drawn exclusively from mass media reports.

➤ SACA-SEEM issues a Determination requesting or not the Party's response.

For this purpose, SACA-SEEM must send the Party a copy of the Submission and all the supporting information thereof. The Party must inform SACA-SEEM within the following 45 days, or exceptionally, within the following 60 days, the required information, so that SACA-SEEM can complete the analysis.

**Step 4: SACA-SEEM:**

- **Having concluded the term to obtain a response from the Party, SACA-SEEM shall consider if it warrants developing a Factual Record. SACA-SEEM will prepare a Notification in accordance with Art. 18.9.1:**
- Informing the EAC and exposing its reasons.
 - If ordered by a EAC member, SACA-SEEM will prepare a Preliminary Factual Record. For such purpose, each Party may submit comments within a 45 business-day term.
 - Incorporate as appropriate, the comments of the Parties and prepare the Final Factual Record.
 - Present the Final Factual Record to the EAC.
 - Within a 60-day period after its presentation, the Factual Record will be made public if the EAC orders it.

d SACA-SEEM: Ability to receive and process submissions

One of the most interesting issues solved by the SACA-SEEM, which confirmed its capacity for immediate intervention in compliance with the TPA, was the interpretation made regarding the ability to receive and process submissions. The SACA-SEEM's Notification SACA-SEEM/PE/002/2018/N1 included this analysis.

Although it is true that the approval of guidelines for filing and processing submissions is urgent, SACA-SEEM is currently empowered and at the same time obliged to receive and process Submissions on Environmental Enforcement Matters, provided that:

- ⇒ The creation of SACA-SEEM responds to a direct mandate from the TPA, which grants the right to any person or legal person to file submissions to SACA-SEEM if it considers that one of the Parties to the TPA is not effectively enforcing its environmental laws⁵². Thus, it is understood that SACA-SEEM's mandate to receive and process said submissions is implicit in this right of immediate exercise. Doing otherwise would restrict the right granted by Article 18.8 of the TPA to any person or legal person of one of the Parties.
- ⇒ All of SACA-SEEM's functions are already specifically detailed in article 5.1 of the Understanding. Section (d) of the same article clearly establishes that SACA-SEEM is enabled to take pertinent additional measures to carry out the functions established in Articles 18.8 and 18.9. of the TPA⁵³.

According to article 5 (2) of the Understanding, although the SACA-SEEM shall apply any procedure that the EAC approves, this article does not require SACA-SEEM to wait for the approval of the aforementioned procedures to fulfill its own obligations. In the same way, it is not appropriate to limit the public's right to file submissions to the SACA-SEEM,

52. United States - Peru Trade Promotion Agreement (2009)

53. Understanding to implement article 18.8 (2016).



in accordance with article 18.8 of the TPA, and that those submissions are received and considered, until the EAC approves such procedures.

In sum, it is understood that there are two equally effective assumptions for actions by the SACA-SEEM: (i) in the event that the EAC approves working and other procedures, SACA-SEEM shall apply them; and, (ii) In the event that the EAC does not establish any procedure, SACA-SEEM is not obliged to apply something that does not exist, so it will apply Articles 18.8 and 18.9 of the TPA and 5.1 of the Understanding, which present the necessary and sufficient conditions for SACA-SEEM to receive and consider submissions from the public, being provisions that can be applied by itself.

In this and other aspects, the SACA-SEEM/PE/002/2018 analysis documents can be reviewed.

“The creation of SACA-SEEM responds to a direct mandate from the TPA, which grants the right to any person or legal person to file submissions to SACA-SEEM if it considers that one of the Parties to the TPA is not effectively enforcing its environmental laws.”



Building capacity and relationship with the OAS

SACA-SEEM, as previously mentioned, carries out its ordinary activities and fulfills its functional duties administratively attached to the DSD of the OAS General Secretariat. Four years after the implementation of this agreement and in light of the favorable results in SACA-SEEM's actions, the relationship with OAS has been fruitful and stable. A review of the mutual relationships in the past four years suggests the following:

- ⇒ **Administrative relations.** Both SACA-SEEM and the OAS have scrupulously respected their roles, fulfilling both their administrative duties and their submission duties independently.
- ⇒ **Human relations, physical space and connectivity.** The OAS effectively provided an Office at OAS Headquarters located at 1889 F Street, N.W., Washington, D.C. 20006, United States in addition to access to communication facilities and internet access, as well as access to meeting rooms when these were requested by the Executive Director.
- ⇒ **Staffing and technical support.** It was effectively coordinated that internal personnel provided support to SACA-SEEM. SACA-SEEM had the support of an administrative assistant and a member of the Administration Office. Likewise, the OAS successfully managed the hiring of expert consultants necessary for SACA-SEEM, in legal, communications, and graphic design matters. However, to date, there has been no recruitment of professional staff exclusively for service to SACA-SEEM, who have been recruited and/or hired outside the OAS.



