

**Secretariat for Submissions on Environmental Enforcement Matters of the  
USA—Peru Trade Promotion Agreement  
Determination in accordance with Articles 18.8 (1) y (2)**

**Submitter:** 53 submitters (49 natural persons and 4 legal entities)  
**Party:** Peru  
**Reference:** Submission on Environmental Enforcement Matters filed by 53 submitters  
**Submission No:** SACA-SEEM/PE/003/2023  
**Date of receipt:** May 19, 2023  
**Date of determination:** July 16, 2023

The Secretariat for Submissions on Environmental Enforcement Matters, after reviewing Submission SACA-SEEM/PE/003/2023, pursuant to Article 18.8 (1) and (2) of the United States—Peru Trade Promotion Agreement, considers the **submission does meet the admissibility criteria** established in Article 18.8(2), for the reasons stated in this Determination.

<b>Criteria of Article 18.8 (2) of the United States– Peru Trade Promotion Agreement</b>	<b>Meets</b>		<b>Justification</b>
	<b>Yes</b>	<b>No</b>	
<i>The Secretariat may consider a submission under this Article if the Secretariat finds that the submission:</i>			
<i>(a) is in writing in either English or Spanish;</i>	X		Submission SACA-SEEM/PE/003/2023, as well as all additional documentation, is written in Spanish.
<i>(b) clearly identifies the person making the submission;</i>	X		Submission SACA-SEEM/PE/003/2023 was filed by 53 submitters (49 natural persons and 4 legal entities). These submitters have identified themselves through their national identity document (in the case of natural persons) or their legal registration number (in the case of the legal entities).

<i>(c) provides sufficient information to allow the secretariat to review the submission, including any documentary evidence on which the submission may be based and identification of the environmental 'laws of which the failure to enforce is asserted;</i>	X		Submission SACA-SEEM/PE/003/2023, offers sufficient information that has allowed the Secretariat to review it and identifies environmental law that is asserted as not being enforced.
<i>(d) appears to be aimed at promoting enforcement rather than at harassing industry;</i>	X		Submission SACA-SEEM/PE/003/2023 appears to be aimed at promoting the Party's effective enforcement of environmental law and does not indicate that it aims to harass industry.
<i>(e) indicates that the matter has been communicated in writing to the relevant authorities of the Party and indicates the Party's response, if any; and</i>	X		Submission SACA-SEEM/PE/003/2023 attaches a copy of the written communication addressed to the Ministry of Environment (MINAM in Spanish) from February 2023, After filing the submission, on June 16, the submitters sent to the Secretariat the response of MINAM they have received to said written communication.
<i>(f) is filed by a person of a Party, except as provided in paragraph 3.</i>	X		Submission SACA-SEEM/PE/003/2023 is submitted by 53 submitters, which are persons from a Party.

## I. INTRODUCTION

1. Any person of a Party of the United States-Peru Trade Promotion Agreement (TPA) may file a submission with the Secretariat for Submissions on Environmental Enforcement Matters (hereinafter "Secretariat") asserting that a Party is failing to effectively enforce its environmental law, in accordance with Article 18.8 (1) of the TPA.
2. In June, 2015, the Parties signed the "Understanding for Implementing Article 18.8 of the United States—Peru Trade Promotion Agreement," which established the Secretariat. A Memorandum of Understanding was also signed with the Organization of American States (OAS) by which it is agreed that the OAS will house and provide administrative and technical support to the Secretariat in its headquarters in Washington D.C., in the United States.

