

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

Submitters: Ángela Lucila Pautrat Oyarzún y Kené – Instituto de Estudios Forestales y Ambientales
Party: Perú
Reference: Submission on Environmental Enforcement Matters filed by the submitters aforementioned
Submission N°: SACA-SEEM/PE/002/2024
Subject: Act 31973 which amends the peruvian Forest and Wildlife Law, Law 29763
Date of Receipt: May 06, 2024
Date of determination: October 29, 2024

The Secretariat for Submissions on Environmental Enforcement Matters, after reviewing Submission SACA-SEEM/PE/002/2024, pursuant to Article 18.8 (1) and (2) of the United States—Peru Trade Promotion Agreement, considers the **submission meet the admissibility criteria** established in Article 18.8(2), for the reasons stated in this Determination.

Criteria of Article 18.8 (2) of the United States– Peru Trade Promotion Agreement	Meets		Justification
	Yes	No	
The Secretariat may consider a submission under this Article if the Secretariat finds that the submission:			
(a) is in writing in either English or Spanish;	X		Submission SACA-SEEM/PE/002/2024 is written in English. All additional documentation is written in Spanish or English.
(b) clearly identifies the person making the submission;	X		Submission SACA-SEEM/PE/002/2024 was filed by one natura person and one legal entity. These submitters have identified themselves through their national identity document number and its registration number, respectively.

<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/002/2024, offers offers sufficient information that allows the Secretariat to review it, and identifies environmental legislation whose non-compliance is invoked.
<i>(d) appears to be aimed at promoting enforcement rather than at harassing industry;</i>	X		Submission SACA-SEEM/PE/002/2024 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/002/2024 attaches a copy of a claim for protection filed against the Congress of the Republic (before the approval of Law 31973), as well as the judicial resolution admitting it.
<i>(f) is filed by a person of a Party, except as provided in paragraph 3</i>	X		Submission SACA-SEEM/PE/002/2024 is submitted by two (2) submitters, which are persons from a Party.

I. INTRODUCCIÓN

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. Two (2) Submitters filed a submission under Article 18.8 of the TPA to the Secretariat via email dated may 06, 2024, in which they assert the lack of effective application, by the State of Peru, of the legislation on the protection of the environment. The submitters allege that with the approval of Law 31973 by the Congress of the Republic, which modifies the Forestry and Wildlife Law - Law 29763, the Political Constitution of Peru, the fundamental rights of Peruvian citizens, the commitments Peru's international agreements in the fight against climate change, and several international agreements and treaties on human rights, the environment and trade, are being violated. Likewise, submitters express their concern about the serious consequences of approving and implementing Law 31973, generating non-compliance with national and international standards.
9. The Secretariat filed the submission, assigning it the number SACA-SEEM/PE/002/2024.
10. The Secretariat acknowledged receipt of the Submission via email dated July 05, 2024, through communication SACA-SEEM/PE/002/2024, addressed to the submitters with a copy to the EAC.
11. Subsequently, on July 5, 2024 and September 20, 2024, the submitters presented additional documentation¹.
12. After examining the submission, per paragraphs 1 and 2 of Article 18.8 of the TPA, the Secretariat considers that Submission SACA-SEEM/PE/002/2024 meet all the admissibility criteria, for the reasons set forth below.

¹ Said additional documentation is the following: Agreement of the Regional Government of Pasco rejecting Law 31973; Unconstitutionality lawsuit filed by the College of Sociologists of Peru against Law 31973, and Admission Order of said lawsuit; and, written criminal complaint filed on September 20, 2024 by Miss Angela Lucila Pautrat Oyarzún against the heads of the Presidency of the Council of Ministers (PCM), the Ministry of Agrarian Development and Irrigation (MIDAGRI), the Ministry of the Environment MINAM) and the National Forestry and Wildlife Service (SERFOR) for the alleged commission of various crimes related to deforestation and the impact of forests in Peru.

II. ANALYSIS

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

13. 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.

14. Two (2) submitters filed Submission SACA-SEEM/PE/002/2024.

15. The submitters allege that with the approval of Law 31973, modifying the Forestry and Wildlife Law - Law 29763, non-compliance with various national and international standards would be generated, and this would violate the fundamental rights of peruvian citizens, the commitments Peru's international agreements in the fight against climate change, and several international agreements and treaties on human rights, the environment and trade. The submitters indicate that, specifically, the regulations that would be non-compliant are the Political Constitution of Peru, the Organic Law for the Sustainable Development of Natural Resources – Law 26821, chapter 18 of the APC (Articles 18.1, 18.2, 18.3, 18.4, 18.7, 18.11, 18.12 7 18.3, as well as Annexes 18.2 and 18.3.4) and sixteen – 16 - others international conventions and treaties²).

