

## 9. Trade liberalisation and forest verification: Learning from the US-Peru Trade Promotion Agreement

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### Summary

With the increased integration of the global economy, there has been a rising concern over the effects of trade policy on the environment. Recent research has shown that trade liberalisation can act as a 'magnifier' of governance problems in the forest sector if the regulatory and institutional capacity is weak. Recognising this risk, the US-Peru free trade agreement includes a binding Forest Annex, which specifies numerous measures to strengthen the legal and institutional framework of Peru's forest sector. The Forest Annex also outlines an innovative rule-based, bi-national verification system, which may be of wider relevance in the debate about verification systems design. This paper explores the challenges of this innovative environmental addition to trade policy, and considers implications for forest governance in Peru.

### POLICY CONCLUSIONS

- The inclusion of a forest verification element in a broader bilateral trade agreement can enhance political support for its implementation.
- Trade agreements may help leverage political change. Including forest verification within a broader trade agreement may thus increase the chances of meaningful forest governance reform.
- Reciprocity, in the sense that parties should be mutually bound by the terms of an agreement, is an important principle for effectiveness of internationally binding regimes. Preferential trade agreements involve some degree of reciprocity because both sides are expected to make trade concessions. Thus an encompassing trade agreement can help balance the lack of reciprocity that may characterise a stand-alone forest verification scheme.
- Care is needed to ensure that the manner in which an agreement is negotiated and implemented does not reduce the space for multi-stakeholder participation, weakening legitimacy in the eyes of civil society groups and the wider public.
- A rule-based and consignment-oriented verification mechanism, that focuses on specific shipments of timber products and includes a procedure for taking into account comments received by the public, may offer a practical approach for promoting sustainable timber trade between producer and consumer countries. However, it will need to be carefully monitored, to ensure that it is not abused.
- The effectiveness and legitimacy of a national verification system is enhanced by inclusiveness. Close monitoring of upstream activities (for example, the overseeing of the allocation of forest titles) may be as important as monitoring of downstream forest operations. Conversely, the failure to cover such activities can weaken the effectiveness of the reforms.
- The analysis suggests that civil society can play a crucial role in the adoption of a forest verification scheme. Donors and other relevant actors can help civil society groups gain the skills and evidence needed to support the negotiation, implementation and monitoring of the verification scheme.



## 1. Introduction

On February 1, 2009, the United States-Peru Trade Promotion Agreement came into effect. Supporters in Peru reckon that the agreement could add an additional annual percentage point to national economic growth, while opponents fear that farmers will struggle to compete with subsidised imports. There is also a concern that US companies might use it to claim property rights over Amazonian biodiversity – for example, by patenting the extracts and derivatives of Amazonian plants (Morón et al., 2005; The Economist, 2007).

Recognising the environmental and economic consequences of trade associated with illegal logging, this free trade agreement (FTA)<sup>1</sup> includes an Annex on Forest Sector Governance (Annex 18.3.4). While the FTA has been criticised in Peru, even its strongest opponents tend to recognise that the implementation of its Forest Annex could be beneficial for the country (Chávez, 2008). Civil society groups hope that, should the Government of Peru falter in the implementation of the Forest Annex, the industrial sectors that have the most to gain from the implementation of the FTA (agro-industry, textiles, etc.) will be willing, in order to avoid obstacles in the implementation of the agreement, to put pressure on the government and forest exporters to tackle illegal practices in the forest sector (Box 1). This briefing paper explores this innovative linkage between trade liberalisation and forest governance, focusing on its verification element and considering the implications for Peru as well as some lessons for other countries that are negotiating FTAs with environmental annexes.

## 2. Why an Annex on Forest Governance?

Illegal logging has long been recognised as widespread in Peru (Pautrat, 2006). In 2000, Peru overtook Brazil as the world's largest exporter of mahogany (*Swietenia macrophylla*), and this was met by strong international concerns over the origin of such exports and forest governance in Peru. International attention has become even greater since 2003, when mahogany listing in CITES Appendix II came into effect. In recent years several reports have documented rife illegal logging of mahogany in Peru, showing that it is taking place inside protected areas and indigenous territories, even threatening the very survival of indigenous tribes (Schulte-Herbrüggen, 2003; Fagan and Shoobridge, 2005; AIDSESP, 2007).

