

Leaks in the System

Why Peru's Illegal Logging Crisis Prevents Effective REDD+ Implementation

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Illegal logging is a widespread and pervasive problem in Peru, with estimates of illegality ranging as high as 80% of exported timber.¹ Illegal logging destroys forest ecosystems, threatens biodiversity and communities who depend on the forest, and has resulted in serious human rights violations against environmental defenders.² In terms of mitigating climate change, it also undermines Peru's efforts to reduce greenhouse gas emissions in the forest sector.

Deforestation accounts for almost half of Peru's emissions, to which rampant illegal logging is a major contributing factor.³ Despite a concerted regulatory effort to curb illegal logging, the system is still broken. According to available data, 68.3% of the all supervised logging concessions have either been cancelled due to a major violation or are under investigation for a violation capable of cancelling it.⁴

International initiatives like REDD+ (Reducing Emissions from Deforestation and Forest Degradation) aim to incentivize countries in protecting their forests, recognizing the vital role that forests play in addressing climate change. Peru receives funding from a variety of international sources to implement REDD+, most recently receiving a pledge of \$300 million from Norway if Peru is able to deliver on its commitments to reduce emissions.⁵ However, if Peru fails to address illegal logging, it will jeopardize its effectiveness in REDD+, both in terms of meeting overall objectives and complying with required safeguards.

At the 2014 UN climate conference in Lima, countries will consider whether to adopt further international guidance on REDD+ safeguards information systems (SIS). The systems are intended to demonstrate how countries are complying with the seven social, environmental, and governance safeguards for REDD+ adopted

within the UN Framework Convention on Climate Change (UNFCCC). Many developing countries are struggling to implement these safeguards, and there is currently no international guidance on what the safeguards mean or what information countries should present in their SIS. In this case study, we focus specifically on how illegal logging negates two safeguards dealing with displacement of emissions (leakage) and the risk of reversals (permanence of emission reductions) on a national scale, and why international guidance would help countries like Peru identify approaches that respect safeguards and promote effective outcomes.

1 The Leakage and Permanence Safeguards

HOW ARE THEY COMPROMISED BY ILLEGAL LOGGING?

Safeguards are typically measures intended to prevent social and environmental harm in the course of implementing a project or

program. Recognizing that REDD+ has significant potential to impact indigenous peoples, local communities, and biodiversity, countries in the UNFCCC agreed to a set of seven safeguards that must be addressed and respected in all phases of REDD+.⁶ The UNFCCC REDD+ safeguards are different from typical safeguards in that they are principles-based and go beyond simply preventing harm to promoting positive outcomes.

Separate from the UNFCCC, there are a number of REDD+ initiatives (e.g. UN-REDD, Forest Carbon Partnership Facility—FCPF, Forest Investment Programme—FIP) that have their own rules and associated guidance for preventing social and environmental harm. Peru participates in the FCPF and FIP, and is a UN-REDD partner country. The San Martin and Madre de Dios regions in Peru are also piloting the REDD+ Social and Environmental Standards. Most of these initiatives either explicitly seek to be consistent with the UNFCCC REDD+

Leakage—safeguard (g): Actions to reduce displacement of emissions.

This safeguard is intended to avoid the displacement of emissions from one area to another. Widespread illegal logging that is not effectively addressed on a national scale can result in leakage of emissions because illegal activity could simply move from one area to another. In Peru's case, because systemic problems in the regulatory framework are enabling illegal logging, piecemeal improvements to enforcement or surveillance in REDD+ project or program areas will not prevent emissions from leaking into other areas.

Permanence—safeguard (f): Actions to address the risk of reversals.

This deals with ensuring the long-term sustainability or permanence of emission reductions. For Peru, the systemic problems that result in logging in unauthorized areas also create significant risks that a protected forest area will come under threat, thus reversing the reductions that were purportedly achieved. Additionally, if policy makers do not address drivers of illegal logging, such as conversion for large-scale agriculture, there is no guarantee that emissions reduced as a result of REDD+ activities will be maintained.

safeguards or recognize that countries have committed to implementing them.⁷ For the purposes of this study, safeguards refer to the UNFCCC REDD+ safeguards.