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Financial contributions from the countries. As stated in the ME, each country should make an annual contribution, as far as possible, by June 30 each year⁵⁴. SACA-SEEM's budget is approved by the EAC⁵⁵. To date, SACA-SEEM has received contributions from the United States, as it can be seen in Table 1.



Budget and finances. The OAS has been administering the economic contributions to SACA-SEEM. SACA-SEEM, for its part, has appropriately raised and executed the approved budgets for each year.

Table 1. Budget assigned to the Secretariat by budget periods

Period	Budget
2012-2017	\$ 593,995.00
2018-2018	\$ 149,999.00
2018-2019	\$ 399,999.00
2020-2022	\$ 553,000.00

Source: SACA-SEEM data. Own elaboration.

54. Memorandum of Understanding between the United States, Peru and OAS (2016).

55. Memorandum of Understanding between the United States, Peru and OAS (2016).



Outreach and communications

SACA-SEEM has also developed a Communications Strategy, adopted in 2017, with the purpose of maximizing its outreach potential to the public.

The strategy established four main strategic axes, to which four general messages were adapted (each message can represent one or more strategic axes). Table 2 lists these axes and messages:

For its implementation, the Strategy provided for a series of actions towards diverse audiences: (i) production of audiovisual and digital products; (ii) stakeholder/key actors management; and (iii) media management. This would entail the generation of products/inputs such as: (i) a graphic identity for SACA-SEEM; (ii) videos and other presentation materials; (iii) outreach materials such as videos, infographics or articles; (iv) presentation brochure, merchandising and banners; (v) press releases and other release materials, as well as a Media Plan with tentative table of contents for the following months, as well as dates and milestones to be achieved.

With this, SACA-SEEM seeks to have a multi-targeted presence that will allow for the maximum possible dissemination and penetration of its mission and message. Two channels are especially important to SACA-SEEM: its website and its social networks.



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Table 2. Communications Strategy - Strategic axes and key messages

STRATEGIC AXES	KEY MESSAGES
<ul style="list-style-type: none"> ⇒ To position SACA-SEEM as an objective, technical and transparent organization that seeks to contribute to the fulfillment of the objectives of Chapter 18 of the TPA. ⇒ To show, from the outset and on an ongoing basis, that SACA-SEEM works in coordination with the Parties to contribute with their efforts to ensure effective enforcement of environmental laws within the framework of the TPA. ⇒ To position SACA-SEEM as an instance of citizen participation that contributes to give credibility to the environmental sector, international trade and the compliance with agreements. ⇒ Continuously communicate the actions and results of the SACA-SEEM, both in terms of submission resolution and other actions of coordination and knowledge generation between the parties. 	<ul style="list-style-type: none"> ⇒ Message 1. SACA-SEEM is an instance of citizen participation that, together with the Parties, promotes the effective enforcement of environmental law. ⇒ Message 2. SACA-SEEM recognizes that each Party has sovereign rights and responsibilities regarding its natural resources and therefore, promotes the understanding of the environmental laws of both countries. ⇒ Message 3. SACA-SEEM establishes clear and transparent processes for the reception, analysis, and response to submissions from the public. ⇒ Message 4. SACA-SEEM is an independent and impartial body that analyzes the submissions on a completely technical basis and acts without any political or other influence.

Source: SACA-SEEM. Communication Strategy.



Comparative experiences in the effective enforcement of environmental laws

a

NAFTA / USMCA (United States , Mexico, Canada).

The original text of the North American Free Trade Agreement (NAFTA) signed by Mexico, Canada and the United States in 1992 did not include an express procedure for the resolution of environmental applications, although it did provide for dispute resolution aimed at protecting foreign investors in the territory of the Parties (Cosbey, 2003)⁵⁶.

However, the North American Agreement on Environmental Cooperation (NAAEC), negotiated by the same countries in parallel with NAFTA and which entered into force immediately after NAFTA on January 1, 1994, did specify in Article 14(1) the possibility that an individual or organization from any of the three countries could issue a submission regarding the effective enforcement of their environmental laws⁵³.

56. Cosbey A. (2003). "El Capítulo 11 del TLCAN y el medio ambiente. Documento de discusión para el taller público del Comité Consultivo Público Conjunto de la Comisión para la Cooperación Ambiental de América del Norte." Instituto Internacional para el Desarrollo Sustentable, Canada.



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NAAEC established the Commission for Environmental Cooperation (CEC) to implement a petition mechanism aimed at effective enforcement of environmental law⁵⁷. The CEC has its own institutional framework, including a Submissions Unit, to deal with submissions from any person or organization not connected to the government in which it is alleged that one of the Parties is not effectively enforcing its environmental laws⁵⁹.

