

**Submission to the Secretariat for submissions on environmental enforcement matters  
of the USA—PERU Trade Promotion Agreement**

**Failure to effectively enforce the Environmental Law in accordance with the  
USA—Peru Trade Promotion Agreement**



Photo: Illegal logging in the Yavarí Indigenous Reserve and the Sierra del Divisor National Park (AIDSESP, ORPIO and IBC, 2015).

**Submitter:**

Asociación Interétnica para el Desarrollo de la Selva Peruana (AIDSESP)



**AIDSESP**

ASOCIACIÓN INTERÉTNICA  
DE DESARROLLO DE LA  
SELVA PERUANA

**To the Secretariat for Submissions on Environmental Enforcement Matters in accordance with the USA—PERU Trade Promotion Agreement**

**Subject:** Subject: Submission alleging the lack of effective enforcement by the Government of Peru of current environmental legislation and that is part of its legal system (in addition to international standards on the matter regarding the Fourth Transitory Provision of the Current Political Constitution), due to the illegal granting of forty-seven (47) illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, that infringes the explicit prohibition established in the Law of Forest and Wildlife – LFFS (Law No. 29763) and its Regulations. These illegal forest concessions cover approximately 300,000 hectares (3,000 square kilometers) of the survival territory of the Indigenous Peoples in Isolation and said illegal concessions have continued to operate illegally and with total impunity throughout the last seven (07) years.

The Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP) is a national organization representative of the indigenous peoples of the Peruvian Amazon, founded in 1980, representing 64 Amazonian indigenous peoples, 9 regional organizations, 109 federations and 2,439 Amazonian communities, and, above all, owners of approximately 20 million Amazon hectares, which places us as the main forest stakeholder in Peru and one of the main protagonists in the fight against climate change internationally. AIDESEP's objective is to defend and promote respect for the collective rights of the indigenous peoples of the Amazon, as well as to protect the environment, taking into account the worldview and “buen vivir” (good living) of indigenous peoples.

**SUBMISSION**

In accordance with the provisions of Article 18.8 of Chapter 18 of the United States—Peru Trade Promotion Agreement and the provisions of the annexes 18.1<sup>1</sup> and 18.3.4 (combating trade associated with illegal logging) of the United States—Peru Trade Promotion Agreement; We present this submission alleging the lack of effective enforcement, by the Government of Peru, of the environmental legislation in force and that is part of its legal system (in addition to international standards on the matter regarding the Fourth Transitory Provision of the Current Political Constitution), due to the illegal granting of forty-seven (47) illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, infringes the explicit prohibition established in the Law of Forest and Wildlife – LFFS (Law No. 29763) and its Regulations. These illegal forest concessions cover approximately 300,000 hectares (3,000 square kilometers) of the survival territory of the Indigenous Peoples in Isolation and said illegal concessions have continued to operate illegally and with total impunity throughout the last seven (07) years. We request that a Factual Record be prepared regarding this serious violation of the Forest Law, as well as the rights of the PIA.

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<sup>1</sup> Article 18.1: Levels of Protection. Recognizing the sovereign right of each Party to establish its own levels of domestic environmental protection and environmental development priorities, and to adopt or modify accordingly its environmental laws and policies, each Party shall strive to ensure that those laws and policies provide and encourage high levels of environmental protection and shall strive to further improve its respective levels of environmental protection.

## II. COMPLIANCE WITH ADMISSIBILITY CRITERIA

### a. Identification of the interested party

Asociación Interétnica de Desarrollo de la Selva Peruana - AIDSESP, a national indigenous organization that represents Amazonian indigenous peoples, as well as indigenous peoples in isolation and initial contact (PIACI), registered in Record 11007275 of the Registry of Legal Entities of the Registry Office of Lima and Callao-, and with institutional emails:

aidesep@aidesep.net.pe and comunicaciones@aidesep.org.pe Likewise, AIDSESP is duly represented by its president Apu Jorge Pérez Rubio, indigenous man from the Murui people, with DNI 05384225, street address at Av. San Eugenio 981, La Victoria, 15034, Lima province, Peru.

### b. Previous communications

To demonstrate the lack of effective enforcement of environmental legislation by public entities belonging to the Peruvian Government, AIDSESP submitted, in writing:

1) Letter No. 225-2021-Aidesep (September 27, 2021), sent by AIDSESP to the President of the Republic, the Ministry of Agrarian Development and Irrigation (MIDAGRI), the National Forest and Wildlife Service (SERFOR), among others (see: document No. 16 of Annex 1 of this Submission), through which AIDSESP requested that MIDAGRI, SERFOR and the Ministry of Culture enforce Law No. 28736 and its Regulations and follow up to guarantee the compliance with the agreements of the 27<sup>th</sup> session of the Multisectoral Commission (Law 28736) and the provisions of Supreme Decree No. 007-2021-MC regarding the resizing of permanent production forests, the exclusion and cancellation of forest concessions overlapping the Yavarí Tapiche Indigenous Reserve (RIYT);

2) Letter No. 294-2021-Aidesep (November 22, 2021), sent by AIDSESP to the CPAAAAE of the Congress of the Republic (document No. 17 of Annex 1), through which AIDSESP requested that the CPAAAAE convene an urgent meeting between AIDSESP, ORPIO, CPAAAAE, SERFOR, MIDAGRI, MINCUL, the Ombudsman, GOREL and GERFOR, in order to reach agreements regarding the annulment of the 47 illegal forest concessions that overlap the Yavarí Tapiche Indigenous Reserve and the Requested Yavarí Mirim Indigenous Reserve, as well as the exclusion of forest concessions and resizing of the BPP that overlaps with the Yavarí Tapiche Indigenous Reserve created in favor of the Indigenous Peoples in Isolation (PIA);

3) Letter No. 331-2021-Aidesep (December 10, 2021), sent by AIDSESP to the National Forest and Wildlife Service (SERFOR), the governing body for forests at the national level (document No. 18 of Annex 1), through which AIDSESP reiterated the denunciation of the granting by the Regional Government of Loreto (GOREL) of 47 illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the Yavarí Mirim Indigenous Reserve in the process of being created, and reiterated the request to SERFOR to take the necessary actions in compliance with its functions and Legislative Decree No. 1319, in order to declare the annulment of such illegal concessions;

4) Letter No. 191-2022-Aideseq (May 20, 2022), sent by AIDSESEP to SERFOR (document No. 19 of Annex 1), through which AIDSESEP demanded that the validity of the contracts of the 47 forest concessions granted illegally in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve not be extended and that these illegal forest concessions be declared null and void at once;

5) Letter No. 192-2022-Aideseq (May 24, 2022), sent by AIDSESEP to the Comptroller General of the Republic (document No. 20 of Annex 1), through which AIDSESEP requested that the Comptroller General of the Republic carry out control actions immediately and sanction the serious infractions committed by the Regional Government of Loreto (GOREL) for having illegally granted 47 forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve;

6) Letter No. 203-2022-Aideseq (May 30, 2022), sent by AIDSESEP to the President of the Republic (document No. 21 of Annex 1), through which AIDSESEP requested that the President of the Republic and the Presidency of the Council of Ministers (PCM) carry out forceful and extremely urgent actions in order to ensure that the 47 forest concessions granted illegally by the Regional Government of Loreto (GOREL) in the Yavarí Tapiche Indigenous Reserve and the requested Yavari Mirim Indigenous Reserve are annulled at once.

7) Letter No. 399-2022-AIDSESEP (October 19, 2022), sent by AIDSESEP to the CPAAAAE of the Congress of the Republic (document No. 23 of Annex 1), through which AIDSESEP reiterated the request to call an urgent audit hearing regarding the situation of the forest concessions (47 illegal, 19 expired, and others) that affect the Indigenous Peoples in isolation in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve in the process of being created in Loreto;

8) Letter No. 425-2022-CD-AIDSESEP (November 17, 2022), sent by AIDSESEP to SERFOR (document No. 24 of Annex 1), through which AIDSESEP requested to take urgent actions within the framework of its powers regarding illegal forest concessions, expired and others, superimposed on the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve in the process of being created.

Along the same lines, regional indigenous organizations integrated into the organic structure of AIDSESEP, such as the Regional Organization of Indigenous Peoples of the East (ORPIO), an indigenous organization representative of the indigenous peoples of the Loreto region, also presented in writing:

1) Letter No. 105-CD-ORPIO-2021 (June 3, 2021), sent by ORPIO to the Institutional Control Body (OCI) of the Regional Government of Loreto - GOREL (document No. 11 of Annex 1), through which ORPIO reported on actions carried out before the Office of the Comptroller of the Republic, the Congress of the Republic and the Ombudsman, and requested that they take the necessary measures to ensure that the 43 forest concessions granted illegally by GOREL and GERFOR are annulled in the requested Yavarí Mirim Indigenous Reserve and the 4 forest concessions granted

illegally by GOREL and GERFOR in the Yavarí Tapiche Indigenous Reserve created in favor of the Indigenous Peoples in Isolation (PIA) in Loreto;

2) Letter No. 125-2021-CD-ORPIO (July 6, 2021), sent by ORPIO to SERFOR (document No. 12 of Annex 1), through which ORPIO requested that SERFOR comply with the agreements reached during the meeting held in the Congress of the Republic on June 6, 2019, regarding the 47 forest concessions illegally granted by GOREL-GERFOR in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve;

3) Letter No. 128-2021-CD-ORPIO (July 13, 2021), sent by ORPIO to GOREL-GERFOR (document No. 13 of Annex 1), through which ORPIO urged GOREL-GERFOR to declare the nullity of the 47 illegal forest concessions granted illegally in the Indigenous Reserves established and in the process of being created in favor of the Indigenous Peoples in Isolation; and to comply with the explicit prohibition established in the Law of Forest and Wildlife;

4) Letter No. 175-2021-CD-ORPIO (August 17, 2021), sent by ORPIO to SERFOR, MIDAGRI, the President of the Republic, among others (document No. 15 of Annex 1), through which ORPIO reiterated the denunciation of the granting by the Regional Government of Loreto of 47 illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the Yavarí Mirim Indigenous Reserve in the process of being created, and reiterated the request to SERFOR to take the necessary actions in compliance with its functions and DL 1319, in order to declare the full nullity of such illegal concessions.

Likewise, various entities of the Peruvian Government itself also presented formal written communications regarding the illegal forest concessions granted illegally by GOREL:

1) Official letter No. 171-2017-VMI/MC (December 26, 2017), sent by the Ministry of Culture to GOREL (document No. 1 of Annex 1), through which the Ministry of Culture indicated the prohibition of granting of forest and wildlife authorization titles in areas in process for the establishment of reserves for peoples in voluntary isolation or in initial contact;

2) Official letter No. 900067-2018/VMI/MC (September 24, 2018), sent by the Ministry of Culture to GOREL (document No. 2 of Annex 1), through which the Ministry of Culture informed about the preventive measures for the protection of indigenous peoples within the framework of the forest zoning process of the Loreto region;

3) Official Letter No. 357-2018-DP/AMASPPI (October 4, 2018), sent by the Ombudsman to the Ministry of Culture (document No. 3 of Annex 1), through which the Ombudsman reported on the overlapping of forest concessions with areas in process for the establishment of reserves in favor of the PIACI;

4) Official Letter No. 0585-2018-DP/OD-LORETO (October 10, 2018), sent by the Ombudsman to GOREL (document No. 4 of Annex 1), through which the Ombudsman reported on the

overlapping of forest concessions with areas in process for the establishment of reserves in favor of the PIACI;

5) Act "Work meeting on the Yavarí Tapiche, Yavarí Mirim, Napo-Tigre, Sierra del Divisor Occidental and Kakataibo Indigenous Reserves; and the Matsés cross-border community - ACT OF AGREEMENTS AND COMMITMENTS" (June 6, 2019), of the Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology (CPAAAAE) of the Congress of the Republic (document No. 5 of Annex 1 ), in which several Government entities, including SERFOR itself, reached agreements for the protection of the rights of the PIACI in the context of granting illegal forest concessions in their territories;

6) Official letter No. 000433-2020-DGPI/MC (May 26, 2020), sent by the Ministry of Culture to GOREL (document No. 6 of Annex 1), through which the Ministry of Culture presented instructions on the restart of forest exploitation activities in the Loreto region, specifically with respect to forest concessions granted that infringe the explicit prohibition established by the Forest Law, which are "null and void";