In response to international pressure, Peru has taken steps to improve its control efforts. In 2004 the country officially adopted a comprehensive National Strategy to Fight Illegal Logging, but the lack of funds and political will has hampered its implementation. In the same year the Supervision Body for Forest Timber Resources ('OSINFOR' is its acronym in Spanish) was created, albeit without the independence originally envisaged in the law as it was eventually established under the national forest authority (while the 2000 Forest and Wildlife Law intended to ensure its independence by placing it outside the forest sector, under the Presidency of the Council of Ministers). In 2005, Peru decided to introduce annual export quotas for mahogany. These were calculated on the

### Box 1: Is there political commitment? And where does it come from?

According to an estimate carried out in 2005, Peru's exports to the US could increase by more than US\$4,000 million within five years of full implementation of the bilateral trade agreement. In comparison, Peru's annual timber exports to the US are below US\$100 million. This suggests that the 'order of magnitude' of the potential benefits from the FTA is too substantial to be jeopardised by the possibility of illegal logging within Peru. Even if there are allegations of close ties between the timber industry and the political order, weighing the expected benefits of the FTA should ensure a significant degree of political commitment to implement the Forest Annex. The willingness to act of the Peruvian government should also be enhanced by the fact that many actions established in the Forest Annex reflect longstanding requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (see Box 2), thus allowing the country to achieve two goals at the same time. The similarity with CITES's demands also helps to explain the government's acceptance of the Forest Annex and its confidence to comply with it, since it mainly focuses on strengthening ongoing efforts.

Sources: Rosas del Portal, 2005; PromPerú, 2008.

basis of the mahogany inventories in the annual operating plans and presented to CITES at the beginning of each year. The effects of this measure have been weakened by poor verification of timber stocks in the inventories and by the overestimation of the sawn timber yield per tree. These flaws may have allowed the laundering and export of thousands of cubic metres of illegal mahogany (Ortiz-von Halle, 2007).

Despite some recognition of the advances made by Peru, international interest over its timber exports remained high, particularly in the environmental community in the US. Civil society actors in both countries repeatedly expressed their concerns when the negotiations for the US-Peru FTA started, arguing that trade liberalisation could exacerbate forest governance problems if specific measures to avoid negative implications were not implemented. In Washington, these concerns converged with the Democratic Party's political reservations about FTAs. In order to restore bipartisan consensus on trade, a deal was reached in May 2007 between the White House and the US Congress in which new trade agreements would have to include clauses to strengthen labour rights and the environment (The Economist, 2007). The US-Peru FTA had already been signed and was the first in the pipeline for ratification by the US Congress, so a Protocol of Amendment was rapidly negotiated between the two countries, which, among other things, reinforced the Environment Chapter of the trade agreement by including an Annex on Forest Sector Governance.