Articles 14 and 15 of NAAEC provide the requirements for filing submissions; the criteria for requesting a response from the Party and the steps for the preparation of a factual record. This mechanism is an innovation of the NAAEC⁶⁰. As of July 2020, 98 submissions have been registered, according to the information contained in its website⁶¹.

57. North American Agreement on Environmental Cooperation (1994)

58. CEPAL. (2004).

59. CEPAL. (2004).

60. North American Agreement on Environmental Cooperation (1994)

61 Environmental Cooperation Commission (SF).



“USMCA foresees that after the publication of factual records, the possibility of having a cooperation program on the issue raised in the petition will be opened.”

The new Treaty between United States, Mexico and Canada (USMCA) that came into force on July 1, 2020 incorporated the public submission mechanism into Chapter 24 of the trade agreement. In general terms, Chapter 24 contains no changes to the broad outline of the submissions for the effective enforcement of the Parties' environmental laws. Chapter 24 also provides for the creation of an Environmental Committee, made up of environmental and trade representatives, which is responsible for the implementation of this chapter of the treaty. While the CEC Council is responsible for participating in the implementation of the petition mechanism, the Environment Committee has the role of verifying its effective implementation.

USMCA foresees that after the publication of factual records, the possibility of having a cooperation program on the issue raised in the petition will be opened. This cooperation program is implemented by the Secretariat, upon recommendation of the Environmental Committee. On the other hand, Chapter 24 foresees that the Party in question shall submit a report after the publication of the factual record, which must be submitted to the CEC Council and the Environmental Committee of USMCA.

A relevant feature incorporated in the trade agreement is the inclusion of timeframes for each stage of the process. The timeframes established for each phase of the mechanism are shorter than those previously envisaged and those phases under the responsibility of the Secretariat have been significantly reduced.

Finally, it is worth noting that, at the domestic level, the United States issued a law for the implementation of USMCA, which provides for the existence of an inter-secretarial committee that may, after the publication of a factual record, request enforcement actions from the governments of Canada and Mexico.

b DR-CAFTA

The Free Trade Agreement between the Dominican Republic, Central America and the United States of America (DR-CAFTA, for its acronym in English) establishes a free trade area between the US, five Central American countries (Costa Rica, Guatemala, El Salvador, Honduras and Nicaragua) and the Dominican Republic⁶². This treaty entered into force between March and April 2006 for the different countries referred to, considering that each country had its own ratification process⁶³.

Chapter 17.7 of the DR-CAFTA deepened the path opened by NAFTA for the incorporation of bodies that guarantee the application of environmental precepts in the bilateral agreements signed between the US and its trade partners⁶⁴.

In this context, on July 27, 2006, the Agreement for the constitution of an Environmental Affairs Secretariat (EAS) was signed. The EAS would be located within the Central American Economic Integration Secretariat (SIECA in its Spanish acronym), sharing facilities with it, in Guatemala City (Guatemala)⁶⁵.

Since 2007, the EAS has received and processed 43 applications for the 7-member countries of DR-CAFTA⁶⁶. Five factual records have also been processed⁶⁷.

62. Free Trade Agreement between the Dominican Republic, Central America and the United States of America

63. Foreign Trade Information System (Sf)

64. Free Trade Agreement between the Dominican Republic, Central America and the United States of America

61, 62, 63. Environmental Affairs Secretariat DR-CAFTA (Sf).

C Panamá

Panama was one of the last countries to join the list of countries that have signed a Free Trade Agreement that includes an institution to receive and process submission on environmental law enforcement of its Parties. The United States – Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012⁶⁸. As in the case of Peru, the TCP includes a Secretariat for Environmental Enforcement Matters (by its acronym, SALA-SEEM), in accordance with the provisions of Articles 17.8 and 17.9, an organization that began its functions in May 2017 and was officially launched in October 2018⁶⁹.

Specifically, the SALA-SEEM receives and considers public submissions asserting that either Panama or the United States are not effectively enforcing their environmental laws⁷⁰. The process is relatively similar to that of Peru, and may result in a Factual Record, provided that any of the treaty's Parties requires it. Three submissions were received and processed between 2019 and 2020: Panama Bay Wetland, Gulf of Montijo Wetland, Toabré-Antón and Antón Wind Projects. In the first two submissions, after the examination of concurrence of requirements, a response was requested from the Party with good results for the submitters, since in both cases attention was obtained by following the processes for better management of these protected areas, both Wetlands of International Importance recognized by the Ramsar Convention, which is one of the Multilateral Environmental Agreements covered by the TPC between Panama and the United States.