7) Official Letter No. 1160-2020-2021/CPAAAAE-CR (June 24, 2021), sent by the CPAAAAE of the Congress of the Republic to the Prosecutor of the Nation, the Comptroller General of the Republic and the Ombudsman (document No. 7 of Annex 1), through which the CPAAAAE of the Congress of the Republic requested intervention to prevent exposure to danger of death or serious and imminent damage to the health of Peoples in Isolation that inhabit the requested Yavarí Mirim Indigenous Reserve;

8) Official letter No. 228-2020-2021/CPAAAAE-CR (August 3, 2020), sent by the CPAAAAE of the Congress of the Republic to GOREL (document No. 8 of Annex 1), through which the CPAAAAE of the Congress of the Republic requested a report on the measures adopted to declare the annulment of the forest permitting titles granted on PIACI territories and the implementation of cordons sanitaires;

9) Official letter No. 000656-2020-DGPI/MC (August 20, 2020), sent by the Ministry of Culture to GOREL (document No. 9 of Annex 1), through which the Ministry of Culture reiterated the request for nullity of forest concessions granted contrary to the provisions of Law No. 29763 in the Loreto region and requested information;

10) Official Letter No. 088-2020-DP/AMASPPI-PPI (September 30, 2020), sent by the Ombudsman's Office to GOREL-GERFOR (document No. 10 of Annex 1), through which the Ombudsman's Office requested information regarding the protection measures for the Peoples in Isolation and Initial Contact of the department of Loreto, in relation to the forest concessions;

11) Multiple Official Letter No. 003-2021-DP/AMASPPI/PPI (July 16, 2021), sent by the Ombudsman to GOREL (document No. 14 of Annex 1), through which the Ombudsman reported on the granting of forest concessions in the Yavarí Tapiche Indigenous Reserve and in the areas in process for the establishment of the Yavarí Mirim Indigenous Reserve;

Official Letter No. 090-2022-DP/AMASPPI-PPI (July 8, 2022), sent by the Ombudsman to GOREL (document No. 22 of Annex 1), through which the Ombudsman again reported on the granting of forest concessions in the Yavarí Tapiche Indigenous Reserve and in the areas in process for the establishment of the Yavarí Mirim Indigenous Reserve.

The complete list and a digital copy of these documents can be found in Annex 1 of this submission.

In summary, since the granting of the illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, AIDSEP and ORPIO have submitted innumerable formal communications to the competent authorities, including the Regional Government of Loreto (GOREL), the National Forest and Wildlife Service (SERFOR), the Ministry of Agrarian Development and Irrigation (MIDAGRI), the Comptroller General of the Republic, the Prosecutor's Office, among others. Likewise, various entities of the Government itself have also submitted numerous communications to GOREL and SERFOR, among others, such as the Ministry of Culture (MINCU), the Ombudsman's Office (DP) and the Commission of Andean, Amazonian, Afro-Peruvian, Environment and Ecology Peoples (CPAAAAE), among others (see Annex 1: "Anexo Documentacion Relevante Solicitud AIDSEP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf").

### C) Identification of the facts that comprise the lack of effective enforcement of environmental legislation

As previously stated in this report, the Loreto Regional Government (GOREL) has granted at least 47 forest concessions that were ILLEGALLY granted in the Yavarí Tapiche Indigenous Reserve, whose creation process concluded with the publication of Supreme Decree No. 007-2021-MC<sup>2</sup> and the requested Yavarí Mirim Indigenous Reserve in the process of being created in favor of the Indigenous Peoples in Isolation (PIA) recognized by Supreme Decree No. 002-2018-MC<sup>3</sup>.

In this regard, the national legal framework that provides protection to the rights of Indigenous Peoples in Isolation (PIA) headed/covered by Law No. 28736<sup>4</sup>, specifies constitutional rights, as well as the obligations acquired by the country through an International Regulatory Framework<sup>5</sup>. Said protection provided to the PIAI has been embraced by the legal framework in forest matters headed/covered by Law No. 29763 (Law of Forest and Wildlife – “LFFS”) and its regulations, through articles and provisions that clearly and forcefully prohibit the granting of

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<sup>2</sup>Available at: <https://busquedas.elperuano.pe/download/url/decreto-supremo-que-declara-la-categorizacion-de-la-reserva-decreto-supremo-no-007-2021-mc-1942689-2>

<sup>3</sup>Available at: [https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-el-reconocimiento-de-los-pueblos-decreto-supremo-n-002-2018-mc-1626765-3/#:~:text=N%C2%BA%20002%2D2018%2Dmc&text=ij\)%20Pueblos%20ind%C3%ADgenas%20en%20situaci%C3%B3n,la%20Reserva%20Ind%C3%ADgena%20Yavar%C3%AD%20Mirim](https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-el-reconocimiento-de-los-pueblos-decreto-supremo-n-002-2018-mc-1626765-3/#:~:text=N%C2%BA%20002%2D2018%2Dmc&text=ij)%20Pueblos%20ind%C3%ADgenas%20en%20situaci%C3%B3n,la%20Reserva%20Ind%C3%ADgena%20Yavar%C3%AD%20Mirim)

<sup>4</sup>“Law for the protection of indigenous or native peoples in isolation and in a situation of initial contact”, its Regulations approved by D.S. No. 008-2007-MIMDES, and many norms that develop it.

<sup>5</sup>Comprised by "Convention 169 of the International Labor Organization" treaty ratified by Peru by Legislative Resolution No. 26253, the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples.



forest and wildlife authorization titles, in Indigenous Reserves such as the Yavarí Tapiche Reserve or in areas in process for the establishment of Indigenous Reserves, such as the requested Yavarí Mirim Reserve, a prohibition that has been in force since October 1, 2015.

However, the Regional Government of Loreto (GOREL) through its forest management office (Regional Management of Forest and Wildlife Development - GERFOR) flagrantly and with impunity violates both legal frameworks, which endangers the lives of our brothers and sisters in isolation. What is worse, this has been happening to date without the National Forest and Wildlife Service (SERFOR) applying the legal protection mechanisms available to it to counteract violations by GOREL, and which are different from the notification of letters and requests that up to now have been carried out without having any effectiveness or response from the transgressor GOREL.

On This matter, we must repeatedly point out that in recent years the Regional Government of Loreto (GOREL), through its Regional Management of Forest and Wildlife Development (GERFOR), has been issuing authorization titles for forest use in territories that are delimited - or in process - in favor of the Indigenous Peoples in Isolation (PIA) called Indigenous Reserves, despite the fact that the current Law of Forest and Wildlife - Law No. 29763<sup>6</sup>, in its Fifth Final Complementary Provision<sup>7</sup>, as well as in its Regulations<sup>8</sup>, establishes the prohibition of granting forest and wildlife authorization titles in Indigenous Reserves or Territorial Reserves for PIACI created or in process.

In this regard, up to the present month of March 2023, at least forty-seven (47) forest concessions have been identified that were illegally granted in the Yavarí-Tapiche Indigenous Reserve and the Yavarí-Mirim Indigenous Reserve requested by the Regional Government of Loreto (GOREL), infringing the provisions of the aforementioned articles of the Law of Forest and Wildlife and its Regulations.

Accordingly, the Regional Government of Loreto (GOREL) has violated the national forest regulations when the Law of Forest and Wildlife and its Regulations were already in force due to the fact that it has been shown that since October 1, 2015 to the present, it has granted 43 illegal forest concessions in the area requested to constitute the Yavarí Mirim Indigenous Reserve; and 4 illegal forest concessions in the Yavarí Tapiche Indigenous Reserve.

In addition, these facts constitute not only a set of legal transgressions but have generated a serious and imminent risk to the life, health and integrity of Indigenous Peoples in Isolation (PIA), who are in an extreme situation of immunological, social, and cultural vulnerability, even more so in a context of a health emergency such as the current Covid-19 pandemic.

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<sup>6</sup> Law No. 29763, Law of Forest and Wildlife is in force from July, 2011. The Regulations of said Law of Forest and Wildlife are in force from October, 2015. See: <https://www.serfor.gob.pe/portal/wp-content/uploads/2016/03/LFFS-Y-SUS-REGLAMENTOS.pdf>

<sup>7</sup> Law No. 29763, Law of Forest and Wildlife Fifth Final Complementary Provision . “(...) Forest and wildlife authorization titles are not granted in areas in the process of recognition, titling or expansion of farming 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”.

This serious complaint has been communicated by AIDSEP and ORPIO (the Regional Organization of Indigenous Peoples of the East, affiliated with AIDSEP) on numerous occasions to SERFOR, the Prosecutor's Office<sup>9</sup>, the Comptroller's Office<sup>10</sup>, and GOREL, which has been requested to annul these 47 illegal forest concessions immediately<sup>11</sup>.

Likewise, the Ministry of Culture<sup>12</sup>, as well as the Ombudsman's Office<sup>13</sup> and the Commission of Andean, Amazonian, Afro-Peruvian, Environment and Ecology Peoples (CPAAAAE) of the Congress of the Republic<sup>14</sup> have sent official letters in at least 7, 5 and 6 occasions respectively.

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lation and in a situation of initial contact", its Regulations approved by D.S. No. 008-2007-MIMDES, and many norms that develop it.

<sup>9</sup>Comprised by "Convention 169 of the International Labor Organization" treaty ratified by Peru by Legislative Resolution No. 26253, the United Nations Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples.

<sup>10</sup> Law No. 29763, Law of Forest and Wildlife is in force from July, 2011. The Regulations of said Law of Forest and Wildlife are in force from October, 2015. See: <https://www.serfor.gob.pe/portal/wp-content/uploads/2016/03/LFFS-Y-SUS-REGLAMENTOS.pdf>

<sup>11</sup> **Law No. 29763, Law of Forest and Wildlife Fifth Final Complementary Provision . "(...) Forest and wildlife authorization titles are not granted in areas in the process of recognition, titling or expansion of farming 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".**

<sup>11</sup> See: Article 60 of Supreme Decree N° 021-2015-MINAGRI, the Fifth Final Complementary Provision of Law N° 29763 (Law of Forest and Wildlife), and Article 70 of Supreme Decree N° 018-2015-MINAGRI.

**Supreme Decree N° 021-2015-MINAGRI - Regulations for Forest and Wildlife Management in Native Communities and Rural Communities: Article 60. "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.**

**Additionally, we indicate that Article 70 of the Regulation for Forest Management, approved by Supreme Decree N 18-2015-MINAGRI, states that 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 farming communities, including what is established in the Fifth Final Complementary Provision of the Law."**

<sup>11</sup> See: OFFICIAL LETTER No. 1160-2020-2021/CPAAAAE-CR (June 24, 2021); OFFICIAL LETTER No. 114-2022-JUS/PGE-PPAD-LORETO (July 13, 2022); Letter No. 269-2022-Aidesepp (July 14, 2022); and Letter No. 128-2021-CD-ORPIO (July 13, 2021).

<sup>11</sup> See: OFFICIAL LETTER No. 1160-2020-2021/CPAAAAE-CR (June 24, 2021); OFFICIAL LETTER No. 0208-2021-CG/GRLO-OCIGRL (July 15, 2021); OFFICIAL LETTER No. 257-2021-CG/GRLO-OCIGRL (August 6, 2021); Letter No. 178-2021-CD-ORPIO (August 30, 2021); and Letter No. 192-2022-Aidesepp (May 24, 2022) formally received by the Comptroller with Record No. 0820220060902.