## 3. Overview of the Forest Annex

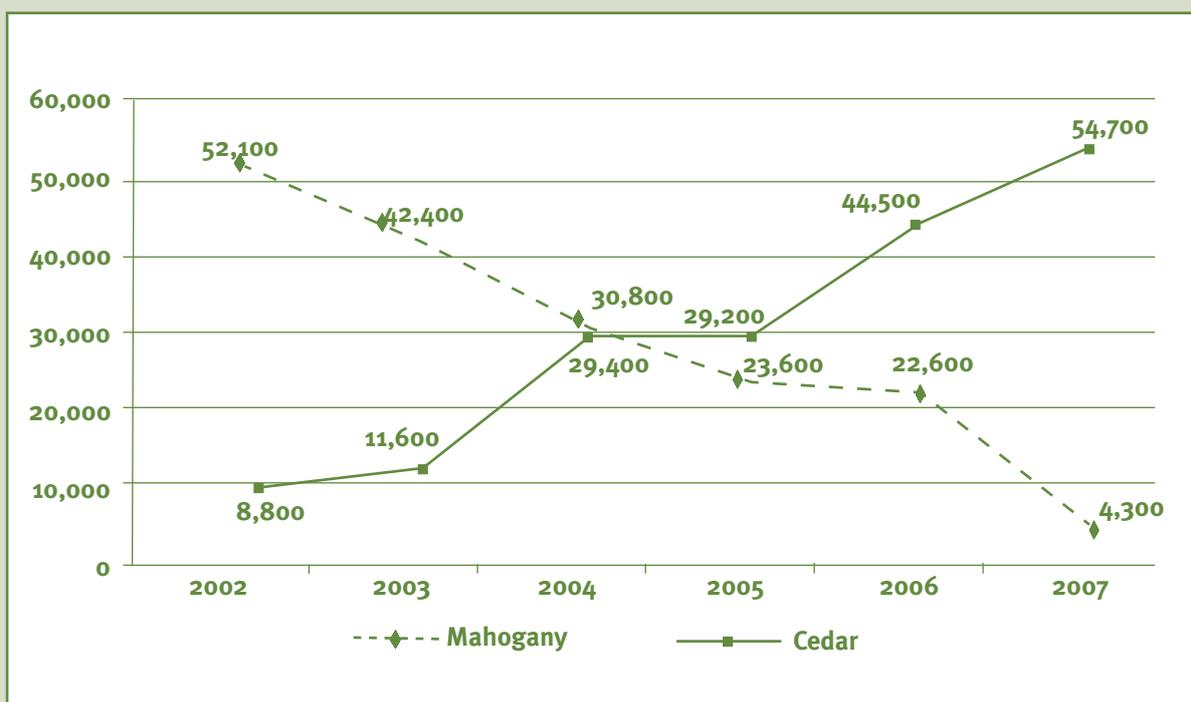
By agreeing to the Forest Annex Peru has committed itself to implement, within eighteen months after the date of

entry into force of the trade agreement, concrete steps to enhance forest governance and promote legal trade in timber products, such as the following:

- Increase the number and effectiveness of personnel devoted to forest law enforcement, in particular in national parks, forest concessions and indigenous protected areas.
- Develop and implement an anti-corruption plan for officials responsible for forest administration and control.
- Substantially increase criminal penalties prescribed in Peru's Penal Code for violations related to the harvest and trade of forest products, and suspend the right to export products associated with any such violation.
- Implement policies to monitor trees species listed in any CITES Appendix and adopt a strategic action plan to properly implement CITES Appendix II listing of bigleaf mahogany. Physically inspect areas designated for the extraction of CITES-listed tree species prior to approving the annual operating plan and produce a publicly available report with the results of the verification. Develop and implement timber-tracking systems to verify the legal origin and chain of custody of CITES-listed timber species.
- Improve the administration and management of forest concessions by ensuring that they are awarded through competitive and transparent processes, by making publicly available their annual operating plans, and by verifying that concessionaires are complying with such plans.
- Take into account the views of local and indigenous communities, NGOs and the private sector, including concession operators.
- Establish an independent and separate agency with the mandate to supervise and verify all timber concessions and permits.
- Identify within the Government of Peru a focal point to investigate violations of laws and regulations, and where appropriate prosecute or refer violations for prosecution.
- Support community-based forest management and appropriately identify protected areas and concessions.

### Box 2: The Forest Annex and CITES

A significant focus of the Forest Annex is on CITES-listed timber species. Several of the measures detailed in it are based on the recommendations that CITES Standing Committee presented to Peru for the proper implementation of Appendix II listing of mahogany. However, while some provisions refer specifically to such species (e.g. establish an annual export quota and adopt a strategic plan of action to properly implement its Appendix II listing), in general the document does not make a distinction between CITES Appendices. Many measures (e.g. conduct comprehensive inventories, calculate accurate conversion factors, physically inspect areas designated for extraction, develop chain of custody systems) will apply broadly to all CITES-listed tree species. This all-Appendix approach implies that the obligations of the Forest Annex apply not only to mahogany but also, for example, to Spanish cedar (*Cedrela odorata*), which is listed in Appendix III. This is significant because, as shown in the figure below, the decrease in Peru's mahogany exports since 2002 has been coupled by a corresponding increase in the exports of cedar, considered by many as the "new mahogany". In 2008, an internal report by INRENA estimated that as much as 70% of these cedar exports could have been of illegal origin (INRENA, 2008). The CITES Secretariat has already expressed its concern over the growing exports of this species (CITES, 2008).



