

Washington D.C., April 4, 2023

Submission SACA-SEEM/PE/001/2022

Dear Submitters:

Through this communication, I kindly inform you that, on April 1 of this year, this Secretariat has received the following instructions from the Environmental Affairs Council:

- The Submitters in this case, based on Article 8 of the Understanding for the Implementation of Article 18.8 of the United States-Peru Trade Promotion Agreement (the Understanding), have requested that certain information be treated as confidential and not to be disclosed to the Government of Peru nor to the Government of the United States.
- However, Article 8 of the Understanding concerns the non-disclosure of certain confidential information to the *public*. It does not provide for the non-disclosure of confidential information to the Parties¹. For this reason, the Council considers that the Secretariat may not grant the submitters' request of confidentiality in this case.
- In case the Submitters wish to proceed, the Submission will be provided to the Parties, but the information for which the Submitters have requested confidentiality will be protected from public disclosure in accordance with Article 8.

¹ **Understanding for Implementing Article 18.8 of The United States - Peru Trade Promotion Agreement**

Article 8: Confidentiality

The Secretariat shall not furnish to the public or allow public access to any information it may receive:

- (a) (i) that its submitter has identified as confidential in accordance with the procedures the Council establishes for protecting confidential information;
- (ii) that is not otherwise publicly available; and
- (iii) the disclosure of which could reveal:
 - (1) the submitter's identity and subject the submitter to serious reprisal, or
 - (2) business or proprietary information; or
- (b) from a Party, where the Party has determined that disclosure of the information would impede law enforcement, compromise personal privacy, or reveal confidential business or proprietary information or governmental decision-making.

- Alternatively, the Submitters may withdraw the Submission and explore other options, such as working with a civil society organization to resubmit the Submission in a manner that would not reveal confidential information to the Parties.

Kind regards,



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