3. The Secretariat, among its main functions, receives and considers Submissions on Environmental Enforcement Matters (hereinafter “submissions”) filed by any person, natural or legal, of a Party, in accordance with the provisions of Article 18.8 of the TPA.
4. The Secretariat determines the eligibility of the submission, in accordance with the criteria set out in paragraph 2 of Article 18.8 of the TPA. If the submissions meet these criteria, the Secretariat will determine whether these submissions merit a response from the Party, in accordance with paragraph 4 of Article 18.8 of the TPA.
5. The Secretariat will determine, once it has received a response from the Party or once the timeline set forth in Article 18.9 of the TPA in which such response is received has been met, whether the preparation of a Factual Record is warranted. If the Secretariat determines that the preparation of a Factual Record is not warranted, the process is then terminated with respect to that submission.
6. If the Secretariat determines that the preparation of a Factual Record is warranted, the Environmental Affairs Council (EAC) of the TPA will be notified of this decision in accordance with Article 18.9 of the TPA.
7. The Secretariat will prepare a Factual Record if any member of the EAC so orders.
8. 53 submitters filed a submission under Article 18.8 of the TPA to the Secretariat via email dated May 19, 2023, in which they assert the failure of the Government of Peru to effectively enforce environmental legislation regarding the protection of air quality, as well as with respect to the approved regulations on climate emergency.
9. The Secretariat filed the submission, assigning it the number SACA-SEEM/PE/003/2023.
10. The Secretariat acknowledged receipt of the Submission via email dated May 20, 2023, through communication SACA-SEEM/PE/003/2023, addressed to the submitters with a copy to the EAC.
11. On June 16, 2023, the submitters, at the request of the Secretariat, presented the response they had received from the Government of Peru, and at the same time they submitted their position on said response.
12. On June 27, 2023 and July 05, 2023, at request of the Secretariat, the submitters who had signed the submission representing legal entities informed their legal registration data.
13. After examining the submission, per paragraphs 1 and 2 of Article 18.8 of the TPA, the Secretariat considers that Submission SACA-SEEM/PE/003/2023 meets all the admissibility criteria, for the reasons set forth below.

## II. ANALYSIS

### A. Regarding the environmental law that would have ceased to be effectively enforced, in accordance with Article 18.8 (1)

14. Any person from a Party may file a submission with the Secretariat per paragraph 1 of Article 18.8 of the TPA asserting that a Party is failing to effectively enforce its environmental law.
15. 53 submitters<sup>1</sup> (49 natural persons and 4 legal entities) filed Submission SACA-SEEM/PE/003/2023.
16. The submitters assert that the Government of Peru has not effectively enforced environmental law regarding the protection of air quality, as well as with respect to the approved regulations on climate emergency.

### B. Regarding the environmental law asserted

#### a) Regarding the concept of “environmental law” in the TPA

17. Article 18.14 defines the term “environmental law” as follows:

*“environmental law means any statute or regulation of a Party, or provision thereof, the primary purpose of which is the protection of the environment, or the prevention of a danger to human, animal, or plant life or health, through:*

- (a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;*
- (b) the control of environmentally hazardous or toxic chemicals, substances, materials, and wastes, and the dissemination of information related thereto;*
- (c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas<sup>2</sup>; or*
- (d) for Peru, the management of forest resources.*

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<sup>1</sup> It should be noted that in the acknowledgment of receipt of this submission it was indicated that there were 52 submitters, but after having noted the signatories of the submission in detail, it has been identified that the final number is 53.

<sup>2</sup> The Parties recognize that such protection or conservation may include the protection or conservation of biological diversity (foot note 12 of Chapter 18 of the TPA).

*In areas with respect to which a Party exercises sovereignty, sovereign rights, or jurisdiction, but does not include any statute or regulation or provision thereof, directly related to worker safety or health.”*

18. Likewise, Article 18.14 of the TPA also establishes that the laws and regulations covered are:

*“Laws, regulations, and all other measures to fulfill its obligations under a covered agreement means a Party’s laws, regulations, and other measures at the central level of government.*

*(...)*

*For Peru, statute or regulation means a law of Congress or Decree or Resolution promulgated by the central level of government to implement a law of Congress that is enforceable by action of the central level of government.”*

***b) Regarding the environmental law asserted***

19. As indicated, the submitters assert that the Government of Peru has failed to effectively enforce environmental law regarding the protection of air quality, as well as with respect to the approved regulations on climate emergency.

**Air quality regulations**

20. Regarding the protection of air quality, the submitters refer to the following legal regulations:

**i. Regulations on air quality standards and maximum permissible limits of atmospheric emissions**

In this regard, it is noted that a set of environmental standards that, having been programmed by the Peruvian Government to be developed, have not yet been approved.