B. Regarding the environmental law asserted

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

16. The Submissions mechanism on Environmental Compliance Matters, in accordance with the provisions of paragraph 1 of Article 18.8 of the APC, has been created so that any person from any of the Parties (that is, the subscribing countries of the APC, Peru and the United States) invokes that “a Party is failing to effectively apply its environmental legislation.”

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

² These International treaties and agreements are: Understanding Regarding Biodiversity and Traditional Knowledge (April 12, 2006); Strategic Objectives 2, 3, and 4 of Peru - United States Integrated National Strategy 2022 – 2026; Trade Promotion Agreement between Peru and the United States, the U.S. Department of State’s Investment Climate Statements (2023); Agreement on Narcotics Control and Law Enforcement between the Government of the United States of America and the Government of the Republic of Peru (1996); Inter-American Convention against Corruption (1996); Convention on Combating Bribery of Foreign Public Officials in International Business Transactions - OECD (1997); International Convention for the Suppression of the Financing of Terrorism (1999); United Nations Convention against Transnational Organized Crime (2000); The UNFCCC Paris Agreement (2015); The United Nations Convention against Corruption (2003); The United Nations Convention against Transnational Organized Crime (2000); International Convention for the Suppression of the Financing of Terrorism (1999); Convention on Combating Bribery of Foreign Public Officials in International Business Transactions - OECD (1997); International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries, No. 169 (1989); Montreal Protocol on Substances that Deplete the Ozone Layer (1987); and, Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973).

*“**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 areas³; or*
- (d) for Peru, the management of forest resources.*

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”.

19. Also, Article 18.14 of the TPA it is added that, for Perú, the following qualify as laws or regulations:

“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.”

20. From the concepts just presented contained in the TPA, the following can be concluded:

- 1° The Submissions mechanism on Environmental Compliance Matters is specifically planned to highlight that a country that is a Party to the TPA is not effectively applying the provisions of its environmental legislation. This means that a rule that is part of such legislation establishes some obligation that must be fulfilled or executed by at least one public entity that makes up the organization of the Party country and that, in addition, said obligation is not being fulfilled in accordance with the provisions of the corresponding standard.

³ 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).

- 2° For this purpose, the obligation must be specifically established within the environmental legislation of the Party, understood as any law or regulation issued by the respective signatory country of the TPA; and
- 3° In the case of Peru, it is specifically considered as a law or regulation that makes up environmental legislation, which may therefore contain an obligation included in the scope of Article 18.8 of the TPA, to certain specific standards. These norms are the laws issued by the Congress of the Republic, as well as other provisions (decrees and resolutions) issued to regulate a law.

In this order of ideas, a Submission on Environmental Compliance Matters could only be processed if it coincides with the set of premises contained in the TPA that have just been described and, in addition, of course, all the requirements met the criteria established in paragraph 2 of Article 18.8 of the TPA.

b) Regarding the environmental law asserted

- 21. As indicated, the submitters assert that with the promulgation of Law 3173 the Government of Peru would have stopped applying various national and international norms related to environmental protection.
- 22. It is then necessary to review whether, within the framework of a Submission on Environmental Enforcement Matters, the aforementioned standards are included or not within the premises just explained, established by the TPA, since only if the response is positive, the Secretariat will have powers to analyze the respective Submission.
- 23. The submitters refer to the following norms:

i. Political Constitution of Perú

In this regard, the current Political Constitution of Peru was prepared between the months of January and September 1993 by a body established ad hoc for the preparation of the constitutional text, the so-called Democratic Constituent Congress (CCD). After that, on October 31, 1993, a Referendum (vote) was held in which the majority of Peruvian citizens approved the constitutional text prepared by the CCD, which is why on December 30, 1993 it was published in the official newspaper “El Peruano” the aforementioned Constitution.

According to article 51 of the Political Constitution of Peru, said document, that is, the Constitution itself, has the nature of a legal norm and prevails over all legal norms, being that below the Constitution come the laws, and after the laws follow others lower hierarchy norms.

Therefore, the Political Constitution of Peru is a legal norm different from the laws issued by the Congress of the Republic, as well as it is different from the decrees and resolutions that are issued to regulate a law.