Sources: PAEC, 2008; INRENA, 2008

The US has committed to work with Peru in (i) strengthening the legal, policy and institutional framework of the forest sector, (ii) capacity-building, (iii) improving the forest concession system, and (iv) increasing public participation and transparency.

A feature of note is the imbalance of commitments between the two parties. The burden of the forest sector measures falls entirely on Peru. This suggests that the Forest Annex does not conform to the 'principle of reciprocity', according to which each party should be more or less equally bound by the terms of an agreement. Such a principle has been identified as an important element for effectiveness of internationally binding regimes (Brown et al., 2008). In the forest sector, characterised by resources under national sovereign control, it can help reduce sensitivity about external interference and encourage compliance. The non-reciprocal character of the Forest Annex, however, does not seem to have been a very contentious issue in Peru. In part, this can be explained by the recognition of the problems facing the country's forest sector, but the main reason appears to lie in the fact that the Forest Annex is part of a broader agreement that is expected to raise national incomes by opening up the US market (see Box 1). In other words, it could be argued that an element of reciprocity is implicit, albeit indirectly, in the encompassing FTA: the reciprocal reduction of tariffs and other trade barriers between the two countries helps to counterbalance the lack of formal reciprocity in the Forest Annex.

A second noteworthy feature is the primary concern with CITES-listed timber species. CITES authorities have repeatedly expressed concern about Peru's implementation of Appendix II requirements for mahogany. A general perception among NGOs that monitor the implementation of CITES is that Peru has tended to do just enough to avoid sanctions, but without showing a real commitment to confront illicit practices in the mahogany extraction and trade business. Such a perception helps to explain the inclusion of CITES obligations in the Forest Annex. Box 2 explores this aspect more closely.

#### 4. A bi-national verification mechanism

The Annex also establishes auditing and verification procedures. Audits can be of two types: periodic and requested. Periodic audits shall be conducted at least every five years by the Government of Peru (or a mutually agreed third party) and shall focus on producers and exporters of timber products shipped to the US<sup>2</sup>. The aim is to verify that exports coming from such producers and exporters comply with all the pertinent laws and regulations, including relevant chain of custody requirements for tree species listed in CITES Appendix II. If demanded by the US, Peru should also conduct a requested audit of a particular producer or exporter.

Verification activities differ from audits by virtue of their narrower focus. Their aim is to verify whether, with respect to a particular shipment of timber products, the producer or exporter of those products has complied with