They mention, in particular:

- The approval of the Maximum Permissible Limits (LMP in Spanish) of boilers and turbines, as in this case the mandate for its approval has been found noted in the plans for approval of standards for the years 2005, 2009, 2010, 2012 and 2021. They point out that 23 years have passed without having achieved the approval of this standard.
- The approval of the LMP for the brick manufacturing industry, which, after 11 years, has not been approved.
- The approval of the LMP for emissions of smelters, which, after 13 years, have not been approved.
- The approval of the LMP for steel industries, which, after 17 years, has not been approved.
- The approval of the Environmental Quality Standards (ECA in Spanish) for air for

- Cadmium, Arsenic, Antimony, Bismuth and Thallium, which, after 13 years, have not been approved.
- The approval of the ECA for Volatile Organic Compounds, which, after 22 years, has not been approved.
  - The update of the ECA for Sulfur Dioxide, which, after 1 year and 9 months, has not been approved. In particular, regarding this ECA, they mention the particular gravity of non-compliance in updating this standard, which, they note, was a serious setback with consequences for people's health in 2017 when D.S.003-2017-MINAM was approved, through which the requirement of this standard was reduced to facilitate the auction of the La Oroya Metallurgical Complex, a place classified as one of the most polluted in the world. This norm, they point out, is a detriment to people's health and contradicts the guidelines of the World Health Organization. Likewise, they mention that, in this update MINAM should be based on the precautionary principle and take into account the 2013-2014 national air quality report prepared by MINAM itself, which indicates that in most cities in Peru the value of 80 ug/m<sup>3</sup> is not exceeded; referring to the fact that a clear political decision is required to protect the health of the population and collaborate with the mitigation of greenhouse gases. They also point out the need to consider that sulfur dioxide emissions come from burning fuels with a high sulfur content.
  - The approval of the ECA for particulate matter smaller than 1 micron (PM<sub>1</sub>), which is essential for the preparation of greenhouse gas emissions inventories considering the double risk that this pollutant has in terms of health risks, as well as to climate change. In this case, the approval period for this EQS expires in December 2023.

## **ii. Regulations on air quality surveillance and public dissemination of its results**

Regarding environmental information related to air quality, the submitters request compliance with the right of citizens to access environmental information and, within this framework, the state of air quality in Lima and other cities of Peru should be published in real time, as it is done in the vast majority of cities in the world with the aim of protecting the health of citizens.

They note that since the Ministry of the Environment was created more than 12 years ago, it is essential to provide public, adequate, and real-time information on air pollution levels in the country through investment projects required for that purpose.

They mention, in particular, the need to fully apply Article 35 of the General Environmental Law that regulates the National Environmental Information System (SINIA) and cite Article 6 of the SINIA Regulations, approved by Supreme Decree No.034-2021-MINAM, where the functions of public administration entities that generate or possess environmental information are indicated, explicitly mentioning those related to the generation, systematization, updating and exchange of environmental information, as well as incorporating information into SINIA, validating and ensuring the quality and suitability of the environmental information generated that is incorporated into the SINIA digital platform.

Likewise, they state that through Ministerial Resolution No.181-2016-MINAM, the Air Quality Information System – INFO AIRE PERU was created as part of SINIA to consolidate and disseminate air quality information produced by public and private institutions through direct mechanisms or historical records.

21. In this regard, it should be noted that, according to the definition of "environmental law" provided by the TPA, as indicated in paragraphs 17 and 18 of this Determination, the aforementioned environmental legislation concerning air quality invoked by the submitters qualifies as environmental law under the scope of the TPA, particularly considering what is stated in subparagraph (d) of Article 18.14, which mentions the control of discharges or emissions of environmental pollutants (subsection a), as well as the dissemination of information related to chemical substances in the environment (subsection b).

