

**Secretariat for Submissions on Environmental Enforcement Matters
United States - Peru Trade Promotion Agreement
Determination in accordance with Article 18.8 (1) and (2)**

Submitter: AIDSESP
Party: Peru
Reference: Submission on Matters of Environmental Enforcement filed by AIDSESP
Submission No. SACA-SEEM/PE/002/2023
Date of receipt: March 10, 2023
Date of determination: April 10, 2023

The Secretariat for Submissions on Environmental Enforcement Matters, after reviewing Submission SACA-SEEM/PE/002/2023, 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.

Criteria of Article 18.8 (2) of the United States– Peru Trade Promotion Agreement	Meets		Justification
	Yes	No	
<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/002/2023, 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/002/2023 was filed by the Asociación Interétnica de Desarrollo de la Selva Peruana – AIDSESP, legal person registered in Record 11007275 of the Registry of Legal Entities of the Registry Office of Lima and Callao.

<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/002/2023, 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/002/2023 appears to be aimed at promoting the Party's effective enforcement of the 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/002/2023 attaches a copy of the written communications addressed to the relevant authorities of the Party, as well as the responses of said entities, which includes the communications sent by relevant entities to the competent authorities.
<i>(f) is filed by a person of a Party, except as provided in paragraph 3.</i>	X		Submission SACA-SEEM/PE/002/2023 is submitted by AIDSESEP, which is a person 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. The AIDSEEP organization filed a submission under Article 18.8 of the TPA to the Secretariat, via email dated March 10, 2023, in which they assert the failure of the Peruvian Government to effectively enforce the Forest and Wildlife Law, Law No. 29763 and the Regulations for Forest Management and Wildlife in Native Communities and Peasant Communities with regard to the regulation of granting forest concessions in Indigenous Reserves, as well as other related forest regulations.
9. The Secretariat filed the Submission, assigning it the number SACA-SEEM/PE/002/2023
10. The Secretariat acknowledged receipt of the Submission via email dated March 13, 2023, through communication SACA-SEEM/PE/002/2023, addressed to the Submitters with a copy to the EAC.
11. After examining the Submission, pursuant to paragraphs 1 and 2 of Article 18.8 of the TPA, the Secretariat considers the Submission SACA-SEEM/PE/002/2023 does meet 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.**
12. 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.

13. The AIDSESEP organization filed Submission SACA-SEEM/PE/002/2023
14. The Submitters assert that the Peruvian Government has not effectively enforced current environmental law, in particular the Forest and Wildlife Law, Law No. 29763 and the Regulations for Forest Management and Wildlife in Native Communities and Rural Communities with regard to the regulation of the granting forest concessions in Indigenous Reserves.

B. Regarding the environmental law asserted

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

15. 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 areas¹; 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.”

16. 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

¹ 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).

enforceable by action of the central level of government.”

b) Regarding the environmental law asserted

17. As noted above, the Submitters assert that the Government of Peru has failed to effectively enforce current environmental law due to the illegal granting of forty-seven (47) forest concessions in the Yavarí Tapiche Indigenous Reserve (established by Supreme Decree No. 007-2021-MC) and the Yavarí Mirim Indigenous Reserve, which is in the process of being created in favor of the Indigenous Peoples in Isolation (PIA) recognized by Supreme Decree No. 002-2018-MC. The granting of these forest concessions, as they assert, infringes the explicit prohibition established in the Forest and Wildlife Law, Law No.29763 (hereinafter, Forest Law), its Regulations and other complementary regulations.
18. It should be noted that the Forest and Wildlife Law has been in force since July 23, 2011, and its regulations are in force as of October 1, 2015.
19. Regarding the forest regulations asserted, the following should be noted:

a) Law No. 29763, Forest and Wildlife Law:

Article 27. Forest zoning categories

(...) d. Special management zones

Areas that, due to their biophysical, socioeconomic, cultural, and geopolitical nature, require a special strategy for their allocation of use.

The categories of special management zones are:

1. Land reserves for indigenous peoples in a situation of isolation or initial contact. These reserves are governed by Law 28736, Law for the Protection of Indigenous or Native Peoples in Situation of Isolation and in Situation of Initial Contact², its regulations and complementary norms. They do not grant qualifying titles.
2. ...