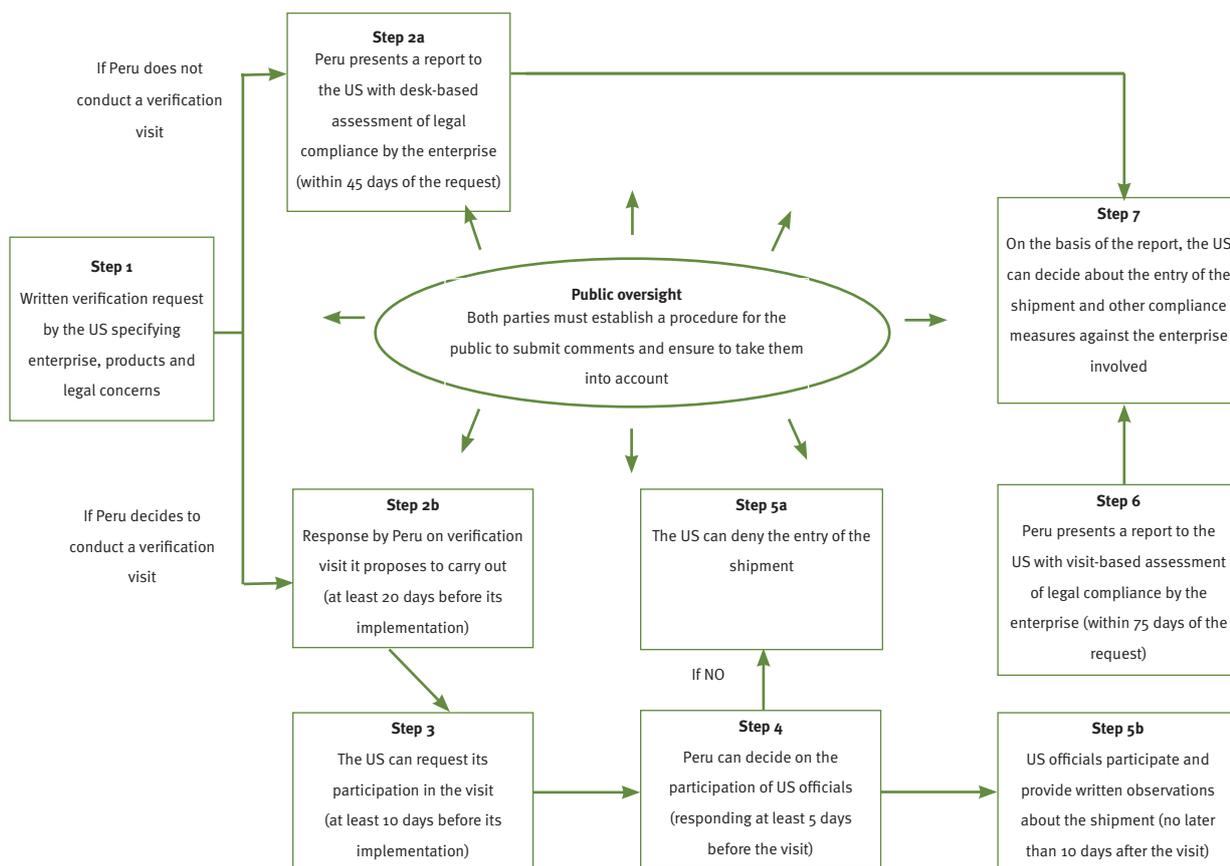
Peru's applicable laws, regulations and administrative requirements. A detailed procedure is specified for carrying out such verification activities (Figure 1):

- The starting point is a written verification request by the US. Such request must identify (i) the relevant producer or exporter, (ii) Peru's laws, regulations and other measures at issue, and (iii) the reasons why the US considers necessary a verification of the origin of the products.
- If Peru decides that it will not conduct a verification visit in response to the request, then it must provide a written report to the US within 45 days (unless otherwise agreed) of receiving the verification request. Based on the information examined, the report shall include an assessment of whether the enterprise has complied with Peru's legal requirements.
- If Peru decides to conduct a verification visit, then at least 20 days before it takes place, it must inform the US in writing of the visit it proposes to carry out to the facilities of the producer or exporter (or of any other enterprise in the country's territory relevant to the chain of production or transportation of the products concerned).
- If the US wishes to participate in the visit, it must request its participation no later than 10 days before its scheduled date, specifying the names of the officials proposed.
- If Peru does not agree on the participation of the US officials, it must inform the US at least five days before the visit. If Peru denies such request, the US can deny the entry of the shipment concerned.
- If US officials participate in the visit, they shall provide Peru with their written observations regarding the shipment, if any, no later than 10 days after it.
- Following the visit Peru will provide a written report to the US within 75 days (unless otherwise agreed) of receiving the initial verification request. Based on the documents examined and the verification visit, the report shall include an assessment on whether the enterprise has complied with Peru's legal requirements.
- On the basis of the report presented by Peru, the US may deny the entry of the shipment and also deny the entry of other products of the same enterprise derived from any tree species listed in CITES Appendices. Similar compliance measures can also be taken if Peru does not present a report in the timeframe established.

This verification protocol is complemented by a public oversight mechanism. In fact, the Annex dictates that each country should establish a procedure for the public to submit comments, and make certain to take into account such comments.