### **Climate emergency regulation**

22. Regarding the declaration of climate emergency, the submitters refer to the regulation that approved the declaration of national interest in the national climate emergency through Supreme Decree No.003-2022-MINAM on January 25, 2022, stating the following:

- This regulation was issued with the objective of implementing climate action in accordance with the Nationally Determined Contributions by the year 2030, thus contributing to the global goal of limiting temperature rise, aligning with the fulfillment of sustainable development goals, among others.
- Priority actions were established with an implementation deadline of 180 business days from the date of entry into force of this regulation, which, according to the submitters, expired on October 19, 2022, and they claim that these actions have not been fully implemented except for the approval of one legal norm.
- As stated in the same regulation (Article 4) and in the Climate Change Framework Law, Law No. 30754 (Article 5), it is the responsibility of MINAM to monitor compliance with the regulation that approved the national climate emergency declaration.
- The 24 measures are detailed, and according to the submitters, they have not been fulfilled. These measures include both mitigation and adaptation measures to climate change.

23. It is worth noting that the following terms are included in the Glossary of Terms of the Intergovernmental Panel on Climate Change (IPCC) from 2018:

- *Mitigation*: Human intervention aimed at reducing emissions or enhancing greenhouse gas sinks.
- *Adaptation*: In human systems, the process of adjusting to actual or projected climate and its effects, in order to moderate harm or exploit beneficial opportunities.

- *Anthropogenic Emissions*: Emissions of greenhouse gases (GHGs), GHG precursors, and aerosols caused by human activities.

24. In this regard, it should be noted that, according to the definition of "environmental law" provided by the TPA, as indicated in paragraphs 17 and 18 of this Determination, the aforementioned environmental legislation concerning climate emergency, which includes both mitigation and adaptation measures to climate change, invoked by the submitters qualifies as environmental law under the scope of the TPA, particularly considering what is stated in subparagraph (d) of Article 18.14, which mentions the control of discharges or emissions of environmental pollutants (subsection a), considering that the environmental law invoked addresses the actions to be taken as a consequence of GHG emissions.

**C. Regarding meeting the admissibility criterion of Article 18.8 (2)**

25. Article 18.8 (2) of the TPA establishes the criteria that must be met concurrently for Submissions to be considered by the Secretariat. Below is the evaluation of the aforementioned criteria:

**a) *[if]* it is in writing in either English or Spanish**

26. The Submission SACA-SEEM/PE/003/2023, as well as all the additional documentation submitted by the Submitters, is written in Spanish.

27. The Secretariat considers that the Submission meets the criterion of Article 18.8 (2) (a).

**b) *[if]* it clearly identifies the person making the submission**

28. Submission SACA-SEEM/PE/003/2023 was filed by the following natural persons listed below with their respective National Identity Document (DNI in Spanish):

#	NAME OF SUBMITTER	NATIONAL IDENTITY DOCUMENT (DNI)
1	Patricia Milagros Iturregui Byrne	07231335
2	Adriana Olga Alzamora Anticona	70383671
3	Paolo Jesús Bustamante Falcón	46142332
4	Carmen Patricia Correa Arangoitia	21545374
5	María Grazia Campos Veintemilla	74629159
6	Gianella Mariana Elvia Riquero	74088327
7	Oscar Andry Tarazona F.	72924016
8	Issac Alejo Reyes	76075546
9	Iris Dayelé Lavi Zambrano	70440069
10	Natalia Alberta Cirilo Mel	74532802
11	Issair Daniel Maldonado Barrial	75286226