<sup>11</sup> See: Letters No.175-2021-CD-ORPIO (August 17, 2021), No. 128-2021-CD-ORPIO (July 13, 2021), No. 09-2019-CD-ORPIO and 10-2019-CD-ORPIO (February 04, 2019), Letters No. 06-2019-CD-ORPIO, 07-2019-CD-ORPIO, 08-2019-CD-ORPIO and 11-2019-CD-ORPIO (February 05, 2019), Letter No. 17-2019-CD-ORPIO (March 07, 2019), Letter No. 73-2019-CD-ORPIO (August 27, 2019), Letter No. 78-2019-CD-ORPIO (August 27, 2019), Letter No. 100-2019-CD-ORPIO (October 21, 2019), Letter No. 136-2019-CD-ORPIO (December 16, 2019), Letter No. 001-2020-CD-ORPIO (January 21, 2020), Letter No. 99-2020-CD-ORPIO (May 11, 2020), Letter No. 130-2020-CD-ORPIO (June 19, 2020), Letter No. 165-2020-CD-ORPIO (August 07, 2020), Letter No. 167-2020-CD-ORPIO (August 11, 2020), Letter No. 170-2020-CD-ORPIO (August 18, 2020), Letter No. 142-2020-CD-ORPIO (July 07, 2020), Letter No. 217-2020-CD-ORPIO (October 09, 2020), Letter No. 87-CD-ORPIO-2021 (May 10, 2021), Letter No. 89-CD-ORPIO-2021 (May 17, 2021), Letter No. 90-CD-ORPIO-2021 (May 17, 2021), Letter No. 91-CD-ORPIO-2021 (May 17, 2021), Letter No. 92-CD-ORPIO-2021 (May 17, 2021), Letter No. 99-CD-ORPIO-2021 (May 25, 2021), Multiple Official Letters No. 001-CD-ORPIO-2021 (May 31, 2021), Letter No. 225-2021-Aidesepp (September 27, 2021), Letter No. 331-2021-Aidesepp (December 10, 2021), Letter No. 191-2022-Aidesepp (May 20, 2022), Letter No. 192-2022-Aidesepp (May 24, 2022), Letter No. 203-2022-Aidesepp (May 30, 2022), Letter No. 269-2022-Aidesepp (July 14, 2022), Letter No. 399-2022-AIDSEPP (October 19, 2022), Letter No. 425-2022-CD-Aidesepp (November 07, 2022), Letter No. 028-2023-Aidesepp (January 25, 2023), Letter No. 029-2023-Aidesepp (January 25, 2023), and Letter No. 030-2023-Aidesepp (January 25, 2023), among others.

<sup>12</sup> See: Official Letter No. 171-2017-VMI/MC and Report No. 000201-2017/DGPI/VMI/MC (December 26, 2017), Multiple Official Letters No. 112-2017-DGPI/VMI/MC, Official Letter No. 900067-2018/VMI/MC, Official Letter No. D000083-2019-DGPI/MC and Report No. D000023-2019-DGPI/MC (June 06, 2019), Official Letter No. 000064-2020-VMI/MC, Official Letter No. 000433-2020-DGPI/MC (May 26, 2020) and Official Letter No. 000656-2020-DGPI/MC (August 20, 2020), among others.

<sup>13</sup> See: Official Letter No. 357-2018-DP/AMASPP (October 05, 2018), Official Letter No. 0585-2018-DP/OD-LORETO (October 10, 2018), Official Letter No. 088-2020-DP/AMASPP-PPI (September 30, 2020), Multiple Official Letters No. 003-2021-DP/AMASPP/PPI (July 16, 2021), and Official Letter No. 090-2022-DP/AMASPP-PPI (July 08, 2022).

<sup>14</sup> See: Official Letter No. 226-2020-2021/CPAAAAE-CR (July 31, 2020), Official Letter No. 228-2020-2021/CPAAAAE-CR (August 03, 2020), OFFICIAL LETTER No. 260-2020-2021/CPAAAAE-CR (August 07, 2020), Official Letter No. 992-2018-2019/CPAAAAE-CR, OFFICIAL LETTER No. 00393-2020-2021/CPAAAAE-CR (November 03, 2020), and OFFICIAL LETTER No. 1160-2020-2021/CPAAAAE-CR (June 24, 2021), among others.

Likewise, AIDSEP and ORPIO have submitted numerous letters to SERFOR<sup>15</sup>, so that, in its capacity as the national governing body for forest activities, it can carry out the necessary actions before GOREL-GERFOR, in compliance with Article 7 of Legislative Decree No. 1319, in order to declare the full nullity of the 47 forest concessions illegally granted in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve<sup>16</sup>.

It should be noted that Article 7 of Legislative Decree No. 1319<sup>17</sup> authorizes SERFOR to suspend administrative procedures in charge of forest and wildlife authorities or stop actions that affect or put at risk the sustainable use or conservation of forest heritage and of wildlife, in the event of non-compliance with forest and wildlife legislation, which are requirements that are fully met in the present case of ILLEGAL forest concessions granted that infringe the Forest Law.

In addition, there is a final ruling (of OBLIGATORY (sic) compliance) of the Judicial Power pronounced in the lawsuit with File No. 00299-2020-0-1903-JR-CI-02, through which the Judge of the 2nd CIVIL COURT - Headquarters of the Superior Court of Justice of Loreto orders GOREL-GERFOR (See: Resolution No. 14 of November 4, 2022): “I ORDER GERFOR and GOREL to refrain from initiating a process of granting and/or reactivation of forest concessions in the scope of the indigenous reserves requested “Yavarí Tapiche”, “Yavarí Mirim”, “Napo Tigre” and “Sierra del Divisor Occidental”. (...) I order the Regional Government of Loreto and the Regional Management of Forest and Wildlife Development not to incur in the actions or omissions that motivated the filing of this lawsuit, that is, not to grant, reactivate, grant concessions, create, establish or form forest concessions, forest exploitation units or forest authorization titles in areas in process for the establishment of (Indigenous Reserves), under penalty of progressive and compulsory fines without prejudice to criminal liability, with procedural costs”. It should be noted that this final ruling of the Judiciary is MANDATORY compliance.

However, illegal forest concessions continue to exist and operate illegally and with total impunity in the survival territories of the Yavarí Tapiche and Yavarí Mirim PIAs, to this day.

AIDSEP and ORPIO have knocked on the doors of all competent institutions to take action on this serious complaint. However, we have obtained responses of indifference from the Government or that it is reduced to simple transfers of official letters without finding forceful responses to this offense against the rights of our indigenous brothers in isolation.

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<sup>15</sup> Letter No. 130-2021-CD-ORPIO, formally received by the SERFOR con Record N° 2021-0024519 and dated July 14, 2021; Letter No. 175-2021-CD-ORPIO, formally received by SERFOR with Record No. 2021-0029136 and dated August 17, 2021, Letter No. 294-2021-AIDSEP, formally received by SERFOR with Record No. 2021-0043428 and dated November 22, 2021; Letter No. 331-2021-Aidese (December 10, 2021), formally received by SERFOR with Record No. 2021-0046653 and dated December 10, 2021; and, Letter No. 425-2022-CD-AIDSEP (November 07, 2022), formally received by SERFOR with Record No. 2022-0046363 and dated November 07, 2022.

<sup>16</sup> For more information regarding the 47 illegal forest concessions granted illegally by the GOREL-GERFOR in the Yavarí Tapiche Indigenous Reserve and requested Yavarí Mirim Indigenous Reserve, see Letter No. 128-2021-CD-ORPIO and its annexes (formally received by SERFOR with Record No. 2021-0024510 and dated July 14, 2021).

<sup>17</sup> 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.

These 47 illegal forest concessions that were illegally granted by GOREL in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, that infringe the explicit prohibition established in the Forest Law itself and its Regulations, cover almost 300,000 hectares (three thousand square kilometers) of the territory of our indigenous brothers in isolation and these illegal concessions have continued to operate illegally and with total impunity throughout the last seven years.

In addition, regarding the Yavarí Tapiche Indigenous Reserve created on April 10, 2021, after a long process of almost eighteen (18) years of struggle by indigenous organizations, the Yavarí Tapiche Indigenous Reserve was finally established. by Supreme Decree No. 007-2021-MC<sup>18</sup>. However, said reserve was created with ten forest concessions and a zone of Permanent Production Forest (BPP) within its area that corresponds to the survival territory of our indigenous brothers in isolation.

It should be noted that in the Act of the 27th session of the Multisectoral Commission (of Law No. 28736) formal agreements were made regarding the resizing of permanent production forests (BPP), the exclusion and cancellation of overlapping forest concessions to the Yavarí Tapiche Indigenous Reserve (RIYT)<sup>19</sup>. The formal agreements of the Multisectoral Commission specified, “Respect for the overlap with the BPP. Resizing of the BPP area in favor of the reserve. Regarding the overlap with forest concessions (...) Exclusion procedures (resizing) of forest concessions (...) that overlap with the SRIYT (Yavarí 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 concessions authorities (SERFOR)”.

In this sense, it is important to emphasize that the Indigenous Reserves established in favor of the Indigenous Peoples in Isolation are intangible, according to the human rights regulations at the national and international level, and therefore logging activities can no longer be carried out within the Yavarí Tapiche Indigenous Reserve and must proceed immediately to comply with the agreements of the Multisectoral Commission of the Law N° 28736 regarding the resizing of the BPP and the exclusion of forest concessions overlapping on said reserve. It should be noted that GOREL itself, as well as SERFOR, approved and signed said Act and formal agreements of the Multisectoral Commission, with respect to the exclusion of forest concessions overlapping with the Yavarí Tapiche Indigenous Reserve. However, to this day, GOREL has been totally reluctant to comply with such formal agreements of the PIACI Multisectoral Commission.

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<sup>18</sup> Available at <https://busquedas.elperuano.pe/download/url/decreto-supremo-que-declara-la-categorizacion-de-la-reserva-decreto-supremo-no-007-2021-mc-1942689-2>

<sup>19</sup> See: ACT OF THE TWENTY-SEVENTH SESSION OF THE MULTI-SECTORAL COMMISSION IN CHARGE OF THE RECOGNITION OF INDIGENOUS OR ORIGINAL PEOPLES IN SITUATION OF ISOLATION AND IN SITUATION OF INITIAL CONTACT AND CATEGORIZATION OF INDIGENOUS RESERVES (January 29, 2021).

Over the last two years, both ORPIO and AIDSESP<sup>20</sup> as well as the Ministry of Culture<sup>21</sup> have sent numerous letters to GOREL and SERFOR demanding that these aforementioned agreements of the Multisectoral Commission be fulfilled, in an extremely urgent manner, in order to exclude forest concessions and resize the BPP superimposed/that overlaps with on the Yavarí Tapiche Indigenous Reserve. However, no response has been received from GOREL, thus effectively ignoring its responsibility and legal obligation as the regional governing body for forests and leaving the Indigenous Peoples in Isolation in a state of defenselessness and extreme vulnerability in the face of these forest concessions and permanent production forests superimposed on their survival territory.

Therefore, we strongly and repetitively request GOREL-GERFOR and SERFOR to coordinate and carry out all the necessary actions in order to ensure that these 47 illegal forest concessions<sup>22</sup> are annulled once and for all<sup>22</sup>, which, according to the Ministry itself of Culture, the Ombudsman's Office and the Commission of Amazonian, Andean, Afro-Peruvian Peoples, the Environment and Ecology (CPAAAAE) of the Congress of the Republic, are “null and void<sup>23</sup>”.

Likewise, we request that you take the necessary actions to follow up in order to ensure compliance with Law No. 28736 and its Regulations, as well as the agreements of the 27th session of the Multisectoral Commission (Law 28736) regarding the resizing of the permanent production forest (BPP), the exclusion and annulment of forest concessions superimposed on the Yavarí Tapiche Indigenous Reserve (RIYT).