Article 36. Authorization for Forest Clearing

(...) forest clearing is not authorized in land reserves for Indigenous Peoples in Situation of Isolation or Initial Contact...

Fifth Final Complementary Provision

(...) Forest and wildlife authorization titles are not granted in areas that are in the process of recognition, titling or expansion of peasant and native communities, as well as in areas in the process for the establishment of territorial reserves for peoples in isolation or in initial contact, in accordance with the international treaties in force”.

² The term “in situation” is included as long as Peruvian legislation uses it.

b) **Supreme Decree No. 021-2015-MINAGRI. Regulations for Forest and Wildlife Management in Native Communities and Peasant Communities:**

Article 60.- Prohibition of the granting of qualifying titles in areas of possessory native and peasant communities in the process of titling or territorial expansion

(...) Forest and wildlife authorization titles are not granted in any case in territorial reserves or in areas in the process for the establishment of indigenous reserves for indigenous peoples in isolation or in initial contact. The scope of the Fifth Final Complementary Provision of the Law is in force until said proposals are formalized.

c) **Supreme Decree No. 18-2015-MINAGRI. Regulation for Forest Management**

Article 70.- Information to be submitted for the granting of concessions

The bidder or applicant for a concession must submit the following information:

(...) The Regional Forest and Wildlife Authority (ARFFS) must verify that the area requested for the granting of a forest concession for timber exploitation does not overlap with private land, native communities or peasant communities, including what is established in the Fifth Final Complementary Provision of the Law.”

d) **Legislative Decree No.1319, Legislative Decree that establishes measures to promote the trade of forest products and wildlife of legal origin** (in force as of January 6, 2017)

Article 7.- Preservation of forest heritage and wildlife

SERFOR, as the governing body of SINAFOR, is empowered to suspend administrative procedures in charge of the forest and wildlife authorities or stop actions that affect or put at risk the sustainable use or conservation of forest and wildlife heritage if non-compliance with forest and wildlife legislation is identified. Notwithstanding what is stated in this article, SERFOR may establish measures aimed at safeguarding forest and wildlife heritage, and must notify the competent authorities in administrative, civil and criminal matters, if applicable, so that they can determine the corresponding responsibility.

20. In this regard, it should be noted that according to the definition of "environmental law" provided by the TPA, as indicated in paragraphs 15 and 16 of this Determination, the aforementioned forest legislation asserted 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. that mentions the management of forest resources; and while the main purpose of the forest regulations asserted is the protection of the environment as well as the prevention of dangers to life or human health of populations in a situation of isolation or initial contact.

21. Likewise, the Submitters point to other regulations of the forest law that, as they indicate, complement the previous ones, indicating the following:

Law No. 29763, Forest and Wildlife Law
Article II. General principles

The following are general principles applicable to forest and wildlife management –in addition to the principles, rights, duties and provisions approved in the Political Constitution of Peru, the National Agreement, Convention 169 of the International Labor Organization (ILO), the Declaration of the United Nations Organization on the Rights of Indigenous Peoples and other international treaties:

(...) 12. Integration with other regulatory frameworks

The norms relating to other natural resources or economic activities or activities of any kind that could directly or indirectly affect the integrity, conservation and safety of the Nation's forest and wildlife heritage are governed by and agree with current legislation on this matter, including the recognition and respect for the rights of indigenous peoples in accordance with ILO Convention 169.

The implementation of this Law, its regulations and any other related measure complies with the obligations stipulated in the international treaties to which the country is a party and are in force.

Article 4. Forest and wildlife heritage of the Nation

The forest and wildlife heritage of the Nation comprises the following:

- a. Forest ecosystems and other wild vegetation ecosystems.
- b. Forest and wildlife resources maintained at their source.
- c. Forest and wildlife biological diversity, including its associated genetic resources.
- d. Forests planted on government land.
- e. Forest ecosystem services and other wild vegetation ecosystems.
- f. Lands with a greater capacity for forest use and lands with a greater capacity for use for protection, with or without forests.
- g. The landscapes of forest ecosystems and other ecosystems of wild vegetation as long as they are the object of economic use.

Forest plantations on private and communal land and their products are considered forest resources but are not part of the Nation's forest and wildlife heritage.