#	NAME OF SUBMITTER	NATIONAL IDENTITY DOCUMENT (DNI)
12	Greyla Milagros Romero Sirlopu	76591537
13	Elizabeth Luz Medina Palomino	70346871
14	Andrés Sebastián Cárdenas Loza	72429724
15	Carmen Milagros Morales Cama	71016372
16	Giancarlo Eduardo Condori Tolentino	77347600
17	Carlos Abraham Cantu Caballero	71576526
18	Carla Melissa Machaca Villavila	74973108
19	Clayra Anggie Huaycucho Mendez	76348540
20	Karla Fiorella Castilla Pérez	72217300
21	María Milagros Mamani Canaza	72222044
22	Piero Jefferson Huamán Rodríguez	70664776
23	Sayeli Gledy García Correa	73801589
24	Carmen Dorothy Arellano Hoffmann	06507219
25	Ligia Milagros Callo Sánchez	71926877
26	Adriana Morales Casallo	76185478
27	María Elena Gonzalez Azurín	10299496*
28	María Alessandra Mendoza Del Valle	41982583
29	Alicia Jovita Cisneros Quispe	28313001
30	Mercedes Inés Carazo De Cabellos	45201940
31	Vanessa Milagros Ramos Mujica	40057576
32	María Alejandra Dextre Pariona	75131722
33	Giovana Jackeline Pariona Ángeles	09965378
34	Raisa Margarita Vilcarino Mariños	47105872
35	Natalia Pinedo Acosta	72697470
36	Ana Francisca Santa María Alva	25752151
37	Rosa Valencia García	25629506
38	Ida Isabel Del Carmen Sara	06978503
39	Harry Odar Mazza	42411175
40	Verónica Renee Vargas Chang	07753825
41	Deborah Price Iturregui	10867496
42	Naia Victoria Klima Price	71674479
43	Nomie Reaño Quinteros	10804532
44	Paloma Sarria Gonzáles	40372657
45	Rubén Ernesto Cáceres Zapata	08781604
46	Rubén Ernesto Cáceres Zapata	08781604
47	Félix Fernando Valderrama Pérez	40888768
48	Erika Pamela Bonelli Molinero	40888768
49	Sandra Moreyra Almenara	10543721

\* This person has signed indicating that she does so on behalf of a legal entity in the process of legal registration (*Movimiento Warmikunas*). For this reason, it will be understood that this person has signed this submission as natural person.

29. In turn, the submission was signed by the following civil society organizations:

#	LEGAL ENTITY	REGISTRATION FILE NUMBER	LEGAL REPRESENTATIVE	DNI OF THE REPRESENTATIVE
1	Derecho, Ambiente y Recursos Naturales (DAR)	11649248	César Leonidas Gamboa Balbín	07526056
2	Centro de Investigación y Asesoría del Transporte (CIDATT)	01858343	Juan Tapia Grillo	09295921
3	ONG Kuskalla Wayru Llimppu	13851787	Eric Concepción Gamarra	08579789
4	Asociación de Emprendedores para el Desarrollo e Impulso del Vehículo Eléctrico (AEDIVE PERU)	14281354	José Adolfo Rojas Alvarez	18011023

30. Based on the aforementioned, the Secretariat considers that the Submission meets the criterion of Article 18.8 (2) (b).

***c) [if] it provides sufficient information to allow the Secretariat to review the Submission, including documentary evidence on which the Submission is based and identification of the environmental laws of which failure to enforce is asserted***

31. The submission under analysis and its annexed documents offer the following information:

a) It is noted that a recent study places Lima among the 10 most polluted cities in South America due to particulate matter. A specific reference is made to the following scientific article:

Jeldes, N.; Ibacache-Pulgar, G.; Marchant, C.; López-Gonzales, J. *Modeling Air Pollution Using Partially Varying Coefficient Models with Heavy Tails*. *Mathematics* 2022, 10, 3677. <https://doi.org/10.3390/math10193677>.