68. Secretariat for Environmental Enforcement Matters of the United States - Panama Trade Promotion Agreement. (Sf)

69. Secretariat for Environmental Enforcement Matters of the United States - Panama Trade Promotion Agreement. (Sf)

70. Secretariat for Environmental Enforcement Matters of the United States - Panama Trade Promotion Agreement. (Sf)

d Colombia

Colombia and the United States signed a TPA in November 2006⁷¹, after the negotiation rounds that concluded on February 27, 2006⁷². In December 2013, both countries held the first meeting of the Environmental Affairs Council of the TPA, as well as the first meeting of the Commission on Environmental Cooperation of the Environmental Cooperation Agreement between the two countries⁷³, signed on April, 2019⁷⁴. At that meeting, the establishment of a Secretariat enabled to receive and consider submissions related to the enforcement of environmental laws, was discussed⁷⁵.

In June 2018, both Parties signed an Agreement to establish the Secretariat for Environmental Enforcement Matters to carry out the functions provided for in Articles 18.8 (Submissions for Enforcement Matters) and 18.9 (Factual Records and Related Cooperation) of the CPA⁷⁶.

In June 2019, the Council by Decision No. 1 appointed the first Executive Director of the Secretariat⁷⁷.

71. Mincomercio (Sf).

72. Foreign trade information System - Organization of American States (Background and negotiations)

73. Minambiente (2013)

74. <https://www.minambiente.gov.co/index.php/asuntos-internacionales/negociacion/ambiente-y-desarrollo-en-los-tlc>

75. Minambiente (2013)

76. Agreement establishing a Secretariat for Environmental Enforcement Matters under the United States - Colombia Trade Promotion Agreement.

77. Decision 1. United States - Colombia Environmental Affairs Council.



Chronology of actions of the SACA-SEEM (Table 3).



SACA-SEEM MAIN MILESTONES AND SUBMISSION'S TIMELINE	
First Semester 2016	<ul style="list-style-type: none"> ➤ Understanding and MoU ➤ Guidance document for the SACA-SEEM proceedings (Decision 1 EAC) ➤ Awareness promotion document for understanding the submission process (Decision 2 EAC)
Second Semester 2016	<ul style="list-style-type: none"> ➤ Appointment of the first Executive Director (Decision 3 EAC) ➤ Document regarding the Executive Director's alternation (Decision 4 EAC).
First Semester 2017	<ul style="list-style-type: none"> ➤ Executive Director undertakes functions ➤ SACA-SEEM participates in "Submission on Enforcement Matters" workshop with DR-CAFTA Secretariat and other actors. ➤ Elaboration and adoption of a Communications Strategy, a logo and graphic identity for the SACA-SEEM. ➤ Webpage set-up and communication materials
Second Semester 2017	<ul style="list-style-type: none"> ➤ Elaboration and adoption of an Internal Manual of Proceedings
First Semester 2018	<ul style="list-style-type: none"> ➤ Elaboration and discussion of a Plan to raise awareness regarding SACA-SEEM's activities. ➤ Redesign and expansion of the website. Inclusion of a page intended to: (i) online applications; (ii) registration page; and (iii) individual pages for each application. ➤ Generation of communication materials to explain SACA-SEEM's functions and the submission process.

**SACA-SEEM MAIN MILESTONES AND SUBMISSION'S TIMELINE****Second Semester 2018****⇒ Ramsar Submission**

1. Submission receipt (July 2018)
2. Acknowledgment of receipt (July 2018).

⇒ Border Roads Submission

1. Submission receipt (July 2018).
2. Acknowledgment of receipt (July 2018).
3. Answer from SACA-SEEM declaring the admissibility of the submission (December 2018)

First Semester 2019**⇒ Border Roads Submission**

1. SACA-SEEM determination requesting a response from the Party (January 2019).
2. Response of the Peruvian government to SACA-SEEM's determination (February 2019).
3. SACA-SEEM's response to the Peruvian government Letter (February 2019).
4. Request by the Peruvian government to the SACA-SEEM to extend the deadline. (February 2020).
5. Response from SACA-SEEM granting the deadline extension (February 2019).
6. Position of the Peruvian government regarding the request (March 2019).
7. Notification from SACA-SEEM, in accordance with article 18.9, denying the Peruvian government's request. (May 2019).
8. SACA-SEEM instruction for the development of a Factual Record (June 2019).

SACA-SEEM MAIN MILESTONES AND SUBMISSION'S TIMELINE	
	<p>⇒ OSINFOR Submission:</p> <ol style="list-style-type: none"> 9. Submission from the Kené Foundation to the Secretariat (February 2019). 10. Acknowledgment from the SACA-SEEM (February 2019). 11. Letter from the SACA-SEEM declaring the submission's dismissal because the circumstances that motivated it changed (April 2019).
Second Semester 2019	<p>⇒ Border Roads Submission:</p> <ol style="list-style-type: none"> 1. Response of the Peruvian government regarding the instruction of the SACA-SEEM of June 17, 2019 (August 2019). 2. Information for the development of the Factual Record by the SACA-SEEM (December 2019). <p>⇒ Sulfur in Diesel Fuel Submission</p> <ol style="list-style-type: none"> 1. Request submitted to the SACA-SEEM (July 2019). 2. Acknowledgment (July 2019).. 3. Determination of the SACA-SEEM affirming that the submission meets all the admissibility requirements (October 2019). <p>⇒ Creation of social media accounts, website review and redesign of communication materials.</p>

SACA-SEEM MAIN MILESTONES AND SUBMISSION'S TIMELINE

First Semester 2020

⇒ **Border Roads Submission**

1. Response of the Peruvian government to the Letter from the SACA-SEEM regarding the Factual Record of Dec 5, 2019. (April 2020).
2. Sending the preliminary Factual Record to the Environmental Affairs Council (June 2020).