Map of illegal forest concessions that are superimposed on the  
Yavarí Tapiche Indigenous Reserve<sup>24</sup>

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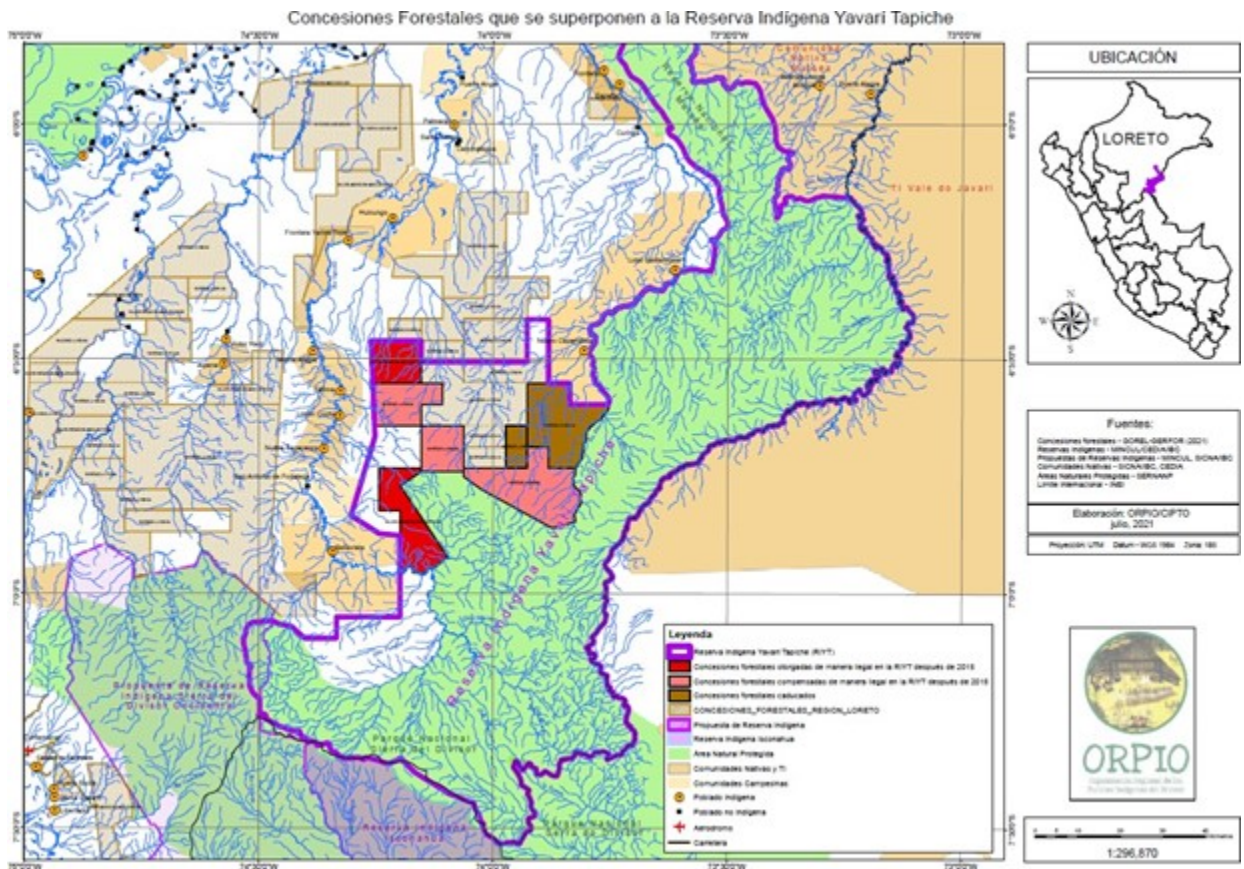
<sup>20</sup> See: Letter No. 123-2021-CD-ORPIO (June 30, 2021), Letter No. 124-2021-CD-ORPIO (June 30, 2021), Letter No. 225-2021-Aidesepp (September 27, 2021); and Letter No. 11-2022-CD-ORPIO (January 20, 2022).

<sup>21</sup> See: MULTIPLE OFFICIAL LETTERS No. 000207-2021-DGPI/MC (May 14, 2021), MULTIPLE OFFICIAL LETTERS No. 000369-2021-DGPI/MC (July 05, 2021); and MULTIPLE OFFICIAL LETTERS No. 000412-2021-DGPI/MC (November 30, 2021).

<sup>22</sup> See: <https://ojo-publico.com/3538/concesiones-forestales-amenazan-indigenas-en-aislamiento-del-yavari>  
<https://hilldavid.substack.com/p/doesnt-germanys-development-bank> <https://hilldavid.substack.com/p/perus-president-requests-action-on>  
<https://hilldavid.substack.com/p/indigenous-federations-in-peru-urge> <https://hilldavid.substack.com/p/huge-new-indigenous-reserve-in-peru>

<sup>23</sup> See: Official Letter No. 000433-2020-DGPI/MC (May 26, 2020) and Official Letter No. 000656-2020-DGPI/MC (August 20, 2020), as well as Multiple Official Letters No. 003-2021-DP/AMASPPI/PPI (July 16, 2021), Official Letter No. 090-2022-DP/AMASPPI-PPI (July 08, 2022), and OFFICIAL LETTER No. 1160-2020-2021/CPAAAAE-CR (June 24, 2021), among others.

<sup>24</sup> See: Document No. 25 of Annex 1 of this Submission, “Anexo Documentacion Relevante Solicitud AIDSESP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf”.



### List of forest concessions superimposed on Indigenous Reserves Yavarí Tapiche<sup>25</sup>

Table 1: Concessions overlapping with on Yavarí Tapiche Indigenous Reserve

\*Expired concessions underlined in green

\*Illegal concessions underlined in red

No.	Concessionaire	Contract Number	Year Granted	Current state	Expired Concessions	Illegal Concessions
1	Industrial Maderera JRAK SAC	16-LOR-REQ/CON-MAD-2017-019	2017	Current		X
2	Inversiones Forastero EIRL	16-LOR-REQ/CON-MAD-2017-015	2017	Current		X

<sup>25</sup> See: Document No. 26 of Annex 1 of this Submission, "Anexo Documentacion Relevante Solicitud AIDSESP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf".

3	Multiventas Anabel EIRL	16-REQ/C-J-036-04	Originally granted in 2004, then compensated and relocated to another area within the RIYT, ILLEGALLY, during 2016			X
4	Eusebio de la Cruz Espinoza (Inversiones El Forastero EIRL)	16-REQ/C-J-088-04	Originally granted in 2004, then compensated and relocated to another area within the RIYT, ILLEGALLY, during 2016	Current		X
5	Inversiones El Forastero	16-REQ/C-D-023-14	2014	Expired	X	
6	Manuel Lavi Taboada	16-REQ/C-J-058-04	2004	Expired	X	
7	Caleb Respaldiza Santillan	16-REQ/C-J-239-04	2004	Current		
8	Caleb Respaldiza Santillan	16-REQ/C-J-190-04	2004	Current		
9	Raul Rengifo Ramirez	16-REQ/C-D-010-14	2014	Current		
10	Industrial Maderera JRAK SAC	16-REQ/C-D-024-14	2014	Current		
	Total illegal concessions					4

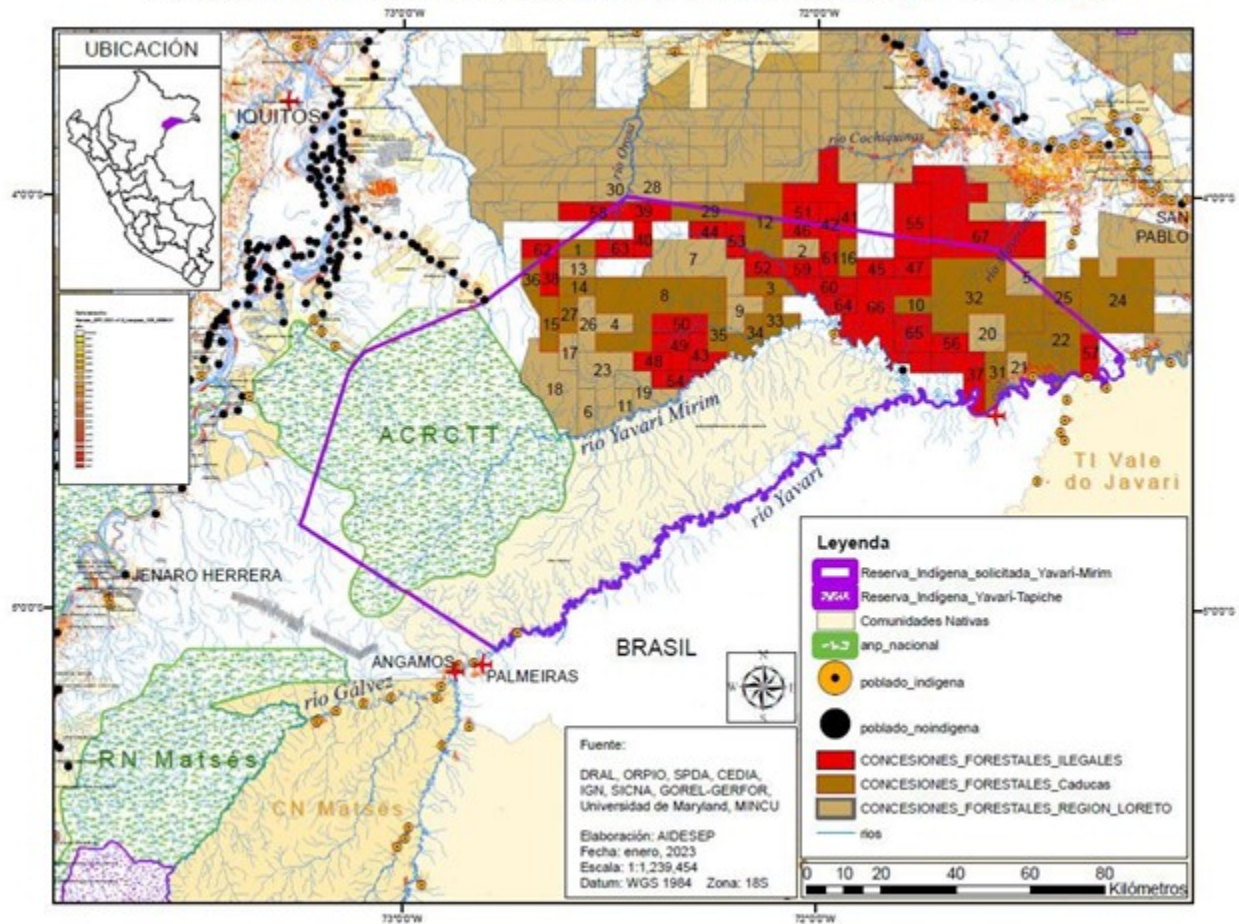
Total illegal concessions overlapping with the Yavarí Tapiche Indigenous Reserve: 4

Map of illegal forestry concessions that overlap with the requested Yavarí Mirim Indigenous Reserve<sup>26</sup>

<sup>26</sup> See: Document No. 27 of Annex 1 of this Submission, "Anexo Documentacion Relevante Solicitud AIDSESEP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf".



## Concesiones forestales superpuestas a la Reserva Indígena solicitada Yavari Mirim





**List of forest concessions superimposed on the requested Yavarí Mirim Indigenous Reserves<sup>27</sup>**

Table 1: Concessions overlapping with on Yavarí Tapiche Indigenous Reserve

N°	Concessionaire	Contract Number	Year Granted	Current state	Expired Concessions
1	Eslander Hoyos Aguila	16-IQU/C-J-004-04	2004	Expired <sup>28</sup>	X
2	Evideadio Ramirez Inuma	16-IQU/C-J-034-04	2004	Current	
3	Felipe Portocarrero Romero	16-IQU/C-J-035-04	2004	Expired <sup>29</sup>	X
4	Manuel Alberto Torres Tello	16-IQU/C-J-041-04	2004	Current <sup>30</sup>	
5	Leonardo Paima Salas	16-IQU/C-J-043-04	2004	Current	
6	Gemita Perez Gonzales	16-IQU/C-J-048-04	2004	Current	
7	Ramiro Edwin Barrios Galván	16-IQU/C-J-056-04	2004	Current	
8	Maderera Barrios SRL	16-IQU/C-J-057-04	2004	Expired <sup>31</sup>	X
9	Enith Villanueva Ríos	16-IQU/C-J-059-04	2004	Current	
10	Jorge Guerra Upiachihua	16-IQU/C-J-060-04	2004	Expired <sup>32</sup>	X
11	Jorge Melendez Olórtogui	16-IQU/C-J-062-04	2004	Current	
12	Teodulfo Palomino Ludeña	16-IQU/C-J-065-04	2004	Expired <sup>33</sup>	X

<sup>27</sup> See: Document No. 28 of Annex 1 of this Submission, "Anexo Documentacion Relevante Solicitud AIDSESEP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf".