- b) In the email with which the complementary information was attached, it was noted by the submitters that there are various studies where Lima/Peru is located among the places with the highest air pollution, and the link of the following publication was sent: <https://nam10.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.iqair.com%2Fworld-most-polluted-countries&data=05%7C01%7Cmaldana%40oas.org%7C0bed78c4b5634a4b4c4f08db78f54421%7C4fdc3f2315064175958c37999cee0941%7C1%7C0%7C638236768154791152%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=Fc99WEHgTK%2Fuec8Hy9X3J4oLzEf0n6rjVIOL1ypM37k%3D&reserved=0>
- c) The notarized letter sent by the submitters to MINAM mentions a study on morbidity and mortality prepared by MINAM in 2014 located at the following link: <https://repositoriodigital.minam.gob.pe/handle/123456789/76>. In this regard, they note that said study indicates that:
- there have been up to 5,071 hospital admissions per year for respiratory and cardiovascular conditions, which are attributable to air pollution.
  - 1657 deaths a year are attributable to air pollution.
- d) Likewise, in the indicated notarized letter it is noted that the new guidelines of the World Health Organization recommend paying attention to managing the levels of air quality with respect to six pollutants for which the most recent data of its effects on health are available. These guidelines also note that when the emission levels of classic pollutants are reduced—particles in suspension (PM), ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>) and carbon monoxide (CO)—other harmful pollutants can also be diminished.
- e) In turn, the submission lists a set of standards that, at the time, established legal mandates for the approval of environmental standards, as well as other related standards. In particular, they point out the following legal mandates:
- National Regulations of National Air Quality Standards D.S.074-2001-PCM
  - Annual Standards Program. Presidential Resolution No. 054-2001-CONAM.
  - Annual Standards Program. Presidential Resolution No.089-2005-CONAM.
  - Annual Standards Program. Presidential Resolution No.121-2009-CONAM.
  - Annual Standards Program. Presidential Resolution No.225-2010-CONAM.
  - Creation of the Air Quality Index and INFO AIRE. Ministerial Resolution No.181-2016-MINAM.
  - Environmental Quality Standards Plan (ECA) and Maximum Permissible Limits (LMP) for the period 2021-2023.
  - Regulation of the National Environmental Information System. Supreme Decree No.034-202-MINAM.
  - Declaration of climate emergency. Supreme Decree No.003-2022-MINAM.
32. Taking into consideration the nature of the submission filed, the documentation sent by the submitters constitutes sufficient information to allow the Secretariat to review the submission.

33. Regarding the identification of the environmental law whose failure to be effectively enforced is asserted, this analysis has been carried out in item II B.b. of this Determination; having concluded that the submission does include the assertion of environmental law that is not being effectively enforced, under the scope of the concept of environmental law established in the TPA.
34. Based on the above, the submission SACA-SEEM/PE/003/2023, in accordance with the analysis in this Determination, complies with this admissibility requirement established in Article 18.8 (2) (c).

**d) [if] appears to be aimed at promoting enforcement rather than at harassing industry;**

35. Submission SACA-SEEM/PE/003/2023 appears to be aimed at promoting the effective enforcement of the law. The Secretariat considers that the Submission does not give indications of seeking to harass industry.
36. The Secretariat considers that the Submission meets the criterion of Article 18.8 (2) (d).

**e) [if] indicates that the matter has been communicated in writing to the relevant authorities of the Party and indicates the Party's response, if any;**

37. In Submission SACA-SEEM/PE/003/2023 initially filed on May 19, the submitters attached a notarized letter, they had sent to the Ministry of the Environment (MINAM) on February 24, 2023.
38. The Secretariat was informed that MINAM had responded to the indicated letter sent by the submitters, which is why 2 electronic communications were sent (dated June 5 and 8, 2023), requesting that said documentation be sent.
39. On June 16, the representative of the submitters sent to the Secretariat, via email, Letter No.00143-2023-MINAM/VMGA/DGCA, dated May 12, 2023, sent by the General Directorate of Environmental Quality of MINAM accompanied by the following documentation:
  - Report No.00150-2023-MINAM/VMGA/DGCA/DCAE, dated May 11, 2023, of the Directorate of Environmental Quality and Eco-efficiency belonging to the General Directorate of Environmental Quality of MINAM.
  - Report No.00191-2023-MINAM/VMDERN/DGCCD/DMGEI, dated April 22, 2023, of the Greenhouse Gas Mitigation Directorate together with the Climate Change Adaptation and

Desertification Directorate, both belonging to the General Directorate of Climate Change and Desertification of MINAM.