⇒ **Sulfur in Diesel Fuel Submission**

1. Letter from the SACA-SEEM requesting a response from the party (April 2020).
2. Response of Peru to the Determination of the SACA-SEEM (June 2020).

⇒ **Webinar developed on May 12, 2020**, organized by SACA-SEEM, with the participation of the directors of other Secretariats to discuss the role of the them in the support of the environmental legislation application in each of the countries included in the respective commercial promotion agreements.

⇒ **Webinar developed on May 19, 2020**, organized by SACA-SEEM, on the impact of Covid-19 on environmental law.

SACA-SEEM MAIN MILESTONES AND SUBMISSION'S TIMELINE	
Second Semester 2020 (in progress)	⇒ Border Roads Submission
	1. Receipt of comments from the Parties regarding the Preliminary Factual Record (June-July 2020)
	2. Submission of the Final Factual Record to the EAC. (August 2020)
	⇒ Sulfur in Diesel Fuel Submission
	1. Receipt of response from the Peruvian government. (June 2020)
	2. Notification recommending the development of a Factual Record. (August 2020)
	⇒ A publication is also being prepared in which various specialists will write about the SACA-SEEM and the submission process.

Source: Own elaboration with SACA-SEEM documentation.



Submissions filed to SACA-SEEM



**a OPEN****i. Roads in border areas**

Reception Date	: July 9, 2018
Submitter	: Native Federation of the Madre de Dios River and Tributaries (FENAMAD)
Party	: Peru

Summary

FENAMAD filed a submission to SACA-SEEM alleging that the Peruvian government has not effectively enforced its environmental laws in the process of drafting, deliberating, approving and enacting Law 30723, Law that declares of priority and national interest the construction of roads in border zones and the maintenance of dirt roads in the region of Ucayali (2018).

SACA-SEEM issued the first Determination on December 28, 2018. In this communication, it confirmed to the submitters that the Submission had met all the requirements of Articles 18.8.1 and 18.8.2 of the TPA.

Two weeks later, on January 11, 2018, SACA-SEEM requested a response from the Party (the Peruvian government), in compliance with Article 18.8.4 of the TPA.

The Peruvian government's response was given on March 12, 2019. SACA-SEEM, taking into consideration this response, prepared and submitted to the EAC, a notification pursuant to Article 18.9 (1), recommending the development of a Factual Record. On June 17, 2019, U.S. members to the EAC instructed SACA-SEEM to develop a Factual Record.

On May 18, 2020, SACA-SEEM sent the preliminary Factual Record to the EAC. With the Parties' comments on the preliminary Factual Record, SACA-SEEM forwarded the final Factual Record on August 4, 2020.

ii. Fuel Tax Submission

Receipt date : July 25, 2019

Submitters : [confidential names pursuant to Article 8 of the Understanding]

Party : Peru

On July 25, 2019, a group of five submitters filed a submission with SACA-SEEM asserting a lack of effective enforcement of Article 3 of Law No. 28694, Law that regulates the sulfur content in diesel fuel (2007).

According to the submitters, the lack of effective enforcement of this article is due to the fact that the “relative harmfulness indexes”, that will be used to impose a higher Selective Consumption Tax on the most contaminating fuels have not been approved annually.

According to the submitters the referred indexes were not approved by the Peruvian government for years 2009, 2010, 2011, 2012, 2013, 2016 and 2017. They were approved by the Supreme Decree 006-2014-MINAM for the periods 2014 and 2015, and by the Supreme Decree 003-2018-MINAM for the periods 2018-2019.

SACA-SEEM received the submission on July 25 and acknowledged its receipt on July 26, proceeding to analyze if the admissibility requirements were met.

SACA-SEEM issued a first Determination, communicating it to the EAC and the submitters on October 18, 2019, in which it informed that the requirements set forth by the TPA had been met.

On April 2, 2020, SACA-SEEM issued a second Determination, in which it requested that the Peruvian government submit information according to Article 18.8.5. The response period was set at 60 days and expired on June 1, 2020.

Based on the response offered by the Peruvian government, SACA-SEEM issued a Notification on July 24, 2020 pursuant to Article 18.9 (1) recommending the development of a Factual Record.