<sup>28</sup> Information from "OSINFOR-SIGO Observatory/Registry of Owner/Awardee/Grantee with sanctions and/or expiration <https://observatorio.osinfor.gob.pe/SancionCaducidad>

<sup>29</sup> Ibid

<sup>30</sup> Ibid

<sup>31</sup> Ibid

<sup>32</sup> Ibid

<sup>33</sup> Ibid

13	Triplay Iquitos SAC	16-IQU/C-J-066-04	2004	Current	
14	Quelita Elizabeth Oyarce Ríos	16-IQU/C-J-075-04	2004	Expired	X
15	Laizamon Torres Cumapa	16-IQU/C-J-076-04	2004	Expired	X
16	Maderas Industriales Pacheco SAC	16-IQU/C-J-077-04	2004	Expired	X
17	Cynthia Vanesa Tirado Muñoz de Miranda	16-IQU/C-J-103-04	2004	Current	
18	Alto Yavarí de Aprovechamiento Forestal y Manejo Sostenible SAC	16-IQU/C-J-118-04	2004	Current	
19	Alto Yavarí de Aprovechamiento Forestal y Manejo Sostenible SAC	16-IQU/C-J-119-04	2004	Current	
20	Forestal Industrial Yavarí	16-IQU/C-J-140-04	2004	Current	
21	Forestal Industrial Yavarí	16-IQU/C-J-141-04	2004	Current	
22	Forestal San Vicente SAC	16-IQU/C-J-167-04	2004	Expired	X
23	LHJ Exportadores Importadores Selva SRL	16-IQU/C-J-174-04	2004	Current	

24	Forestal del Mayuruna SAC	16-IQU/C-J-187-04	2004	Expired <sup>34</sup>	X
25	Industrial Maderera SAC	16-IQU/C-J-200-04	2004	Expired	X
26	Jose Luis Bicerra Reátegui	16-IQU/C-J-206-04	2004	Current	
27	Inmader Mosihe EIRL	16-IQU/C-J-209-04	2004	Expired	X
28	Complejo Maderero Nanay <sup>35</sup>	16-IQU/C-J-221-04	2004	Current	
29	Jaime Bicerra Reátegui	16-IQU/C-J-232-04	2004	Expired <sup>36</sup>	X
30	Complejo Maderero Nanay <sup>37</sup>	16-IQU/C-J-237-04	2004	Current	
31	Hiram Carpinter SAC	16-MAY/C-D-022-14	2014	Expired	X
32	Industrial Forestal Pacheco	16-MAY/C-D-001-15	2015	Expired	X
33	Cesar Augusto Moreno Culqui (a)	16-IQU/C-J-087-04	2004	Expired	X
34	Cesar Augusto Moreno Culqui (b)	16-IQU/C-J-087-04	2004	Expired	X
35	Cesar Augusto Moreno Culqui (c)	16-IQU/C-J-087-04	2004	Expired	X
36	Cesar Luis Vela Rojas	16-IQU/C-J-175-04	2004	Expired	X
	Total expired concessions				19

Total expired concessions overlapping with the requested Indigenous Reserve Yavarí Mirim:

**Table 3: Forest concessions overlapping the requested Yavarí Mirim Indigenous Reserve, granted under Law No. 29763, after 2015 (illegal concessions, null and void for violating the forestry law<sup>38</sup>)**

<sup>34</sup> Ibid <https://observatorio.osinfor.gob.pe/SancionCaducidad>

<sup>35</sup> This concession overlaps with SRI Yavarí Mirim in only a small part.

<sup>36</sup> Ibid <https://observatorio.osinfor.gob.pe/SancionCaducidad>

<sup>37</sup> This concession overlaps with SRI Yavarí Mirim in only a small part.

<sup>38</sup> Fifth Final Complementary Provision of Law No. 29763 (Law of Forest and Wildlife), Article 60 of the Regulations for Forest and Wildlife

N°	Concessionaire	Contract Number	Year Granted	Current state
37	Hiram Carpinter SAC	16-LOR-MAR/CON-MAD-2017-001	2017	Current
38	Maderera Nuevo Peru SAC	16-LOR-MAR/CON-MAD-2016-057	2016	Current
39	Nueva Esperanza SAC	16-LOR-MAR/CON-MAD-2016-030	2016	Current
40	Maderera Nuevo Peru SAC	16-LOR-MAR/CON-MAD-2016-058	2016	Current
41	Maderera Industrial Isabelita-Emini SAC	16-LOR-MAR/CON-MAD-2016-014 (Anexo 2)	2016	Current
42	Lisbeth & Diego Forestales EIRL	16-LOR-MAR/CON-MAD-2016-049	2016	Current
43	Inversiones VQ Arco iris EIRL	16-LOR-MAR/CON-MAD-2016-051	2016	Current
44	Consorcio Maderero Lamf & Jedan	16-LOR-MAR/CON-MAD-2016-027	2016	Current
45	Lisbeth & Diego Forestales EIRL	16-LOR-MAR/CON-MAD-2016-048	2016	Current
46	YP Maderas de Loreto SRL	16-LOR-MAR/CON-MAD-2016-046	2016	Current
47	Lanc Forest SAC	16-LOR-MAR/CON-MAD-2016-047	2016	Current
48	Maderas Industria Pacheco SAC	16-LOR-MAR/CON-MAD-2016-001	2016	Expired <sup>39</sup>
49	Inversiones VQ Arco Iris EIRL	16-LOR-MAR/CON-MAD-2016-052	2016	Current
50	Inversiones VQ Arco Iris EIRL	16-LOR-MAR/CON-MAD-2016-050	2016	Current
51	Maderas Acasia SAC	16-LOR-MAR/CON-MAD-2016-036	2016	Expired <sup>40</sup>
52	Hiram Carpinter SAC	16-LOR-MAR/CON-MAD-2016-031	2016	Current
53	Consorcio Maderero Lamf & Jedan	16-LOR-MAR/CON-MAD-2016-056	2016	Current
54	Consorcio Maderero Lamf & Jedan	16-LOR-MAR/CON-MAD-2016-059	2016	Current

Management in Native Communities (Supreme Decree No. 021-2015-MINAGRI), and Article 70 of the Regulation for Forest Management

<sup>39</sup> Updated information from "OSINFOR – SIGO Observatory/Registry of Concessionaires with sanctions and/or expiration"

<https://observatorio.osinfor.gob.pe/SancionCaducidad>

<sup>40</sup> Ibid

55	Maderas Acasia SAC	16-LOR-MAR/CON-MAD-2016-037	2016	Current
56	Hiram Carpinter SAC	16-LOR-MAR/CON-MAD-2017-043	2017	Expired <sup>41</sup>
57	Maderera Geminis EIRL	16-LOR-MAR/CON-MAD-2017-049	2017	Current
58	Chen Forestal Selva SAC	16-LOR-MAY/CON-MAD-2018-017	2018	Current
59	Industria Forestal Pacheco EIRL	16-LOR-MAR/CON-MAD-2017-039	2017	Current
60	Industria Forestal Pacheco EIRL	16-LOR-MAR/CON-MAD-2017-040	2017	Current
61	Industria Forestal Pacheco EIRL	16-LOR-MAR/CON-MAD-2017-041	2017	Current
62	Chen Forestal Selva SAC	16-LOR-MAY/CON-MAD-2018-015	2018	Current
63	Chen Forestal Selva SAC	16-LOR-MAY/CON-MAD-2018-016	2018	Current
64	Industria Forestal Pacheco EIRL	16-LOR-MAR/CON-MAD-2017-042	2017	Current
65	Maderas Acasia SAC	16-LOR-MAR/CON-MAD-2017-034	2017	Current
66	Made Industrial Isabelita SAC y Amer Pacifico Peru	16-LOR-MAR/CON-MAD-2016-016	2016	Current
67	Maderera Río Yavarija-Madeyja SAC	16-LOR-MAR/CON-MAD-2016-007	2016	Current
	<b>Total illegal concessions:</b>			<b>31</b>

Source: Information from the Regional Management of Forest and Wildlife Development - Regional Government of Loreto (GERFOR-GOREL), 2021; and the Ministry of Culture (MINCU), 2020.

**Total illegal concessions overlapping the requested Yavarí Mirim Indigenous Reserve: 31**

**Important note:** In accordance with the Official Letters of the Ministry of Culture - Official Letter No. 000433-2020-DGPI/MC (May 26, 2020) and Official Letter No. 000656-2020-DGPI/MC (August 20, 2020), as well as the information from ORPIO (Letter No. 128-2021-CD-ORPIO, July 13, 2021), there might be between 45 and 47 illegal forest concessions overlapping with the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve. However, in recent years, several of these illegal forest concessions have been combined, that is, the enabling titles of several concessions have been consolidated and granted to a single holder

<sup>41</sup> Ibid

in order to form larger concessions. This fact explains the difference between the figures of a total of 47 illegal concessions in 2020 and now only 35 illegal concessions (31 in Yavarí Mirim and 4 in Yavarí Tapiche) in 2023.

Conclusion: According to information from GOREL-GERFOR, there are a total of 67 forest concessions overlapping with the requested Yavarí Mirim Indigenous Reserve. Of these 67 overlapping forest concessions, 31 were granted after 2015, infringing the explicit prohibition established in the LFFS and therefore are illegal and null and void. Of the 36 overlapping forest concessions that were granted before 2015, 19 have expired and therefore, in accordance with the procedures established in the LFFS and its Regulations, their enabling titles must be terminated and their areas will automatically revert to the Government. Likewise, in the Yavarí Tapiche Indigenous Reserve, 4 illegal forest concessions have been granted.

d) Identification of the environmental legislation that was not effectively enforced by the Peruvian Government.

The illegal granting of illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve represents a breach of various environmental regulations at the national and international level such as:

- ILO Convention 169,
- Law No. 28736 (Law for the protection of indigenous or native peoples in situation of isolation and situation of initial contact - "PIACI Law"),
- Law No. 29763 (Law of Forest and Wildlife - LFFS) and its Regulations,
- Law No. 29785 (Law of Prior Consultation),
- Law No. 28611 General Environmental Law (LGA), among others.

It is alleged that the Peruvian Government has ceased to effectively enforce environmental legislation due to the illegal granting of forty-seven (47) illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, infringing the explicit prohibition established in the Law of Forest and Wildlife – LFFS (Law No. 29763) and its Regulations. These illegal forest concessions cover approximately 300,000 hectares (3,000 square kilometers) of the survival territory of the Indigenous Peoples in Isolation and said illegal concessions have continued to operate illegally and with total impunity throughout the last seven (07) years.

### III. FOUNDATIONS OF THE SUBMISSION

Previous matters:

Regarding the PIACI officially recognized by the Peruvian Government and the Yavarí Tapiche and Yavarí Mirim Indigenous Reserves created and in the process of being created:

The Indigenous Peoples in Isolation and Initial Contact (PIACI) are indigenous peoples or segments of indigenous peoples who, faced with traumatic events and historical threats to their lives, such as that which occurred during the rubber boom that affected the entire Amazon in South America, decided to resort to the strategy of isolating themselves so as not to be enslaved or killed.

The PIACI live in the Amazon region of South America and the Gran Chaco (Brazil, Peru, Bolivia, Ecuador, Colombia, Venezuela, Paraguay, among other countries), many of which are cross-border peoples. In the Peruvian Amazon, these peoples inhabit the departments of Madre de Dios, Cusco, Loreto, Ucayali, Junín and Huánuco.

The PIACI Law provides a concise definition that only alludes to their relationship or lack thereof with the rest of the majority society. Thus, in its Article 2, paragraph b) it defines that Indigenous Peoples in Isolation (PIA) are those peoples or segments that have not developed sustained social relations with the surrounding society, or that, having done so, have chosen to discontinue them. And it defines in its Article 2 paragraph c) the Peoples in a Situation of Initial Contact (PIC) as those that have initiated an interrelationship with the majority society; It should be noted that the term "initial" does not serve a temporary criterion but rather the incipient nature of their interrelationship, which is why they are unaware of the social norms and codes of the majority society, even in the case of towns that began their interrelationship in the 1980s.

The isolation strategy has caused the PIACI to find themselves in a particular situation of multidimensional vulnerability (territorial, cultural, political, immunological), the best known being that which concerns their immunology. Thus, they are not prepared to resist common diseases which bring collective deaths to their groups, and there are many recorded experiences of this in the world and in Peru (for example, the case of the Nahua People in the 1980s, an episode of forced contact with loggers resulted in the death of more than 50% of the people from the spread of diseases).

In the application of the national and international legal framework, the Peruvian Government has recognized their existence and their ancestral territories in the departments of Loreto, Ucayali, Huánuco, Junín, Cusco, and Madre de Dios. Currently, the Peruvian Government has formally recognized the existence of twenty-five (25) Indigenous Peoples in a situation of Isolation and in a situation of Initial Contact through Supreme Decree No. 001-2014-MC, Supreme Decree No. 004-2017-MC, Supreme Decree No. 002-2018-MC, Supreme Decree No. 001-2019-MC and Supreme Decree No. 010-2022-MC.

The Indigenous Peoples in Isolation and in Initial Contact officially recognized by the Peruvian Government are the following: Mastanahua, Chitonahua (Murunahua), Isconahua, Remo, Matsigenka (Nanti and Kirineri), Korubo, Kulina-Pano, Kakataibo, Mashco Piro, Flecheiro (Tavakina), Marubo, Matis, Matsés, Nahua (Yora), Amahuaca, Mayoruna, Kapanawa, Aewa, Taushiro, Zaparo, Tagaeri, Taromenane, an indigenous people whose ethnicity has not been identified in the area of the Mashco Piro Indigenous Reserve, an indigenous people whose ethnicity has not been identified within the scope of the Kugapakori Nahua Nanti Territorial Reserve and others, an indigenous people whose ethnicity has not been identified within the scope of the Madre de Dios Territorial Reserve and other indigenous peoples whose ethnicity has not been possible to identify it in the area of the Yavarí Tapiche Indigenous Reserve.