From the US perspective, the legal validity of this verification mechanism has been advanced by the Congress amendment in May 2008 of the Lacey Act (since 1900, the country's main legal instrument to fight against unlawful wildlife trafficking). The amended law makes the US the first country in the world to explicitly prohibit the import, export, sale or trade in timber and timber products of illegal origin in accordance with

**Figure 1: The bi-national forest verification mechanism established under the US-Peru FTA**



the laws of a US state or a foreign country, allowing its officials to seize shipments containing such products (see Box 3).

In Peru, the FTA has prompted a complex legal reform process. In order to adapt the country’s legal framework to the requirements of the FTA, in December 2007 the Peruvian Congress approved Law 29157, which for 180 days delegated to the Executive the authority to legislate on a wide range of topics related to the trade agreement. As a result, by the end of June 2008, Peru’s President had approved more than ninety legislative decrees, including a new Forest and Wildlife Law. In multiple public statements, civil society groups and academic institutions have denounced the way in which these decrees have been produced behind closed doors without carrying out any form of public consultation. In their opinion, they lack the necessary legitimacy that comes from a multi-stakeholder consultative process.

The next section describes one key aspect, related to verification in the forest sector, of this broader reform process.

### 5. A renewed verification agency

In response to an explicit requirement of the FTA’s Forest Annex, the legislative decrees passed by the Executive also included Decree 1085 concerning OSINFOR. The new OSINFOR will function as a verification body of the national forest authority and timber operators. Its responsibilities include the verification of legal compliance by concessionaires and permit-holders, the supervision of

inspections carried out by the national forest authority, and the implementation of audits to forest management plans<sup>3</sup>. Decree 1085 also gives OSINFOR the power to withdraw harvesting rights and to impose administrative sanctions. Although verification and enforcement are potentially conflicting functions, it is foreseen that their combination in one specialised body should facilitate the application of penalties.

Despite being established by law as a body attached to the Presidency of the Council of Ministers, the previous OSINFOR was actually placed under the National Institute on Natural Resources (INRENA). Decree 1085 re-establishes the independence of OSINFOR from the forest administration by re-affirming its association to the Presidency of the Council of Ministers. By introducing these reforms, Decree 1085 conforms fully to the Forest Annex, which required the establishment of OSINFOR as an independent and separate agency and to assign it a mandate to supervise all timber concessions and permits.

However, it is worth noting that Decree 1085 does not mandate OSINFOR to monitor the allocation of concessions. This may be logical in that the responsibility to allocate concessions is being transferred to the regional governments (Box 4), which presumably would have rejected a monitoring function by a central government agency as a violation of their autonomy. Peru is not the only country in which the boundary between the public and private spheres is somewhat blurred, and private actors tend to personalise the relationship with political authorities and public officials (Huber, 2008). Many

### Box 3: Implications of the amendment to the US Lacey Act

The amended Lacey Act establishes a basic legal principle: in the US it is prohibited to trade in plants and their products (including timber and wood products) that are illegally sourced, regardless of their place of origin. The law does not attempt to impose US legislation on foreign nations. Rather, the Lacey Act expands the reach of foreign laws and regulations by making it a violation of US law to trade in forest products harvested, transported or sold in breach of such foreign laws and regulations. The new law applies also to those individuals and companies that are unaware of any illegalities in the sourcing of their wood, although the potential for penalties and imprisonment varies according to how much the individual or company knew or should have known about such illegalities. The new provisions of the Lacey Act apply also in the case the products are processed in a third country. For example, a US company would violate the Lacey Act if it imports a product manufactured in a third country, say, Mexico or China, with timber harvested in Peru without a valid permit. The new law makes it possible to target illegal trade of a broad range of imported wood products and species, far beyond those few species listed in CITES. Observers believe that it is possible that the US Department of Justice will use the amended Lacey Act to pursue high-profile prosecution cases in the near future, in order to send a clear message to wood products importers to the US.

Sources: Forest Trends and Sidley Austin LLP, 2008; EIA, 2008.

observers are concerned that these factors could have a decisive influence on the ways concession allocation processes may be managed by regional governments, ultimately determining who gains access to the forest resources and how they are used. The problem does not just apply at the local level; national forest authorities have also often been alleged to be in alliance with the timber industry. This favours the design of a verification system that goes beyond harvesting operations, to include also the monitoring of forest resource allocation, regardless of which level of government will be responsible for it.