**b****C L O S E D****i. Ramsar Submission**

Receipt date : July 5, 2018
Submitter : Civil Association “Inter-Institutional Committee for the Conservation and Tourism of Lagunas Alto Peru and Annexes - Jequetepeque Basin”
Party : Peru

Main facts

This Submission alleges that the Peruvian government has not effectively enforced the “Convention on Wetlands of International Importance, especially regarding Water-Bird Habitats”, also known as the Ramsar Convention (Ramsar). It asserts that “*the Peruvian government has ordered measures that are against said multilateral treaty.*”

This submission was acknowledged on July 5, 2018. SACA-SEEM proceeded to analyze it in order to admit it for processing. SACA-SEEM’s determination was made on February 12, 2019. SACA-SEEM proceeded to address the various aspects of the submission, determining that it did not meet the requirements of Article 18.8.2 of the TPA.

Notwithstanding this, SACA-SEEM also recognized that even though the submitter could have validly justified its claims in aspects of domestic law relating to the protection of wild flora and fauna, endangered species, habitats and natural areas, under Ramsar special protection, the submitter did not focus on evaluating the effective enforcement of Ramsar, as a part of the Peruvian national legal system.

Consequently, while the submission should have focused on the effective enforcement of Ramsar as part of the Peruvian legal system in order to be admitted for processing, this submission represented an important delimitation of the field of competence of SACA-SEEM, as well as a valuable precedent for subsequent applicants.



ii. OSINFOR Submission

Receipt date : February 27, 2019
Submitter : Kené - Institute of Forest and Environmental Studies
Party : Peru

This submission focused on the approval of Supreme Decree No. 122-2018-PCM, dated December 13, 2018, by which the Peruvian government decided to relocate the Forest Resources and Wildlife Enforcement Agency (OSINFOR, in its Spanish acronym). OSINFOR went from being a public executing agency attached to the Presidency of the Council of Ministers, to be attached to MINAM.

On April 8, 2019, the Peruvian government approved the Supreme Decree N 066-2019-PCM, superseding Supreme Decree N 122-2018-PCM, which motivated the submission. In this regard, SACA-SEEM issued a communication to the Submitter on April 11 of the same year. In this letter, the Executive Director, stated that given the approval of the Supreme Decree of April 8, 2019, OSINFOR's affiliation to MINAM had been left without effect, and therefore SACA-SEEM would proceed to close the submission's registry and would not continue with the process.





Results Evaluation (Table 4).

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Objective (general)	Objectives (specific)	Included in SACA-SEEM founding documents	Included in other SACA-SEEM documents	Compliance (Low, Medium, High, Very High)	Comments	Improvements or next steps
SACA-SEEM Structure	Appointment of Executive Director and necessary technical and administrative staff.	Yes	Yes	Very High	Delgado Gutiérrez has served as Executive Director since its appointment in 2016. OAs administrative support staff is available and consultants have been hired according to specific needs and budget availability.	Renewal of staff and recruitment of qualified personnel as SACA-SEEM's needs continue shifting.
	Establishment of SACA-SEEM's procedures	Yes	Yes	Very High	EAC Decisions and subsequent SACA-SEEM documents approved by the EAC.	Updating as new needs arise for SACA-SEEM.
	Relationship with other regional TPA Secretariats and joint knowledge production.	No	No	Very High	Opening and maintenance of communication channels with the other Secretariats, as well as attendance and participation in workshops and seminars.	Continue with the dissemination and exchange of knowledge with other Secretariats.



Objective (general)	Objectives (specific)	Included in SACA-SEEM founding documents	Included in other SACA-SEEM documents	Compliance (Low, Medium, High, Very High)	Comments	Improvements or next steps
SACA-SEEM's principal activity	Receive and process submissions.	Yes	Yes	Very High	Submissions were processed in a timely manner, including informed and prompt responses and requests.	To continue improving the reception of submissions and the response in time and form to submitters.
	Preparation of a Factual Record after receiving the necessary instruction.	Yes	Yes	Very High	A Factual Record has been prepared and published.	Use the knowledge generated in the preparation process of the first Factual Record in the subsequent ones.
	Submitters from at least two different audiences (NGOs, civil society, companies, native communities, individuals)	Yes	Yes	Very High	Submissions have been filed by citizens, NGO members and also by members of native communities.	SACA-SEEM should seek to expand the audiences it reaches.
Communications	Communications Plan and Materials	Yes	Yes	High	A Communications Plan was designed and implemented that led to a series of actions in several channels in order to gain network presence and reach key audiences.	Update the Communications Plan in the coming years, according to the needs of SACA-SEEM.
	Presence in social networks	No	No	High	Opening and use of Twitter, Youtube, LinkedIn and Facebook accounts.	Greater participation of SACA-SEEM in social networks and interaction with users.
	Publication submission process guidelines	No	Yes	Medium	SACA-SEEM prepared draft guidelines for EAC approval	Approval and publication of the submission process guidelines.
Transparency	Transparency in the approval of materials and submissions	No	Yes	Very High	All decisions and documents relating to submissions have been posted on SACA-SEEM's website.	All documents and resolutions will continue to be published, seeking to make the information for citizen as complete as possible.