Law No. 28736 ("PIACI Law"): In 2006 the Peruvian Government approved Law No. 28736 ("PIACI Law"), with the aim of guaranteeing the fundamental rights of Indigenous Peoples in isolation

and in Initial Contact (“PIACI”), among them it provides for the creation of Indigenous Reserves to guarantee the right to their traditional territories, which they occupy and make use since before the existence of the Peruvian Government or the current borders of our country were established, therefore, before the granting of any type of concessions in them. Being peoples who maintain a total interdependence with the ecosystems in which they live and circulate, the survival of the Indigenous Peoples in Isolation and Initial Contact depends absolutely on the preservation of their territories.

According to article 2 of the aforementioned PIACI Law, the Indigenous Reserves are: “Lands delimited by the Peruvian Government, of transitory intangibility, in favor of the indigenous peoples in isolation or in a situation of initial contact, and as long as they maintain such a situation, to protect their rights, their habitat and the conditions that ensure their existence and integrity as peoples.” In this sense, after a long process of recognition and categorization established by Law No. 28736 and its Regulations, the following were recognized:

Name	Location	Recognition	Classification
Yavarí-Tapiche Indigenous Reserves	The Yavarí Tapiche Indigenous Reserve is located in the upper reaches of the Tapiche, Blanco, Chobayacu, Gálvez and Yaquerana rivers, in the districts of Alto Tapiche, Soplín and Yaquerana, Requena province, Loreto region.	The Yavarí Tapiche Indigenous Reserve was formally requested from the State in 2003. A Favorable Qualification was granted to the Request for the creation of the Yavarí Tapiche Indigenous Reserve in 2013 through Memorandum No. 193-2013-VMI/MC (June 25 of 2013). The Indigenous Peoples in Isolation of the Yavarí Tapiche Indigenous Reserve were formally recognized by the Government by Supreme Decree No. 002-2018- MC <sup>42</sup> .	The Yavarí Tapiche Indigenous Reserve was categorized (created) by Supreme Decree No. 007-2021-MC <sup>43</sup> .

<sup>42</sup> Available at: [https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-el-reconocimiento-de-los-pueblos-decreto-supremo-n-002-2018-mc-1626765-3/#:~:text=N%C2%BA%20002%2D2018%2Dmc&text=ij\)%20Pueblos%20ind%C3%ADgenas%20en%20situaci%C3%B3n,la%20Reserva%20Ind%C3%ADgena%20Yavar%C3%AD%20Mirim](https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-declara-el-reconocimiento-de-los-pueblos-decreto-supremo-n-002-2018-mc-1626765-3/#:~:text=N%C2%BA%20002%2D2018%2Dmc&text=ij)%20Pueblos%20ind%C3%ADgenas%20en%20situaci%C3%B3n,la%20Reserva%20Ind%C3%ADgena%20Yavar%C3%AD%20Mirim)

<sup>43</sup> Available at: <https://busquedas.elperuano.pe/download/url/decreto-supremo-que-declara-la-categorizacion-de-la-reserva-decreto-supremo-no-007-2021-mc-1942689-2>

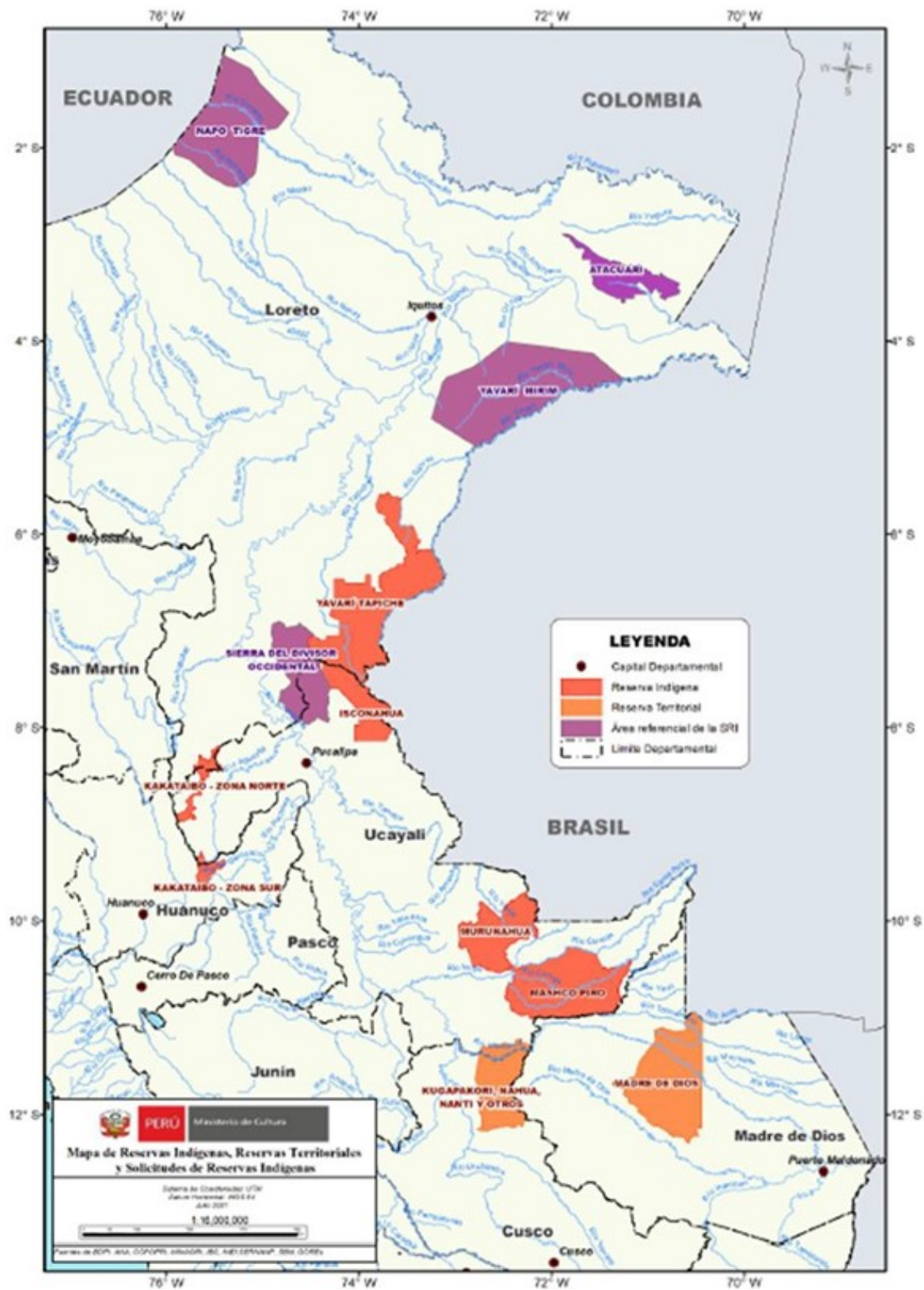


Requested Yavari-Mirim Indigenous Reserve	It is located in the basins of the Yavari and Yavari Mirim rivers, specifically in the Tapuco, Reina, Reinilla, Maquisapaico, Lisaico, Mirincillo, Pavaico, Negro, Blanquillo, Janeiro, Yarapa, Tamshiyacu, Tahuayo, Blanco, Mayoruna, Tigre, Cochiquinas and others, located in the province of Mariscal Ramón Castilla, in the Loreto region.	The requested Yavari Mirim Indigenous Reserve was formally requested from the Government in 2005. A Favorable Rating was granted to the Request for the creation of the Yavari Mirim Indigenous Reserve through Memorandum No. 192-2013-VMI/MC (June 25, 2013). The Indigenous Peoples in Isolation (PIA) of the requested Yavari Mirim Indigenous Reserve were formally recognized by the Peruvian State through Supreme Decree No. 002-2018-MC.	The requested Yavari Mirim Indigenous Reserve is in the last stage of the creation process. Currently, its "Additional Study of Categorization" (EAC) is in the process of preparation and approval by the PIACI Multisectoral Commission.
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It should be noted that through Supreme Decree No. 002-2018-MC (March 16, 2018) "Supreme Decree that declares the recognition of the Matsés, Remo (Isconahua) and Marubo indigenous peoples in isolation and other indigenous peoples in isolation, whose ethnicity it has not been possible to identify, corresponding to the scope of the request for the creation of the Yavari Tapiche Indigenous Reserve and of the indigenous peoples Matsés, Matis, Korubo or Kulina-pano and Flecheiro (Takavina) in isolation, within the scope of the request for the creation of the Yavari Mirim Indigenous Reserve"; and Supreme Decree No. 007-2021-MC (April 10, 2021) "Supreme Decree that declares the categorization of the Yavari Tapiche Indigenous Reserve."

Ministry of Culture Map of the PIACI Reserves in Peru

Fuente: Ministerio de Cultura  
**Mapa N° 1: Reservas Indígenas, Reservas Territoriales y Solicitudes de Reservas Indígenas**



e) Evaluation of Peruvian environmental legislation ceased to be effectively enforced

What national and international legal instruments recognize the rights of Indigenous Peoples in Isolation and Initial Contact (PIACI)?

What national legal instruments explicitly prohibit the granting of forest concessions and forest permit titles in Indigenous Reserves, Territorial Reserves and in areas in process for the establishment of Indigenous Reserves in favor of the PIACI?

The Peruvian Government, based on its sovereignty, has committed to comply with the international legal framework, such as the binding international instruments that recognize the rights of Indigenous Peoples in a situation of Isolation and Initial Contact, such as Convention No. 169 of the International Organization for Work on Indigenous and Tribal Peoples, of constitutional rank and in force for the Peruvian Government since February 2, 1996, which establishes in its Article 14 that:

Art. 14.1. "The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.

Art. 14.2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.[Own highlights]

In turn, the United Nations Declaration on the Rights of Indigenous Peoples (2007) clearly establishes that indigenous peoples will not be subjected to any act of genocide or any other act of violence. As well as the right not to be subjected to forced assimilation or destruction of their culture, in accordance with the provisions of Articles 7, paragraph 2 and 8 paragraph 1.

United Nations Declaration of the Rights of Indigenous Peoples

Art 7. "(...) 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and **shall not be subjected to any act of genocide or any other act of violence**, including forcibly removing children of the group to another group. [Own highlighting]

Art 8. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration; [own highlighting]

Another international instrument that addresses the rights of the PIACI are the Guidelines on the Protection of indigenous peoples in isolation and in initial contact of the Amazon region, the Gran Chaco and the Eastern Region of Paraguay of 2012 prepared by the Office of the High Commissioner for Human Rights of the United Nations. Regarding this:

The aim of these guidelines is to serve as a frame of reference for the different actors working with indigenous peoples in isolation and in initial contact in South America. The guidelines are meant to be used as an instrument for better contextualizing international law with a view to protecting these peoples, given their extreme vulnerability and high risk of extinction<sup>44</sup>.

The Guidelines establish essential guidelines for the protection of the rights of the PIACI, such as the no-contact principle, which is based on the right to life and integrity and the right to self-determination, as well as the intangibility of their territories.