40. In said communication, in turn, this Secretariat was informed that, on April 24, 2023, the submitters had requested an appointment with the Minister of the Environment and that, on May 22 (after filling their submission on May 19). The requested meeting was held with the Vice Minister of Strategic Development of Natural Resources, Nancy Chauca, and a team of advisers. On that occasion, the submitters received a report from MINAM responding to the notarized letter that they had sent to this entity on February 23, 2023. Also they informed the Secretariat that at the aforementioned meeting they had not received the complete information of said response, which is why this information was sent to the Secretariat only once they had already received the indicated complete information.
41. The submitters, in turn, presented to the Secretariat, through email, comments regarding the aforementioned response documents issued by MINAM, having indicated the following:
  - In relation to environmental standards that have not been approved, they mention that the government implicitly recognizes that the standards and permissible limits whose approvals have been pending for time periods ranging from 11 to 23 years (which were the reason for the submission filed), continue to have not been approved. In some cases, the submitters note there are regulatory drafts that are ready, and, in other cases, these documents are in preparation.
  - In relation to the update of the sulfur dioxide standard, it is indicated that "work meetings are planned to prepare the regulatory draft" and a public consultation process.
  - In relation to the request for real-time information on air pollution in cities: although it is pointed out that the INFOAIRE Peru Program has real-time information, the submitters mention that this information is available via a web page and that said information is not properly displayed and disseminated as it is in other cities of the world. In turn, they note that this does not contribute to citizen environmental awareness in such a polluted city where many do not know how to access technical information on air quality via a web page. The information related to the state and forecast of air quality must reach the public in a simple way (using the INCA national air quality indices that use traffic light colors) through mass communication channels: mobile app, reports for publication in morning and afternoon, TV news programs, alert notices by SENAMHI, alert declaration by the Ministry of Health in the event of episodes of high contamination, specifically PM2.5, in the districts of Metropolitan Lima that have continuous monitoring. This would help prevent the exposure of vulnerable people to contamination, such as the elderly, children, and the chronically ill.
  - In relation to the report of the Directorate of Climate Change, they indicate that the Ministry of Economy and Finance has been analyzing how to establish the carbon price in Peru for 20 years and that said Ministry participates in the Coalition of Ministers of Finance for Climate Action since 2019 and is a full member of said coalition since 2021.

- They also note that the plenary session of the Congress of the Republic on April 20, 2021, adopted a Motion on climate change, where the Ministry of Economy and Finance was required to prepare a bill for the establishment of a carbon tax to reverse deforestation and that can be submitted to Congress for consideration (the indicated Motion is attached). They state that with said legal norm, those who, without considering the environmental and economic consequences of their emissions, generate greenhouse gases and other pollutants into the atmosphere may be held financially responsible. In addition, they point out, that it should be taken into account that Peru is the only country in the Pacific Alliance that lacks a regulation of this type.
  - Lastly, the submitters indicate that since there are 25 climate emergency measures, they consider it convenient to hold one or two hearings with their participation and the members of the Environmental Affairs Council of the USA-Peru Trade Promotion Agreement in order to know the Council's comment on the topics formulated in their notarized letter of February 2023 that was included as an annex in the submission.
42. Likewise, a document prepared by the Kuskalla Wayra Llimpu organization is presented, which reiterates the previous arguments and concludes by pointing out the urgency for MINAM to act with greater force and interaction with the sectors to implement these necessary actions for the protection of air quality.
43. Based on the above, the submission SACA-SEEM/PE/003/2023, complies with this admissibility requirement established in Article 18.8 (2) (e).

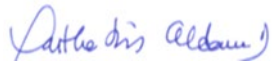
**c) [if] is filed by a person of a Party, except as provided in paragraph 3.**

44. Submission SACA-SEEM/PE/003/2023 is filed by 53 submitters (49 natural persons and 4 legal entities), which are persons from a Party.
45. The Secretariat considers that the Submission meets the requirement of Article 18.8 (2) (f).

### **III. DETERMINATION**

46. For the reasons stated, the Secretariat considers that Submission SACA-SEEM/PE/003/2023 asserts a Party's failure to effectively enforce the environmental law, pursuant to what is established in Article 18.8 (1) of the TPA. Likewise, the Submission meets the admissibility criteria established in Article 18.8 (2) of the TPA.
47. Therefore, the Secretariat determines that the Submission complies with paragraphs 1 and 2 of Article 18.8 of the TPA.

48. Pursuant to Article 18.8 (4), the Secretariat will determine whether the Submission merits a response from the Party.



Martha Inés Aldana D.  
Executive Director  
Secretariat for Submissions on Environmental Enforcement Matters  
United States - Peru Trade Promotion Agreement