Conclusions

SACA-SEEM successfully closes one cycle: its birth, structuring and implementation at the service of the citizens of Peru and the United States. In four years, SACA-SEEM has fulfilled both, the formal objectives set forth in its founding documents, as well as in other documents and decisions.

First, SACA-SEEM has established mechanisms to respond effectively, independently and in a timely- basis the citizen's submissions, and it even has reached to develop and publish a Factual Record. A high degree of inclusion has also been achieved, processing Submissions from various interested audiences. Organizationally, SACA-SEEM has been nourished by the managerial and technical skills necessary to carry out its role by recruiting recognized professionals and experts.

On the other hand, SACA-SEEM has also known how to communicate, relate and generate knowledge. The establishment of various communication channels with the public, including social networks, has made it possible to publicize the existence and work of SACA-SEEM to Peruvian and U.S. civil society. This work of opening and contacting citizens has been complemented by working and sharing with other Secretariats of Environmental matters of countries such as Panama, Colombia, DR-CAFTA and North America. Finally, invaluable knowledge about environmental issues and problems has also been created, both through the Submissions and in events with other Secretariats or civil society such as conferences and webinars.

Thirdly, SACA-SEEM has done all of this by being transparent and close to the public. After establishing its official channels, it has chosen to publicize its actions and share in them all documents relevant to its operation, as well as the process and the result of the

Submissions. In the middle of 2020, it can be said that SACA-SEEM is a fully transparent, digital and citizen-oriented entity.

However, there is no improvement possible without taking into consideration some issues that should be reflected upon. SACA-SEEM has fulfilled its objectives, but there are still some issues to be considered. In addition, the external context will bring threats and opportunities. Some of them are detailed in the SWOT analysis presented below, with the aim of generating useful recommendations, which will be taken into account in the next section.

Table 5. SWOT analysis. SACA-SEEM, July 2020

	Negative aspects	Positive aspects
Internal Factors	Weaknesses <ul style="list-style-type: none"> - Own autonomy. - Adaptation to objectives and budget. 	Strengths <ul style="list-style-type: none"> - Technical and managerial knowledge. - Timely-basis and proper submissions processing. - Creation of better practices from SACA SEEM's experience. - Communication and dissemination.
External Factors	Threats <ul style="list-style-type: none"> - Lack of political will to support SACA-SEEM. - Administration / government changes in both countries. - Uncertain global context and global crisis. 	Opportunities <ul style="list-style-type: none"> - Increased online citizen participation. - Increased concern for environmental related issues. - United States-Peru collaboration in other related fields.

Source: self-made



Recommendations



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In light of the findings set forth in the report and taking into account the summary presented in the SWOT analysis, some recommendations are detailed that may be useful in guiding the development of SACA-SEEM in the coming years.

INTERNAL RECOMMENDATIONS:

Complete and strengthen the organizational institutionalization of SACA-SEEM.

Once SACA-SEEM's basic procedures, rules and mechanisms have been solidified, it is necessary to generate additional guidelines to support SACA-SEEM's future actions, taking into account a possible increase in applications, relationships with other institutions and the public. Both the structure of the institution and the assets generated by it should guide its actions.

Ensure the functional autonomy of SACA-SEEM with a solid budget. It is essential that both parties commit to continue to respect the stability and autonomy of SACA-SEEM. To this end, it is essential that SACA-SEEM be able to count on an adequate, stable and closed budget for a period of several years in order to provide stability to its actions.



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Appoint a new Executive Director with specific skills, capacity, and leadership.

The person in charge of SACA-SEEM after the closing of the stage led by Delgado Gutiérrez must have managerial and technical skills, knowledge of the public sector, strength in interpersonal relations, independence and autonomy at work.

Select a team with continuity of action. SACA-SEEM needs to be able to hire long term professionals who, in addition to the Executive Director, will contribute to the continued building of SACA-SEEM's culture and institutional memory.