22. It should be noted that the norms indicated in the previous paragraph constitute rules that contribute to the interpretation of the scope of the forest law asserted, but they do not constitute norms whose lack of effective enforcement has been asserted given the nature of their contents.
23. In addition to this asserted law, the Submitters also mention other regulatory provisions, which we will call complementary regulatory provisions to the asserted law.
24. Thus, in addition to the aforementioned Forest law, the Submitters mention that the illegal granting of forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve represents a lack of compliance of various environmental regulations, indicating in a manner generic, the following norms:
 - ILO Convention 169
 - Law No. 28736 (Law for the protection of indigenous or originary peoples in isolation and in

- situation of initial contact - “PIACI Law”)
- Law No. 29785 (Law of Prior Consultation)
 - Law No. 28611 General Environment Law (LGA)
25. These are generic references. The list even mentions the term of “among others,” which makes the list of regulations an open list. In turn, "international standards on the matter in response to the Fourth Transitory Provision of the current Political Constitution" is mentioned. Due to this consideration, including this regulation as part of the environmental law that is also being asserted as not being effectively enforced is not appropriate to be considered as part of the legislation asserted by the Submitters.
26. Likewise, it should be noted that the Submission states that *"the protection provided to the PIACI has been embraced by the legal framework on forest matters headed by Law No. 29763 (Forest and Wildlife Law - "LFFS") and its regulations through articles and provisions that clearly and conclusively prohibit granting forest and wildlife authorization titles in Indigenous Reserves such as the Yavari Tapiche Reserve or in areas in the process for the establishment of Indigenous Reserves, such as the requested Reserve Yavari Mirim Reserve."*
27. In this sense, the legal framework on forest matters, the scope of which is explicitly indicated under the concept of environmental law within the scope of the TPA, includes the requirement of the Submission referring to achieving the effective compliance of the regulations related to the PIACI.
28. Other complementary regulatory provisions or references to lack of enforcement asserted by the Submitters are the following:
- Article 10.1 of the General Administrative Procedure Law, which states that administrative acts that contravene the Constitution, laws or regulations are null and void. In this regard, it should be noted that according to Article III of the Preliminary Title of the General Administrative Procedure Law (LPAG), Law No. 27444, the purpose of this Law is to establish the applicable legal regime so that the actions of the Public Administration serve to protect the general interest, guaranteeing the rights and interests of the general public and subject to the constitutional and legal system in general. Based on this, we can state, in a general way, that the LPAG does not constitute environmental law, under the concept established in the TPA.
 - Acts of the 27th session of the Multisectoral Commission (of Law No. 28736) where agreements were adopted in relation to the redrawing of boundaries of Permanent Production Forests (BPP), as well as the exclusion and cancellation of forest concessions overlapping with the Indigenous Yavari Tapiche Reserve (RIYT). In particular, it is noted that these agreements stated: *“With respect to the overlap with the BPP. Redrawing of the BPP boundaries in favor of the reserve. Regarding the overlap with forest concessions (...) Exclusion procedures (redrawing boundaries) of forest concessions (...) that overlap with the SRIYT (Yavari Tapiche Indigenous Reserve) should be initiated. The Ministry of Culture will coordinate and carry out the necessary follow-up with the competent regional forest*

authority (Loreto Regional Government) and the national forest authorities (SERFOR)". In this regard, it should be noted that, according to what is stated in article 18.14 of the TPA, the concept of environmental law includes laws, regulations and other measures of a Party at the central level of government. This is why the commitments indicated above that are included within the scope of the aforementioned Multisectoral Commission are not included in the concept of environmental law of the TPA³.

- A series of provisions contained in Chapter 18 of the TPA are mentioned, including its objectives, Article 18.11 (3), as well as provisions of Annex 18.3.4, Annex on the management of the forest sector. The reference to these other articles of the TPA is also indicated in the final part of the Submission under analysis. In this regard, it should be noted that the mechanism for Submission on Environmental Enforcement Matters regulated in Articles 18.8 and 18.9 of the TPA is a mechanism aimed at addressing Submissions that claim that a Party is failing to effectively enforce its environmental law. In this sense, this mechanism is not established to deal with submissions referring to the lack of enforcement with the provisions of Chapter 18 of the TPA itself, for which a consultation procedure is established in the Chapter on the Environment in the TPA itself (Article 18.12).

