

U.S. Groups Criticize Inaction On Peru FTA Forestry Sector Requirements

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In a May 28 letter to President Obama, U.S. environmental, labor and public interest groups warned that Peru may not be in a position to meet an Aug. 1 deadline for implementing provisions included in the U.S.-Peru free trade agreement designed to protect the Peruvian forestry sector.

Without an increase in political will from the administration of Peruvian President Alan Garcia, Peru will not be able to comply with the Annex on Forest Sector Governance by Aug. 1, “despite the considerable energy currently invested by U.S. government agencies working with their Peruvian counterparts to make this happen,” the letter said.

The letter was signed by the International Brotherhood of Teamsters, Sierra Club, Oxfam America, Washington Office on Latin America, Public Citizen, Friends of the Earth, Environmental Investigation Agency, Defenders of Wildlife, Change to Win, and Amazon Watch.

They sent their letter in the lead-up to a meeting this week in Washington between President Obama and Peruvian President Garcia. The groups urged Obama to stress in that meeting the importance of complying with the terms of the FTA by the Aug. 1 deadline.

At a June 1 joint press conference, Obama said that he and Garcia “agreed to pursue the details of the free trade agreement that has already been executed so that it is creating jobs and prosperity in both countries,” according to a transcript provided by the White House.

If Peru does not make further progress in the next two months, one option would be for U.S. groups to urge the Obama administration to launch a legal challenge under the FTA alleging that Peru has failed to live up to its FTA obligations. Peru could ultimately face sanctions as a result, environmental sources said.

But the groups signing the letter may not even favor a strong, immediate push for such a legal challenge by the U.S. government under the FTA, so long as the Peruvian government is showing signs of constructive engagement on unfulfilled obligations, one environmental source said.

In addition, the administration may be reluctant to take such a drastic measure if the Aug. 1 deadline is not met, the source said. Instead, the U.S. and Peru could decide to work out a new deadline for further steps for completing unfulfilled obligations, this source speculated.

The U.S.-Peru FTA was groundbreaking in that it included a long list of specific actions that Peru must take by August 1, or 18 months after the implementation of the FTA. Even with the specificity of these actions, however, one source conceded that in some instances it is difficult to know exactly what “compliance” means.

One obligation that Peru has clearly not yet fulfilled is development of a system to verify the legal origin and “chain of custody” of trees that are listed under the Convention on International Trade in Endangered Species (CITES), one environmental sources said. Peru must develop by Aug. 1 a system to “reliably track specimens from harvest through transport, processing and export,” according to the FTA.

Through this system, Peru should be able to cut down on the threat of illegally harvested timber making its way onto boats for export, one source explained. This has long been a problem in Peru, but development of such a system in Peru is still in the “concept phase,” this source said.

A footnote in the FTA specifically states that an effective “chain of custody system” should provide “management oversight, document control, material separation and tracking, purchasing and receiving, processing, shipping and sales, claims and training, and may employ innovating tracking technologies, such as bar codes.”

Another example of an unfulfilled commitment is the FTA obligation to conduct “technical studies to determine product yields for the purpose of calculating accurate conversion factors and informing decisions on export quotas,” the environmental source said.

This requirement relates to the fact that in the past, Peruvian entities have incorrectly reported the percentage of the standing tree that they were able to convert into timber. On average, only about 20-30 percent of the wood contained in a standing tree can be converted into usable timber for export, this source explained.

By contrast, Peruvian entities have in the past claimed that they were able to use as much as 80 percent of the wood in the standing tree in order to help hide the fact that they were illegally harvesting other wood for export. This mandated calculation would help ensure this does not happen in the future by establishing accurate conversion rates for Peru, this source explained.

This source did note, however, that Peru has taken a number of steps to fulfill some of its obligations prior to the August 1 deadline.

For example, Peru has increased the number of personnel devoted to enforcing its laws and regulations relating to the harvest and trade in timber products. It has also provided criminal and civil liability for actions that impede or undermine the sustainable management of Peru’s forest resources, as mandated by the FTA, this source said.