“ El T-MEC prevé que posterior a la publicación del expediente de hechos, se abra la posibilidad de contar con un programa de cooperación sobre el asunto planteado en la petición. ”



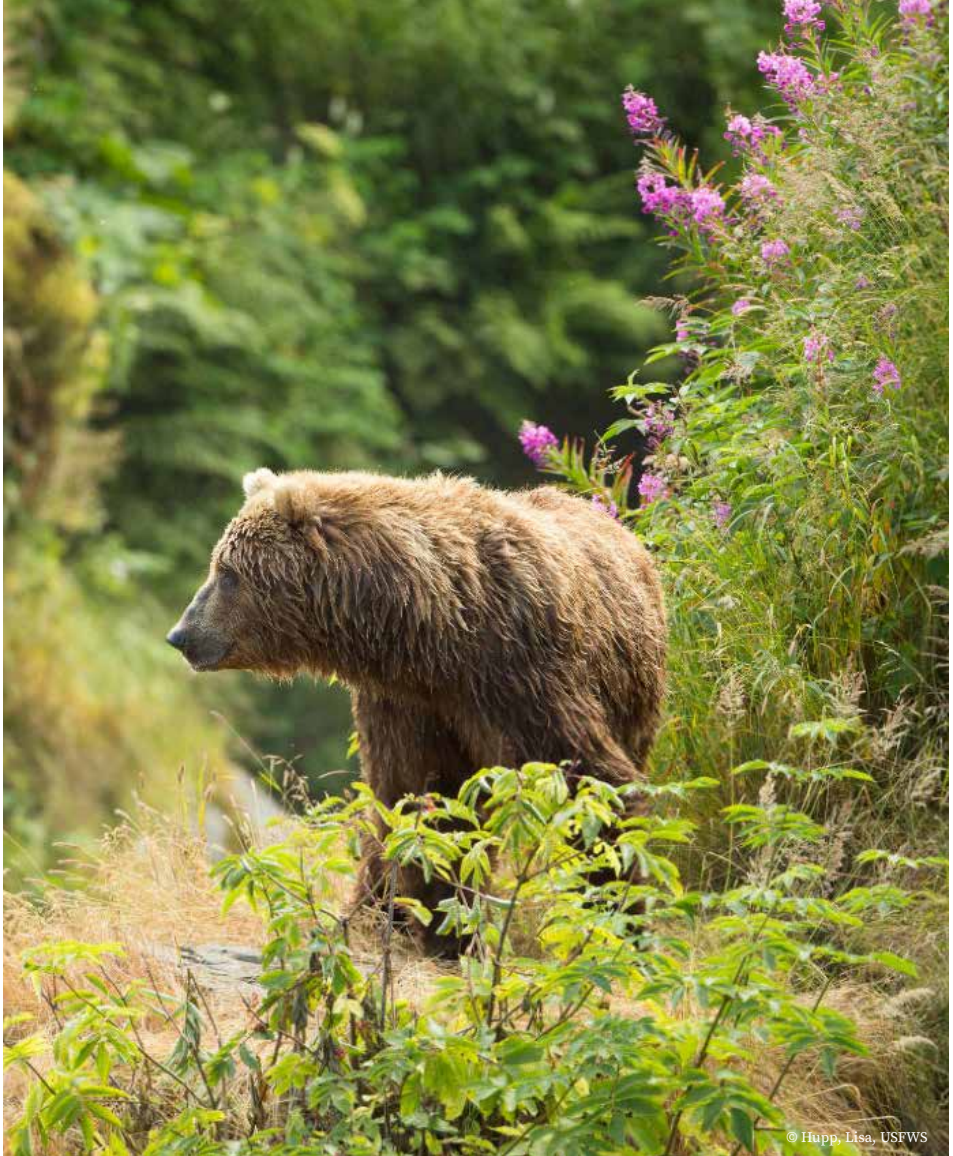
EXTERNAL RECOMMENDATIONS:

Consolidate relations with the different citizen audiences, and especially the civil society and academia. SACA-SEEM must continue to build its reputation based on transparent actions and reflective, predictable and legally sound decisions. Its strength as an alternative space for international dialogue also requires gradually deepening bonds of trust between U.S., Peruvian and international environmental protection organizations, which also contribute to a healthy exercise of academic reflection, innovation and capacity building.

Deepen access to information, transparency and inclusion. Each response to a new submission is an unparalleled opportunity to shape ideas, research and decisions that help countries make environmental matters visible. Consideration could be given to expanding the language borders of the institutional website and including at least Quechua and Aymara in its basic documents. Similarly, SACA-SEEM should improve its efforts to expand reference documents and knowledge products, as well as the organization of more and better outreach activities, including events in the countries and at the sub-national level.

Strengthen the relationship with other Secretariats. SACA-SEEM has been able to relate fruitfully with similar organizations, including other Secretariats of Environmental Matters. The relationship should continue to be strengthened based on the opportunity to contribute with experiences and lessons learned in environmental protection, as well as generating strategies for continuous improvement in both management and particular knowledge.

Respond to a changing environment, maximizing opportunities and minimizing risks. SACA-SEEM will need to show adaptation to change, including the prevention of possible risks and adaptation to global circumstances and crisis, but will also need flexibility in responding to increasing and varied public submissions, as well as promoting the exchange of knowledge between partners based on consolidated good practices.





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