It has been argued that political favouritism and clientelism have long been at the root of Peru's governance problems (Conaghan, 2005). If this is correct, then concession allocation may be the most crucial stage from the perspective of good governance, and monitoring of it is likely to have more impact in challenging poor governance than monitoring field operations; this is because it may go to the heart of the underlying weaknesses in governance (Brown et al., 2008). Besides helping improve allocation procedures, the findings of such monitoring could increase the pressure for more systematic reforms.

## 6. What are the challenges?

### Jamming risk

The aim of the verification protocol outlined in Figure 1 is to ensure that only timber of legal origin enters the US market. However, the procedure is rather complex and time-consuming, and it is uncertain what will happen if some groups of the environmental community in the US or Peru decide to systematically challenge the legal origin of all or most Peruvian shipments of timber products to the US. The US authorities would face a difficult choice – failing to satisfy the environmental community because it demands too much, or running the risk of jamming the verification mechanism and disrupting trade by starting a new course of action for each disputed shipment arriving to its ports. In the latter case, an unintended effect would be to increase the duration and cost of border procedures for timber shipments from Peru, giving a competitive advantage to timber products from other countries.

### Unclear legality standards

In Peru, where the legal framework for forestry operations is widely recognised to be complex and contradictory, the implementation of the verification mechanism established by the Forest Annex will require the definition of a set of unambiguous standards for determining compliance. Without a set of pre-established standards, the results of the verification activities may lack objectivity and be vulnerable to accusations of influence by political interests. The formulation of legality standards can be a challenging task, involving prolonged negotiation between multiple stakeholders. The experience from other countries (e.g. Indonesia) suggests that the 18-month interval between the entry into force of the FTA and the implementation of Forest Annex may not be enough. On the other hand, the development of legality standards 'on the job' will inevitably raise questions about their legitimacy and soundness. An interim solution could be the phased introduction of standards, starting with a critical sub-set of laws and regulations and then gradually incorporating other legal norms. Their implementation can also be facilitated by a greater emphasis on compliance management, including the establishment of measures to improve the compliance capacity of forest owners and managers (Brown et al., 2008).

### Verification vs. certification

The Forest Annex establishes a requirement to develop chain of custody systems to verify the legal origin of timber and reliably trace its passage from harvest to point of export, specifying that it is an obligation for CITES-listed tree species. Reflecting a growing tendency at the international level, the Government of Peru hopes to rely, at least in part, on voluntary certification schemes to fulfil this requirement. For example, the recently approved Strategic Action Plan on Mahogany – itself a FTA and CITES requirement – aims at promoting more certification as a means to verify legal origin (PAEC, 2008). The logic behind this is clear in that certification schemes demand that operators adhere to national and local laws. Furthermore, the use of certification to assure legality of CITES timber exports appears a cost-effective approach in the case of mahogany, given that in 2007 55% of Peru's mahogany exports came from certified forest management units with chain of custody (PAEC, 2008).

However, there is the risk that communities and small-scale concessionaires, which face difficulties in affording the costs of certification, would be put in disadvantage by such approach, losing access to higher-value export markets (Brown and Bird, 2007). Therefore, the use of certification as a proxy for legality should not undermine the efforts to improve the current systems in place or to develop timber-tracking systems as required by the Forest Annex. There is a growing experience of the development of such systems, so technically they should not represent a huge challenge, although budget limitations could pose a significant constraint, again especially for communities and small concessionaires. More challenging may be the need to improve information management and communication channels between government services at different levels, which implies the need to clarify the roles and competences of each (Bird and Thiel, 2007).

### Governance impacts

Another key concern is the impact on governance. Even if the implementation problems are overcome, it should not be assumed that the measures identified in the FTA's Forest Annex will necessarily bring about an improvement in forest governance. An unintentional outcome could be a shift towards timber species not listed in CITES. This trend has been evident since the listing of bigleaf mahogany in CITES Appendix II; CITES Secretariat has already expressed concern over the growing exports of several non-CITES species (CITES, 2008). Tightening up on Peru's timber exports could also trigger an increase in trans-boundary timber smuggling to neighbouring countries (Bolivia, Brazil and Colombia), where it could be sold on the internal market or re-exported with less scrutiny. Another possible implication could be the widening of the governance gap between a higher value export-oriented forest sector and a lower value domestic-oriented forest sector. For example, in the past, Brazil's attempts to control the mahogany trade and the timber export sector have been at the cost of reduced vigilance of domestic trade in which forest governance problems are

arguably more severe (Richards et al., 2003).