Bearing in mind what has just been indicated, it is clear that although the Political Constitution is undoubtedly the highest-ranking norm within the legal system of Peru, and it certainly contains relevant provisions of an environmental nature in the Chapter entitled “On the Environment and Natural Resources” (which covers articles 66 to 69 of said instrument) which are the foundation of the rest of the legal system in that matter, for the specific purposes of the Submissions on Environmental Enforcement Matters provided for in Article 18.8 of the TPA, the Constitution is not part of the environmental legislation that enables such requests to be made, since as has been previously stated, this will only be possible when non-compliance with obligations specifically contained in laws issued by the Congress of the Republic or in decrees and/or resolutions issued to regulate a law. This has been expressly established by the signatory Parties to the TPA, in which the scope and limits for the formulation of the Submissions on Environmental Enforcement Matters were established.

Consequently, in accordance with the provisions of Chapter 18 of the TPA, it is not feasible to allege lack of compliance with provisions of the Political Constitution of Peru⁴, for the purposes of formulating a Submission on Environmental Enforcement Matters.

ii. International Conventions and Treaties

On the other hand, the submitters have made reference to the TPA and sixteen (16) other international conventions and treaties, which Peru would be failing to comply with with the approval of Law 31973.

In this regard, it is necessary to mention that according to article 55 of the Political Constitution of Peru, the treaties entered into by the Peruvian State that are in force are part of national law.

Furthermore, in accordance with the provisions of Article 3 of the Political Constitution of Peru, the international treaties and agreements entered into by the Peruvian State, to the extent that they refer to rights issues related to the environment and others of a similar nature, which are recognized by the aforementioned Constitution, also make up provisions of constitutional rank.

In relation to this, it is relevant to mention that the Constitutional Court of Peru has indicated that⁵ *“The treaty as a normative form in domestic law has some special characteristics that differentiate it from other normative sources. This is because, on the*

⁴ What is stated here does not undermine the existence of mechanisms within the domestic law of the Republic of Peru, which enable to question the possible existence of acts and measures that may contravene constitutional norms, as is the case of amparo actions and unconstitutionality.

⁵ The quote corresponds to paragraph 19 of the Fundamentals section of the Judgment issued on April 24, 2006, within the framework of the Unconstitutionality Action Process followed by the Regional Government of San Martín against Law No. 27971, followed under File No. 0047-2004-AI/TC.

one hand, the production bodies of said source (that is, the States and international organizations that celebrate the treaty), develop their productive activity in the field of international law, and on the other, because their mode of production (for example the rules of the Vienna Convention on the Law of Treaties – negotiation, approval and ratification) is governed by public international law”.

Likewise, the Constitutional Court adds that⁶ *“Unlike the other normative forms that occur in the scope of Peruvian domestic law, treaties are a normative source, not because they are produced internally, but because the Constitution so provides. To this end, the Constitution, unlike other regulatory forms, provides for the technique of reception or integration of treaties into Peruvian domestic law.”*

As can be seen, international treaties have a different preparation and approval process than the other regulations that make up domestic law in Peru. With this, it is clear that international agreements and treaties are legal norms that are different from the laws issued by the Congress of the Republic, as well as from the decrees and resolutions that are issued to regulate a law.

It is evident, therefore, that for the specific purposes of the Submissions on Environmental Enforcement Matters provided for in Article 18.8 of the TPA, international conventions and treaties (beyond the fact that they contain important provisions on environmental law), are not part of the environmental legislation that enables the aforementioned requests to be submitted, since, as has been explained, this will only be possible when non-compliance with obligations specifically contained in laws issued by the Congress of the Republic or in decrees and/or resolutions issued to regulate a law⁷. This, like the assumption of the Political Constitution of Peru that was previously developed, has been expressly agreed upon by the Parties that approved the TPA, in which the scope and limits for the formulation of the Submissions on Environmental were established. Enforcement Matters.

Consequently, in accordance with the provisions of Chapter 18 of the TPA, it is not feasible to allege the lack of compliance with international conventions and treaties, for the purposes of formulating a Submission on Environmental Enforcement Matters.

iii. Organic Law for the Sustainable Development of Natural Resources – Law 26821

Additionally, the submitters have stated that the issuance of Law 31973 would be generating non-compliance with the Organic Law for the Sustainable Development of Natural Resources – Law 26821.

⁶ This quote corresponds to paragraph 21 of the same Constitutional Court Judgment mentioned above.