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

29. 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

30. The Submission SACA-SEEM/PE/002/2023, as well as all the additional documentation submitted by the Submitters, is written in Spanish.

31. 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

32. Submission SACA-SEEM/PE/002/2023 was filed by the AIDSEEP organization, which is constituted and registered in Peru (Item 11007275 of the Registry of Legal Entities of the Registry Office of Lima and Callao)

³ It should be noted that in the Annexes of the Submission, the "Act of Agreements and Commitments" (June 6, 2019), Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology (CPAAAAE) of the Congress of the Republic is also mentioned. In any case, what is indicated in this paragraph is also applicable.

33. 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

34. The Submission under analysis offers the following information⁴:

a) Documents sent by AIDSESEP:

- Letter No. 225-2021-Aideseep (September 27, 2021), addressed to the Presidency of the Republic of Peru, the Ministry of Agricultural Development and Irrigation, the Executive Directorate of the National Forest and Wildlife Service (SERFOR), the General Directorate of the Rights of Native Communities of the Ministry of Culture, and the Ombudsman.
- Letter No. 294-2021-Aideseep (November 22, 2021), addressed to the Presidency of the Commission of Andean, Amazonian and Afroperuvian Peoples, Environment, and Ecology (CPAAAAE) of the Congress of the Republic.
- Letter No. 331-2021-Aideseep (December 10, 2021) addressed to the Executive Directorate of SERFOR, as well as General Management of the same entity.
- Letter No. 191-2022-Aideseep (May 20, 2022), addressed to the Executive Directorate of SERFOR
- Letter No. 192-2022-Aideseep (May 24, 2022), addressed to the Comptroller General of the Republic.
- Letter No. 203-2022-Aideseep (May 30, 2022), addressed to the Presidency of the Republic.
- Letter No. 399-2022-AIDSESEP (October 19, 2022) addressed to the Presidency of the CPAAAAE of the Congress of the Republic.
- Letter No. 425-2022-CD-AIDSESEP (November 17, 2022) addressed to the Executive Directorate of SERFOR.

b) Documents sent by ORPIO (an organization that is part of AIDSESEP):

- Letter No. 105-CD-ORPIO-2021 (June 3, 2021), addressed to the Office for Institutional Control of the Government of Loreto.
- Letter No. 125-2021-CD-ORPIO (July 6, 2021), addressed to the Executive Directorate of SERFOR.
- Letter No. 128-2021-CD-ORPIO (July 13, 2021) addressed to the Regional Management for the Development of Forest and Wildlife (GERFOR) of the Regional Government of Loreto (GOREL).
- Letter No. 175-2021-CD-ORPIO (August 17, 2021), addressed to the Presidency of the Republic of Peru, the Ministry of Agricultural Development and Irrigation, the Ministry of Culture, the Executive Directorate of SERFOR.

⁴ These documents have been submitted in the Annex attached to the Submission. The list presented has been organized according to the sender or nature of the document.

c) Documents sent by various authorities:

- Official Letter No. 171-2017-VMI/MC (December 26, 2017), sent by the General Directorate for the Rights of the Indigenous Communities of the Ministry of Culture to the Regional Governor of Loreto.
- Official Letter No. 900067-2018/VMI/MC (September 24, 2018) sent by the Vice-Ministry of Interculturality of the Ministry of Culture to the Regional Governor of Loreto.
- Official Letter No. 357-2018-DP/AMASPPI (October 4, 2018) sent by the Ombudsman for the Environment, Public Services and Indigenous Communities to the Vice-Ministry of Interculturality.
- Official Letter No. 0585-2018-DP/OD-LORETO (October 10, 2018) sent by the Chief of the Loreto Ombudsman Office to the Loreto Regional Governor.
- Official Letter No. 000433-2020-DGPI/MC (May 26, 2020) sent by the General Director for the Rights of Indigenous Communities to the Ministry of Culture to the Regional Governor of Loreto.
- Official Letter No. 1160-2020-2021/CPAAAAE-CR (June 24, 2021) sent by the Presidency of the Commission of Andean, Amazonian and Afroperuvian Peoples, Environment, and Ecology (CPAAAAE) of the Congress of the Republic to the Office of the Prosecutor of the Nation, the Office of the Comptroller General of the Republic, the Office of the Ombudsman, and ORPIO.
- Official Letter No. 228-2020-2021/CPAAAAE-CR (August 3, 2020) sent by la Presidency of the Commission of Andean, Amazonian and Afroperuvian Communities, Environment, and Ecology (CPAAAAE) of the Congress of the Republic to the President of the Regional Government of Loreto.
- Official Letter No. 000656-2020-DGPI/MC (August 20, 2020) sent by the General Director of Indigenous Communities of the Ministry of Culture to the Regional Governor of Loreto.
- Official Letter No. 088-2020-DP/AMASPPI-PPI (September 30, 2020) sent by the Headquarters of the Program of Indigenous Communities of the Loreto Ombudsman Office to Manager of the Regional Government of Development of Forest and Wildlife – GERFOR of the Regional Government of Loreto.
- Multiple Official Letters No. 003-2021-DP/AMASPPI/PPI (July 16, 2021) sent by the Head of the Program of Indigenous Communities to the Regional Governor of the Regional Government of Loreto, the National Superintendent of the National Superintendent of Public Registries, as well as the General Director of the General Directorate of the Rights of Indigenous Communities of the Ministry of Culture.
- Official Letter No. D000254-2021-MIDAGRI-SERFOR-DE, sent by Executive Director of SERFOR to the Regional Manager of the Regional Management of Development of Forest and Wildlife of the Regional Government of Loreto.
- Official Letter No. 090-2022-DP/AMASPPI-PPI (July 8, 2022) sent by the Headquarters of the Program of Indigenous Communities of the Ombudsman to the Regional Governor of Loreto.

d) Acts of Meetings:

- Acts of the “Work Meeting about the Indigenous Reserves - Yavarí Tapiche, Yavarí Mirim, Napo-Tigre, western mountain range of Sierra del Divisor and Kakataibo, and the cross-border community Matsés.”
- "Acts of Agreements and Commitments" (June 6, 2019), Commission of Andean, Amazonian and Afro-Peruvian Communities, Environment and Ecology (CPAAAAE) of the Congress of the Republic.

35. Taking into consideration the documentation submitted by the Submitters, it should be noted that this constitutes sufficient information to allow the Secretariat to review the Submission.
36. Regarding the identification of the environmental law whose failure to be effectively enforced is asserted, this analysis has been carried out in paragraph II B.b. of this Determination; having concluded that, under the scope of the concept of environmental law established in the TPA, the Submission does include the assertion that the environmental law is not being effectively enforced.
37. Based on the above, the Submission SACA-SEEM/PE/002/2023, in accordance with the analysis in this Determination, meets with this admissibility criterion established in Article 18.8 (2) (c).

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

38. Submission SACA-SEEM/PE/002/2023 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.
39. 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;

40. Submission SACA-SEEM/PE/002/2023 provides information on a set of written communications addressed by the Submitters (and by organizations that comprise it) to various relevant entities of the Party. As can be seen, these communications have been presented to the Presidency of the Republic of Peru, the Ministry of Agricultural Development and Irrigation (MIDAGRI), the Executive Directorate of the National Forest and Wildlife Service (SERFOR) of MIDAGRI, the Ministry of Culture (MINCUL), the Vice Ministry of Interculturality and the General Directorate of the Rights of Indigenous Peoples of MINCUL, the Ombudsman's Office, the Comptroller General of the Republic and the Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology (CPAAAAE) of the Congress of the Republic.

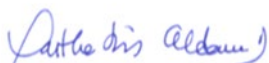
41. At the same time, a set of documents submitted includes documents through which the relevant authorities, exercising their functions, send official communications to other authorities with competences on the subject matter of the Submission.
42. This documentation has been presented in the Annex to the Submission and has been subject to prior analysis in paragraphs 34 and 35 of this Determination.
43. The Secretariat considers that the Submission meets the requirement of Article 18.8 (2) (e).

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

44. Submission SACA-SEEM/PE/002/2023 is filed by the AIDSESEP organization, which is constituted and registered in Peru.
45. The Secretariat considers that the Submission meets the requirement of Article 18.8 (2) (f).

13. DETERMINATION

46. For the reasons stated, the Secretariat considers that Submission SACA-SEEM/PE/002/2023 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