Likewise, the American Declaration on the Rights of Indigenous Peoples (Approved at the second plenary session, held on June 14, 2016) establishes:

*Indigenous peoples in voluntary isolation or initial contact have the right to remain in that condition and to live freely and in accordance with their cultures.*  
*2. States shall, with the knowledge and participation of indigenous peoples and organizations, adopt appropriate policies and measures to recognize, respect, and protect the lands, territories, environment, and cultures of these peoples as well as their life, and individual and collective integrity.* [Own highlighting]

At the national level, there is also a protection framework in the Political Constitution of Peru, which establishes in its Article 1 that: "The defense of the human person and respect for their dignity are the supreme purpose of the society and the State". In turn, Article 2, paragraph 1 establishes that every person has the right to life, their identity, their moral, mental and physical integrity and their free development and well-being that corresponds to them as subjects of law. In turn, subsection 2 recognizes "equality before the law", and subsection 19 establishes that the Government recognizes and protects the ethnic and cultural diversity of the Nation. Additionally, Article 3<sup>45</sup> recognizes an open number of constitutional rights, being precisely the rights of

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<sup>44</sup> Protection guidelines for indigenous peoples in isolation and in initial contact in the Amazon region, the Gran Chaco and the Eastern Region of Paraguay. You can access the text at the following link: <http://acnudh.org/2012/05/directrices-de-proteccion-para-los-pueblos-indigenas-en-aislamiento-y-en-contacto-inicial-de-la-region-amazonica-el-gran-chaco-y-la-region-oriental-de-paraguay/>

<sup>45</sup> Political Constitution of Peru. Article 3 Constitutional Rights "The enumeration of rights established in this chapter does not exclude others guaranteed by the Constitution, or others of a similar nature or those based on the dignity of the human being, nor those based on the principles of sovereignty of the people, the democratic rule of law, or the republican form of government."

indigenous peoples - contained in ILO Convention 169 - rights "of a similar nature or that are based on the dignity of man" recognized in Article 1 of the Constitution<sup>46</sup>.

In turn, it is important to highlight that fundamental rights are interpreted in accordance with international law on the human rights of indigenous peoples, through a systematic interpretation of articles 55<sup>47</sup> and the Fourth Final and Transitory Provision of the Constitution<sup>48</sup>, which establish that the treaties entered into by the Peruvian Government and that are in force are part of national law, and that the norms on rights that the Constitution recognizes are interpreted in accordance with international law as indicated in the Universal Declaration of Human Rights and with the international treaties and agreements on this matter ratified by Peru. Along the same lines, the New Constitutional Procedural Code specifies in its Article VIII that:

"The content and scope of the constitutional rights protected by the processes regulated in this code must be interpreted in accordance with the Universal Declaration of Human Rights, human rights treaties, as well as with the decisions adopted by international human rights courts constituted according to treaties to which Peru is a party. In the case of incompatibility between a conventional norm and a constitutional one, the judges will prefer the norm that most favors the person and their human rights". [Own highlighting]

At the national level, there is also a specific legal framework in force for the protection of the rights of the PIACI established by Law No. 28736, Law for the Protection of Indigenous or Native Peoples in Situation of Isolation and in Situation of Initial Contact ("PIACI Law"), approved in 2006 (Regulations approved by Supreme Decree No. 008-2007-MIMDES and later modified by Supreme Decree No. 008-2016-MC).

In accordance with Article 4 of Law No. 28736 ("PIACI Law"): "Rights of the members of the peoples in a situation of isolation or initial contact. The Government guarantees the rights of indigenous peoples in a situation of isolation or in a situation of initial contact, assuming the following obligations towards them: a) Protect their life and health by developing preventive actions and policies as a priority, given their possible vulnerability to communicable diseases; b) Respect their decision regarding the form and process of their relationship with the rest of national society and with the Government; c) Protect their culture and their traditional ways of life, recognizing the particular spiritual relationship of these peoples with their habitat, as a constitutive element of their identity; d) Recognize their right to own the lands they occupy, restricting the entry of foreigners to them; the ownership of the populations over the lands they own is guaranteed when they adopt sedentism as a way of life; e) Guarantee free access and extensive use of their lands and natural resources for their traditional subsistence activities; and, f) Establish indigenous reserves, which will be determined on the basis of the areas they occupy and to which they have had traditional access, until they decide their titling voluntarily."

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<sup>46</sup> Political Constitution of Peru. Article 1. Defense of the human person. The defense of the human person and respect for his dignity are the supreme purpose of the society and the State.

<sup>47</sup> Political Constitution of Peru. Article 55. Treaties. "Treaties formalized by the State and in force are part of national law".

<sup>48</sup> Political Constitution of Peru. Fourth Final and Transitory Provision of the Constitution. Interpretation of human rights. "Rules concerning the rights and freedoms recognized by this Constitution are construed in accordance with the Universal Declaration of Human Rights and international treaties and agreements on those rights, which have been ratified by Peru.

Likewise, the Law of Forest and Wildlife (LFFS) No. 29763 (hereinafter, Forest Law) and its Regulations establish safeguards to guarantee the fundamental rights of the PIACI in the context of carrying out forest exploitation activities.

The Forest Law (Law No. 29763) and its Regulations in force since October 2015, clearly prohibit<sup>49</sup> the granting of forest concessions in areas of Indigenous Reserves, Territorial Reserves and in areas in process for the establishment of Indigenous Reserves in favor of the PIACI.

The territories of the PIACI in Peru include 5 Indigenous Reserves, 2 Territorial Reserves and 6 areas that are in the process of establishing new Indigenous Reserves. Said territories comprise large extensions of primary forests and ecosystems, which are part of the forest heritage of the Nation of Peru. In this sense, the Forest Law (LFFS) assigns reserves and those that are in the process of being created, to a category of forest zoning, those of special management zones (Art. 27.d) and prohibits the granting of authorization/qualifying titles within them (Art. 27.d and Fifth Final Complementary Provision).

In turn, the Forest Law establishes a series of general principles applicable to forest and wildlife management, among which is Principle 12 of Integration with other regulatory frameworks, which states:

#### 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.

### Law of Forest and Wildlife No. 29763

#### Article II. General principles

#### Article 4. Forest and Wildlife Heritage of the Nation

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<sup>49</sup> Law No. 29763 Law of Forest and Wildlife Fifth Final Complementary Provision . "Forest and wildlife authorization titles are not granted in areas in the process of recognition, titling or expansion of farming 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". Supreme Decree N° 021-2015-MINAGRI - Regulations for Forest and Wildlife Management in Native Communities and Rural Communities: Article 60. "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.

Additionally, we indicate that Article 70 of the Regulation for Forest Management, approved by Supreme Decree N 18-2015-MINAGRI, states that 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 farming communities, including what is established in the Fifth Final Complementary Provision of the Law."

The Nation's forest and wildlife heritage is made up of 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.

Article 27. Forest zoning categories

- d. Special management zones

They are categories of these zones:

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 Contact, its regulations and complementary norms. They do not grant authorization/qualifying titles.

#### FIFTH FINAL COMPLEMENTARY PROVISION OF THE LAW OF FOREST AND WILDLIFE

(...) Forest and wildlife authorization titles are not granted in areas in the process of recognition, titling or expansion of farming 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”.

Supreme Decree No. 021-2015-MINAGRI - Regulations for Forest and Wildlife Management in Native Communities and Rural Communities.

Article 60. 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.

Additionally, we must indicate that article 70 of the Forest Management Regulations, approved by Supreme Decree No. 18-2015-MINAGRI, states that 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 farming communities, including what is established in the Fifth Final Complementary Provision of the Law.”

It should be noted that, as provided by both the national and international legal framework, in the event that there are several legal norms, Government officials have the obligation to apply those norms that are more favorable, that is, they grant more rights to Indigenous Peoples in situation of Isolation and Initial Contact.

- Regarding the illegal granting of illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, which violates the fundamental rights of the PIACI and environmental, forest concessions and human rights legislation:

To the extent that the concessions illegally granted by GOREL overlap both the Yavarí Tapiche Reserve and the requested Yavarí Mirim Reserve, these concessions must be declared null, since in accordance with paragraph d) of article 27 and the Fifth Provision Complementary Final of Law No. 29763, Law of Forest and Wildlife, establishes that, "Forest and wildlife authorization titles are not granted in areas in the process of recognition, titling or expansion of farming 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".

Along the same lines, Article 36 of the Law of Forest and Wildlife explicitly regulates that " forest clearing is not authorized in land reserves for Indigenous Peoples in Situation of Isolation or Initial Contact." Along the same lines, Article 60 of the Regulation of the Law of Forest and Wildlife (Supreme Decree No. 021-2015-MINAGRI) establishes that:

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.

In addition, Article 70 of Supreme Decree No. 18-2015-MINAGRI (the Supreme Decree that approves the Regulations for Forest Management) establishes:

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 farming communities, including what is established in the Fifth Final Complementary Provision of the Law."

In turn, Article 60 of the Regulations for Forest and Wildlife Management in Native Communities approved by Supreme Decree No. 021-2015-MINAGRI establishes that:

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.

There is more than evidence that GOREL granted 47 forest concessions in violation of the national and international legal framework.



It should be noted that, in this Submission, as well as in its Annex document (see Annex 1: "Annex Documentation Relevant AIDSESEP Submission Secretariat FTA APC Peru EEUU Concesiones Forestales Ilegales.pdf"), irrefutable evidence is attached that demonstrates that these illegal forest concessions were granted in violation of current Forest regulations and infringes the explicit prohibition established in the Law of Forest and Wildlife and its Regulations.

Numerous official documents from various Government entities are attached, including the Ministry of Culture, the Ombudsman's Office, SERFOR itself (national governing body for forests), the Peoples Commission (CPAAAAE) of the Congress of the Republic, etc., all of which demonstrate that the 47 forest concessions granted by GOREL in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve are illegal and are considered null and void for having been granted infringing the explicit prohibition established in the Law of Forest and wildlife itself.

In addition, in the tables presented in the annexes, official documents presented by the Ministry of Culture before the Regional Government of Loreto (GOREL) denote the inclusion of all relevant information on each of the illegal forest concessions, including the contract numbers of concession, year of granting, concession area measurement, area of overlap with Indigenous Reserves, concession holders, etc.

In this regard, in accordance with article 10.1 of the General Administrative Procedure Law, administrative acts that contravene the Constitution, laws or regulations are null and void. As in the present case, where the declaration of the concessions has violated the right to life and health of the Indigenous Peoples in Isolation, as well as has violated the explicit prohibition established in the Forest Law itself.

Despite the explicit prohibition, the Regional Government of Loreto - GOREL granted 43 illegal forest concessions in the area requested for the Yavarí Mirim Indigenous Reserve; and 04 illegal forest concessions in the created Yavarí Tapiche Indigenous Reserve.

In total there are 47 illegal forest concessions that have continued to operate illegally and with total impunity over the last seven years, thus seriously endangering the Indigenous Peoples in Isolation and representing a serious imminent and continuous threat to their fundamental rights to life and health.

This has systematically violated what is established in the forest concessions legislation, having granted a total of 47 forest concessions illegally, since October 1, 2015 (the date on which the Law of Forest and Wildlife - LFFS and its Regulations entered into force ) to the present.

On the pronouncement of Government entities regarding the nullity of illegally granted forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve:

In Annex 1 presented by AIDSEEP (attached to this Submission) we have attached the official supporting documents from Government institutions with all the necessary evidence to demonstrate that the forest concessions granted by GOREL were granted illegally and violated current forest regulations and, therefore, they are "null and void", such as:

"As you know/per your knowledge, in areas of the aforementioned indigenous reserves (Yavarí Tapiche and Yavarí Mirim) there are 47 forest concessions granted by your entity in violation of the Law of Forest and Wildlife (4 in the Yavarí Tapiche Indigenous Reserve and 43 in the area requested to constitute the Yavarí Mirim Indigenous Reserve). However, to date, the Regional Government of Loreto has not yet declared its nullity, despite being requested by the indigenous organizations themselves, the Ministry of Culture, the CPAAAAE of the Congress of the Republic and the Ombudsman's Office."

In this regard, it is important to remember what is established in the Fifth Modifying Complementary Provision of the Law of Forest and Wildlife, Law No. 29763. Such provision determines the prohibition of the granting of Forest and wildlife authorization/qualifying titles in the areas in process for the establishment of territorial reserves for the PIACI, from the entry into force of the Regulation for Forest Management, which was on October 1, 2015.

That is why, between 2018 and 2020, the Ombudsman's Office, within the framework of its constitutional powers, issued recommendations to the Regional Government of Loreto with the purpose of it declaring the nullity of the forest concessions granted after the validity and in violation of the provisions of Law No. 29763, Law of Forest and Wildlife, as well as refraining from granting new concessions on the areas in process for the establishment of indigenous reserves. (...)

Along the same lines as the Ombudsman's Office, the Ministry of Culture has expressed itself as the governing body for the protection of the PIACI. This way, it is known that it has requested its entity to initiate the necessary procedures to declare the nullity of the forest concessions granted by its client in areas of pending indigenous reserve applications/requests, as well as to act in accordance with the what is established in the national legislation regarding forest and administrative matters on the prohibition of granting forest concessions on areas for the creation of indigenous reserves<sup>50</sup>(...)

The front-on/direct/blatant transgression of the constitutional and legal obligations of protection of the PIACI and the regulations on forest and wildlife matters is of great concern.