⁷ In this order of ideas, it is also worth remembering that on previous occasions (as happened in the case of the SACA Determination - SEEM/PE/002/2018/D1) the Secretariat has expressed that “(...) it is not competent to evaluate the effective application of the provisions contained in the TPA itself (...)”, as well as that its action will be restricted, specifically, to the application of the regulations issued internally by a party to the TPA.

In article 2 of the aforementioned Law 26821 it is established that “The objective of this Organic Law is to promote and regulate the sustainable use of natural resources, renewable and non-renewable, establishing an appropriate framework for the promotion of investment, seeking a balance dynamic between economic growth, the conservation of natural resources and the environment and the integral development of the human person.”

In this particular case, unlike the cases of the Political Constitution of Peru and the international treaties and agreements that have been previously exposed, the submitters mention a law issued by Congress (Law 26281), a provision that is included within the definition of “environmental legislation” referred to in Articles 18.8 and 18.14 of the TPA.

It should be remembered that the Submissions on Environmental Enforcement Matters mechanism is specifically planned so that people can highlight that a country that is a Party to the TPA is not effectively applying the provisions of its environmental legislation.

The above means that a rule included within environmental legislation orders that an entity that is a member of the state organization of a Party to the TPA carry out a certain activity with an impact on the environment and that, however, in practice it is found that the normatively provided obligation is not being fulfilled.

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

24. 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

25. The Submission SACA-SEEM/PE/002/2024, is written in English. Likewise, the additional documentation presented by the submitters is mostly written in Spanish, except for some documents that are written in English.

26. 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

27. Submission SACA-SEEM/PE/002/2024 was filed by a natural person and by a legal entity, who are listed below, identified by their National Identity Document (DNI) number and Registry entry number, respectively:

NAME OF SUBMITTER	NATIONAL IDENTITY NUMBER (DNI)
Ángela Lucila Pautrat Oyarzún	09670957

NAME OF SUBMITTER	PUBLIC REGISTRATION NUMBER
Kené - Instituto de Estudios Forestales y Ambientales	13554515 (of the Registry of Legal Entities of Lima)

28. 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

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

- a) Documents that the submitters have called “official documents prior to the approval of Law 31973”, in which various entities and people question the intention of the Congress of the Republic to modify the Forestry and Wildlife Law, as well as other related documents⁸.
- b) Documents that the submitters have called “civil society documents prior to the approval of Law 31973”⁹.
- c) Documents that the submitters have called “official documents subsequent to the approval of Law 31973”, in which various agents express their concern and/or rejection of the promulgation of said legal norm¹⁰; and

⁸ These documents are: An official letter from the Presidency of the Republic observing the signature of the law issued by Congress referring to the modification of Law 29763 – Forestry and Wildlife Law; a statement and statement from the Ministry of the Environment - MINAM; a report from the Presidency of the Council of Ministers -PCM; a statement from the National Forestry and Wildlife Service – SERFOR; Two official letters issued by the Ombudsman's Office; Two official letters from the Ministry of Agrarian Development and Irrigation – MIDAGRI that contain the opinions of said ministry and SERFOR; a statement from the Interfaith Initiative; A mandatory jurisdictional ruling issued by the Superior Court of Justice of the Judicial Branch that establishes the obligation of prior consultation in favor of indigenous and native peoples before any legislative or other measure that may affect them is adopted; Request presented by the Federation of Native Communities of Ucayali and Tributaries (FECONAU) to the Congress of the Republic in order to submit to prior consultation the Autograph of the Law that modifies Law 29763, Forestry and Wildlife Law ; Request presented by Miss Ángela Lucila Pautrat Oyarzun, addressed to the Agrarian Commission of the Congress of the Republic, in order to refrain from supporting the opinion due to insistence regarding the signature of the law issued by Congress referring to the modification of the Law 29763 – Forestry and Wildlife Law, after the observations made by the Presidency of the Republic; and, Writ of Amparo Claim filed by Miss Ángela Lucila Pautrat Oyarzun against the Congress of the Republic, in order to refrain from continuing with the process referring to the modification of Law 29763 – Forestry and Wildlife Law, as well as the order admitting said claim issued by the Judiciary.

⁹ These documents are: A statement entitled "We express our concern about the weakening of the regulatory framework for the sustainable management of the territory" signed by more than 300 natural and legal persons; Legal report analyzing the constitutionality of the regulatory projects to modify Law 29763 – Forestry and Wildlife Law prepared by the Legal Defense Institute; Statement from the Inter-Ethnic Association for the Development of the Peruvian Jungle (AIDSESEP) rejecting the modification of the Forestry and Wildlife Law; and, Letter sent by various indigenous, union and civil society organizations to the European Commission on deforestation risks due to the regulations approved by the Peruvian Congress.