This all suggests that measures to tackle controversial exports of CITES species could have many positive effects, but if the impacts are to be sustained they will need to be complemented by efforts that tackle poor governance at its foundation. At the same time, any change should also try to shore up the confidence in the existing system which has been undermined for long periods through allegations of illegality and corrupt practices.

### Market shift

Given the numerous challenges outlined above, another unintended consequence could be 'leakage' ~ i.e. the migration of Peru's timber exports to less discriminating markets, for example the growing Chinese market or Singapore (with which Peru has recently signed an FTA that does not include any particular verification measure for timber products). This potential shift to other markets should be monitored as part of the Forest Annex implementation, to provide feedback and identify corrective measures with importing countries.

## 7. Conclusion

While timber production in Peru is tainted by allegations of illegality, the majority of its timber exports go to the relatively eco-aware US market. In such circumstances, trade factors may be important in increasing the pressure on the industry (Brown et al., 2008). This notion is at the root of the Forest Annex. It aims to promote more sustainable trade in timber products by introducing measures that focus specifically on controversial exports. On this view it could be argued that the Forest Annex provides some of the necessary constraints on timber trade that should allow it to proceed in a more sustainable way. On the other hand, it could have less positive effects if applied injudiciously.

Still, important questions arise about the governance

### Box 4: Implications of decentralisation on the Forest Annex

The legislative changes prompted by the FTA are not the only ongoing reform process related to Peru's forest sector. Decentralisation of forest competences to regional governments has been on the policy agenda for several years. In February 2007, the Decree 011-2007-AG established the administrative procedures for the delegation of INRENA's functions to regional governments. Initially it was hoped that for some regional governments the process could be finalised before the end of 2007, but predictably there have been delays in the transfer of powers. The requirements of the Forest Annex, which does not mention local levels of government, have generated an inclination to keep certain decisions at the central level, as evident in the new Forest and Wildlife Law issued in June 2008. On the other hand, Decree 011-2007-AG has led regional governments to expect and demand decentralisation; some have already approved the legal procedures for the administration of forest resources. Forest decentralisation, if given time to continue, could impinge on the implementation of the Forest Annex in a variety of ways. One phenomenon could be the overburdening of regional governments, in particular if responsibilities are transferred without resources. There is also a view that central government and the regions could strike deals over the division of power and resources that would hamper or block the effective operation of the Forest Annex. Whatever its limitations, the process of decentralisation can offer a key avenue through which marginalised forest users can come into contact with decision-making processes. The Forest Annex does not acknowledge fundamental issues of tenure rights and forest-dependent livelihoods; 'pro-poor' objectives are not stated explicitly. Meaningful decentralisation could help local people influence the implementation agenda of the Forest Annex, ensuring that negative impacts on rural dwellers or small timber operators are minimised.

implications. There may be a gap between expectations and capacity to deliver. Not all commentators are convinced that the US Trade and State Departments will be ready to put pressure on an important partner country in order to ensure proper implementation of the Forest Annex. In this context, the absence of a systematic and transparent external monitoring mechanism, with acceptable feedback mechanisms, is a limitation, which needs to be addressed as a matter of priority.

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## Endnotes

1 Reflecting the usage in Peru, in this paper the term 'free trade agreement' and the acronym FTA are used as synonymous of 'trade promotion agreement'.

2 In contrast to the list of actions required from Peru for strengthening forest governance, which as described in Box 2 have a significant focus

on CITES, the auditing and verification activities apply to any timber export to the US, regardless of the species involved.

3 Although Decree 1085 does not specify it, in all likelihood OSINFOR will also be responsible for carrying out the periodic and requested audits established in the Forest Annex.

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