In this sense, within the framework of the powers of the Ombudsman's Office established in article 162 of the Political Constitution and in attention to article 21 of our Organic Law, I would like to reiterate to your entity the recommendations (...):

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<sup>50</sup> Official Letter No. 0565-2020-DGPI/MC, dated August 20, 2020

Carry out the necessary procedures to declare the nullity of the forest concessions that are located within the Yavarí Tapiche Indigenous Reserve and the areas in process of the Yavarí Mirim Indigenous Reserve, which have been granted in violation of the Fifth Final Complementary Provision of the Law of Forest and Wildlife, Law No. 29763, which prohibits the granting of these enabling titles in areas that are in the process of establishing territorial reserves for indigenous peoples in a situation of isolation or in a situation of initial contact. (...)"

Along the same lines, we attach OFFICIAL LETTER No. 228-2020-2021/CPAAAAE-CR, dated August 3, 2020, through which the president of the Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology (CPAAAAE) of the Congress of the Republic requests the Regional Governor of Loreto to/the "report on measures adopted to declare the nullity of the forest granting titles granted on PIACI territories" and states that:

"to express my concern about the risk to the life and integrity of the peoples in isolation and initial contact (PIACI) of Loreto, especially in the context of Covid-19, in the face of illegal forest concessions activities, as they originate in/from null and void authorization/qualifying titles of full rights, for having been granted in infringement of the Fifth Final Complementary Provision of the Law of Forest and Wildlife".

OFFICIAL LETTER Nº 1160-2020-2021/CPAAAAE-CR, dated June 24, 2021, through which the CPAAAAE of the Congress of the Republic requests the Comptroller General of the Republic and the Prosecutor of the Nation, "intervention to prevent exposure to danger of death or serious and imminent damage to the health of Peoples in Isolation that inhabit the requested Yavarí Mirim indigenous reserve" and states that:

"The actions of the Regional Government, totally outside the law, endanger the life, health and very existence of the peoples in isolation who inhabit the requested Yavarí Mirim indigenous reserve, subjecting them to conditions that could lead to their physical destruction, due to the acute vulnerability of their immune system to third parties, and especially to Covid-19. In this sense, it is a case that could even be constituting a crime, in accordance with the provisions of Chapter IV of Title I-Crimes against life, body and health, or Chapter I of Title XIV-A-Crimes against humanity of the Penal Code. For these reasons, I request your immediate intervention in this case, in accordance with your powers (...)"

OFFICIAL LETTER 000656-2020-DGPI-MC dated August 20, 2022, through which the Ministry of Culture communicates to the Regional Governor of Loreto that, "We reiterate the request for nullity of forest concessions granted contrary to the provisions of Law No. 29763 in the Loreto region and we request information"; among numerous others.

Provisions of the United States—Peru Free Trade Agreement (Trade Promotion Agreement) whose compliance by the Peruvian Government has been affected due to the granting of ILLEGAL

forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve:

Below, we cite some of the provisions that we consider to be the most relevant of Chapter 18 of the Free Trade Agreement (Trade Promotion Agreement) entitled "Environment", whose implementation we believe that it has been weakened, affected and/or denatured with the constant and flagrant violation of the Law of Forest and Wildlife by the Regional Government of Loreto - GOREL for having granted tens of ILLEGAL forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve (in each case we have highlighted the contents that seem most important to us).

Objectives:

(...) the objectives of this Chapter are to contribute to the Parties' efforts to ensure that trade and environmental policies are mutually supportive, to promote the optimal use of resources in accordance with the objective of sustainable development, and to strive to strengthen the links between the Parties' trade and environmental policies and practices, which may take place through environmental cooperation and collaboration.

Article 18.11

3. The Parties recognize the importance of respecting and preserving traditional knowledge and practices of indigenous and other communities that contribute to the conservation and sustainable use of biological diversity.

Annex 18.3.4

1. (...) each Party commits to combat trade associated with illegal logging and illegal trade in wildlife. The Parties recognize that good forest sector governance is critical to promoting the economic value and sustainable management of forest resources. Accordingly, each Party commits to take action under this Annex to enhance forest sector governance and promote legal trade in timber products.

3. (a) (i) Increase the number of enforcement personnel in national parks and concessions and in forest regions designated under Peruvian law as "indigenous protected" areas;

3. (b) Provide criminal and civil liability at adequate deterrent levels for actions that impede or undermine the sustainable management of Peru's forest resources.

3. (c) Develop and promote the use of tools that complement and strengthen regulatory controls and verification mechanisms relating to the harvest of, and trade in, timber products. In this context, Peru shall:

(i) Take into account the views of local and indigenous communities, non-governmental organizations, and the private sector, including operators of timber harvesting concessions;

In addition to the aforementioned provisions, we consider it important to record that any infringement of the Law of Forest and Wildlife and its Regulations, especially by the competent regional forest concessions authority itself, in this case GOREL-GERFOR, constitutes a manifest infringement of the "object and purpose" of the Free Trade Agreement (Trade Promotion Agreement) as a binding international treaty, especially bearing in mind that said infringement of the Forest Law has resulted in practice in promoting the development of illegal extractive activities in the reserves destined for the PIACI, in addition to promoting the development of illegal activities (such as illegal logging that has been carried out over the last seven years in illegal forest concessions, which are null and void).

### CONCLUSIONS AND RECOMMENDATIONS

In view of the arguments set forth above and before presenting our main conclusions, we consider it of special and unavoidable importance to underline that, behind the systematic and flagrant infringement of the Law of Forest and Wildlife itself by the regional forest concessions authority - GOREL, there is a manifest/evident intention to access the survival territories of the PIACI in order to promote and boost the illegal exploitation of natural resources (in this case, timber forest resources) existing in the established territorial and/or indigenous reserves or in the process of being created to protect their rights.

Furthermore, the infringement of the Law of Forest and Wildlife in this case by GOREL-GERFOR not only entails a serious and objective danger to the life and survival of the PIACI, but also what is finally intended (and has been achieved) through the illegal actions carried out by said entity is to facilitate access for the exploitation, in an ILLEGAL manner, of the natural resources (forests, above all) existing in the mentioned reserves.

Thus, the systematic violation of the Law of Forest and Wildlife by GOREL-GERFOR has led to a double failure to comply by the Peruvian Government regarding the Free Trade Agreement (Trade Promotion Agreement), since additionally the principle of no-contact, self-determination, and territorial intangibility of the PIACIs is violated, it would be - hidden and illegitimate - promoting the deforestation of our Amazon through the indiscriminate and illegal exploitation of forest resources and the development of illegal activities (such as the illegal logging) in territories that ancestrally belong to the PIACI and with respect to which (as repeatedly mentioned by the IACHR and the Inter-American Court itself) there is a double and intertwined material and spiritual relationship.

Below, we briefly present our main conclusions and recommendations:

1. GOREL-GERFOR has illegally granted tens of ILLEGAL forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, infringing the explicit prohibition established in the Law of Forest and Wildlife and its Regulations.

2. These illegal forest concessions overlap approximately 300,000 hectares (3 thousand square kilometers) with the territory of survival of the Indigenous Peoples in Isolation and have continued to operate illegally and with total impunity throughout the last seven years.

3. Both AIDSESEP and ORPIO as well as numerous Government entities, including the Ministry of Culture, the Ombudsman's Office and the CPAAAAE of the Congress of the Republic, have sent innumerable formal communications to GOREL-GERFOR stating that the aforementioned illegal forest concessions are “void by operation of law” and demanding that the current forest concessions legislation be complied with and therefore the nullity of the illegal concessions be declared once and for all. However, GOREL-GERFOR has been totally reluctant to comply with the law and to this day the illegal concessions have not been annulled, which pose a serious threat to the very lives of the Indigenous Peoples in Isolation with each passing day.

4. The aforementioned systematic violations of the Law of Forest and Wildlife itself by GOREL-GERFOR represent a breach of the provisions of the Free Trade Agreement (Trade Promotion Agreement) between Peru and the United States, as well as a violation of the fundamental rights to life, health, and territory of the Indigenous Peoples in Isolation.

#### IV. THEREFORE WE REQUEST

In accordance with the provisions of Article 18.8 of Chapter 18 of the United States - Peru Trade Promotion Agreement and the provisions of the annexes 18.15<sup>51</sup> and 18.3.4 (combating trade associated with illegal logging) of the United States—Peru Trade Promotion Agreement; We present this Submission alleging the lack of effective enforcement, by the Government of Peru, of the environmental legislation in force and that is part of its legal system (in addition to international standards on the matter in attention to the Fourth Transitory Provision of the Constitution Current Policy), due to the illegal granting of forty-seven (47) illegal forest concessions in the Yavarí Tapiche Indigenous Reserve and the requested Yavarí Mirim Indigenous Reserve, infringing the explicit prohibition established in the Law of Forest and Wildlife – LFFS (Law No. 29763) and its Regulations. These illegal forest concessions cover approximately 300,000 hectares (3,000 square kilometers) of the survival territory of the Indigenous Peoples in Isolation and said illegal concessions have continued to operate illegally and with total impunity throughout the last seven (07) years. We request that a Factual Record be prepared regarding this serious violation of the Forest Law, as well as the rights of the PIA.

#### ANNEX:

Annex 1: “Anexo Documentación Relevante Solicitud AIDSESEP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf”.

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<sup>51</sup> Article 18.1: Levels of Protection. Recognizing the sovereign right of each Party to establish its own levels of domestic environmental protection and environmental development priorities, and to adopt or modify accordingly its environmental laws and policies, each Party shall strive to ensure that those laws and policies provide and encourage high levels of environmental protection and shall strive to further improve its respective levels of environmental protection.

Content of Annex 1, "Anexo Documentación Relevante Solicitud AIDSESEP Secretaria TLC APC Peru EEUU Concesiones Forestales Ilegales.pdf".

- 1) Official Letter No.171-2017-VMI/MC (December 26, 2017).
- 2) Official Letter No.900067-2018/VMI/MC (September 24, 2018).
- 3) Official Letter No.357-2018-DP/AMASPPI (October 04, 2018).
- 4) Official Letter No.0585-2018-DP/OD-LORETO (October 10, 2018).
- 5) Act "Work meeting on the Yavarí Tapiche, Yavarí Mirim, Napo-Tigre, Sierra del Divisor Occidental and Kakataibo Indigenous Reserves; and the Matsés cross-border people - ACT OF AGREEMENTS AND COMMITMENTS" (June 6, 2019), of the Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology (CPAAAAE) of the Congress of the Republic
- 6) Official Letter No.000433-2020-DGPI/MC (May 26, 2020).
- 7) Official Letter No.1160-2020-2021/CPAAAAE-CR (June 24, 2021).
- 8) Official Letter No.228-2020-2021/CPAAAAE-CR (August 03, 2020).
- 9) Official Letter No.000656-2020-DGPI/MC (August 20, 2020).
- 10) Official Letter No.088-2020-DP/AMASPPI-PPI (September 30, 2020).
- 11) Letter No.105-CD-ORPIO-2021 (June 03, 2021).
- 12) Letter No.125-2021-CD-ORPIO (July 06, 2021).
- 13) Letter No.128-2021-CD-ORPIO (July 13, 2021).
- 14) Multiple Official Letters No. 003-2021-DP/AMASPPI/PPI (July 16, 2021).
- 15) Letter No.175-2021-CD-ORPIO (August 17, 2021).
- 16) Letter No.225-2021-Aidesep (September 27, 2021).
- 17) Letter No.294-2021-Aidesep (November 22, 2021).
- 18) Letter No.331-2021-Aidesep (December 10, 2021).

- 19) Letter No.191-2022-Aideseq (May 20, 2022).
- 20) Letter No.192-2022-Aideseq (May 24, 2022).
- 21) Letter No.203-2022-Aideseq (May 30, 2022).
- 22) Official Letter No.090-2022-DP/AMASPPI-PPI (July 08, 2022).
- 23) Letter No.399-2022-AIDSEEP (October 19, 2022).
- 24) Letter No.425-2022-CD-AIDSEEP (November 17, 2022).
- 25) Map of forest concessions that overlap with the Yavarí Tapiche Indigenous Reserve.
- 26) List of forest concessions overlapping the Yavarí Tapiche Indigenous Reserve.
- 27) Map of forest concessions that overlap with the requested Yavarí Mirim Indigenous Reserve.
- 28) List of forest concessions overlapping the requested Yavarí Mirim Indigenous Reserve.