¹⁰ These documents are: Communiqués issued by the Embassies of Germany, Canada, the United Kingdom and Norway expressing their concern about the impact of Law 31973; SERFOR statement; Presentation of the MINAM before the PCM explaining the negative effects of the approval of Law 31963; Agreement of the Regional Government of Pasco rejecting Law 31973; Complaint for Constitutional Infraction filed by Miss Ángela Lucila Pautrat Oyarzun against the President of Congress and another member of the board of directors of said entity for violation of the Constitution by having promoted the approval of Law 31973; Unconstitutionality lawsuit filed by the College of Sociologists of Peru against Law 31973, and Admission Order of said lawsuit; and, Admission Order of the Unconstitutionality Lawsuit filed by the Regional Government of San Martín against Law 31973. In addition to this, the criminal complaint filed by Miss Ángela Lucila Pautrat Oyarzun against PCM, MIDAGRI, MINAM and SERFOR.

d) Documents that the submitters have called “civil society documents subsequent to the approval of Law 31973”¹¹.

30. 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.

31. Regarding the identification of the environmental law whose failure to be effectively enforced is asserted (specifically, Law 26281), this analysis has been carried out in item II B b) iii 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.

32. Based on the above, the submission SACA-SEEM/PE/002/2024, 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;

33. Submission SACA-SEEM/PE/002/2024 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.

34. 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;

35. In the corresponding part of the submission it was indicated that “On May 5, 2022, the submitters presented a Petition for Amparo against the Peruvian Congress of the Republic to prevent the approval of the Bills that seek to modify the Forestry and Conservation Law. Wildlife, Law 29763. The petition was admitted on September 5, 2022 by the Third Specialized Constitutional Chamber of the Superior Court of Justice of Lima (File No. 05654-2022-0-1801-

¹¹ These documents are: Communication sent by Kené – Institute of Forestry and Environmental Studies to the United States Embassy in Peru; Statement from the Legal Defense Institute; Pronouncement of the Peruvian Chapter of the Laudato Sí Movement; Statement signed by more than 3,800 people against the modification of the Forestry and Wildlife Law; Statement of the Bishops of the Peruvian Amazon; Statement of the Pastoral Network of Indigenous Peoples and Integral Ecology; Statement from the Observatory of Illegal Mining and Related Activities in Key Biodiversity Areas; Statement of the Ecclesial Conference of the Amazon; Multiple Letter sent by the NGO Environmental Law and Natural Resources – DAR to various authorities; Statement of the National Council of Deans of the Professional Colleges of Peru; Letter sent by 13 indigenous organizations, 24 agricultural sector associations, 46 non-governmental organizations and 29 natural persons, addressed to the Environmental Affairs Council of the APC Peru – United States; Letter sent by 7 indigenous organizations to the President of Congress; Pronouncement of the National Assembly of Regional Governments; Statement from the Faculty of Forestry Sciences of the National Agrarian University La Molina; Document called “Declaration of Iquitos” signed by the National Coordinator of Forestry Engineering Chapters of the College of Engineers of Peru; Statement of the Awajún Autonomous Territorial Government; Statement by the Coordinator of Development and Defense of the Indigenous Peoples of the San Martín Region; Statement of the General Confederation of Workers of Peru; and, Message from the Peruvian Episcopal Conference.

JRDC-03).” Likewise, the submitters attached a copy of the document of the aforementioned application for protection and of the resolution of the Judicial Branch of Peru that admits it for processing.

36. Likewise, the submitters reported that “various public and private entities have presented various opinions and technical reports against the proposed reforms to the Forestry and Wildlife Law.”

37. Based on the above, the submission SACA-SEEM/PE/002/2024, complies with this admissibility requirement established in Article 18.8 (2) (e).

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

38. As previously detailed, submission SACA-SEEM/PE/002/2024 has been presented by a natural person and a legal entity, which are persons of one of the Parties.

39. The Secretariat considers that the Submission meets the requirement of Article 18.8 (2) (f).

DETERMINATION

40. For the reasons stated, the Secretariat considers that Submission SACA-SEEM/PE/002/2024 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.

41. Therefore, the Secretariat determines that the Submission complies with paragraphs 1 and 2 of Article 18.8 of the TPA.

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



Daniel Schmerler Vainstein
Executive Director
Secretariat for Submissions on Environmental Enforcement Matters
United States - Peru Trade Promotion Agreement