In addition to leakage and permanence (see box, page 1), it is important to note that depending on the nature and scope of REDD+ activities, illegal logging could also compromise the other required safeguards. For example, exporting illegally-harvested timber violates Peru's international obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), if the species is covered, and the US-Peru Trade Promotion Agreement (TPA). If this occurs in REDD+ areas, it would contravene safeguard (a), requiring consistency with international agreements. Eliminating illegal logging is also essential for effective and transparent forest governance, covered by safeguard (b). Further, illegal logging negatively impacts the rights of indigenous peoples and local communities, addressed in safeguards (c) and (d).

2 **Illegal Logging in Peru** **FACILITATING LAUNDERING** **THROUGH EXPLOITATION OF** **THE LEGAL FRAMEWORK**

Despite efforts to address illegal logging in Peru, the current regulatory framework for the logging industry has resulted in a system that enables rather than curbs illegal logging.⁸ Emissions from logging in Peru are occurring in unauthorized areas, be it

within a concession or outside of it. This makes effective REDD+ implementation nearly impossible because without significant reform emissions from illegal logging will simply shift from one area to another (leakage) and there is no guarantee that emissions purportedly reduced in one area will not face the threat of illegal logging later (lack of permanence).

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Over the past fourteen years, Peru has centered its national forest policy on formulating a framework for the “sustainable use and conservation of forest resources.”⁹ However, illegal logging remains a persistent, substantial, and serious problem in Peru.¹⁰ In 2012, the Environmental Investigation Agency published a detailed report, *The Laundering Machine*, showing that Peruvian loggers and exporters were working as part of a system of “gears in a well-oiled machine that is ransacking Peru’s forests and undermining the livelihoods and rights of the people that depend on them.”¹¹ A 2014 study, which included authors from

Amazon Conservation Association and the Center for International Environmental Law, found “that Peru’s legal logging concession system, established in the 2000 Forestry Law and later reinforced by the US-Peru TPA, is enabling widespread illegal logging.”¹²

The Forestry law, enacted in 2000, set up a framework that controls access to Peruvian forests and the resources within them.¹³ Access to the timber is obtained through concessions, permits, and authorizations.¹⁴ Concessions contracts contain permission to log on certain tracts of land for up to forty years.¹⁵ Once a concession is obtained, a variety of other regulations apply to the extraction process, which governs logging on each parcel of land.¹⁶ In 2006 Peru agreed to a variety of anti-illegal logging commitments as outlined in the US-Peru TPA’s Forestry Annex,¹⁷ which led to revisions of the forestry law and regulation. A particularly important development was making OSINFOR (the national supervisory body) an independent agency, with powers to impose sanctions and, when forestry laws are violated, to cancel concessions.¹⁸ Peru also narrowly avoided sanctions under CITES in 2006 with respect to Bigleaf mahogany exports, partly by agreeing to align forestry and CITES legislation in relation to export quotas and authorizing exports.¹⁹

Even with these seemingly robust and in-depth attempts at investigation and regulation, illegal logging continues to be a widespread problem in Peru.²⁰ The majority of supervised concessions have been cancelled or are under investigation for a serious violation. However, this is likely to be a low estimate because OSINFOR has yet to investigate many of the concessions.²¹

OSINFOR’s investigations show that many of the violations are a result of illegal logging taking place outside the permitted concession area or approved management plan.²² Illegal loggers in Peru commonly use a variety of tactics. In many cases, harvest permits containing a description of non-existent trees are approved by complicit or corrupt government officials. Trees are then harvested from unauthorized areas using those documents.²³ The modus operandi is fairly simple: the concessionaire specifies a larger quantity of timber than exists in the authorized concession, and then claims that the timber is taken from the authorized area when it was actually harvested from an unauthorized area using the “irregular” permit.²⁴



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Another problem with the existing legal framework is the lack of regulation and investigation at the site of timber harvesting. The documents are not inspected until the timber has been harvested and is in transit or has arrived at the port.²⁵ This process enables the permits, no longer tied to their concession areas, to be traded, facilitating illegal logging in areas outside the permitted areas.²⁶

These systemic problems are a barrier to effective REDD+ implementation. Permit laundering and logging in unauthorized areas will result in emissions leakage even if REDD+ projects improve enforcement and reduce emissions in specific areas. It could also threaten the permanence of emission reductions if it occurs in REDD+ project or program areas in Peru. Unless the current legal framework is improved, “shift[ing] the focus away from transit documents and towards verifying extraction of wood at the source and the subsequent chain of custody,” illegal logging is likely to continue to plague Peru.²⁷

3 Further UNFCCC Guidance? REDD+ SAFEGUARDS INFORMATION SYSTEMS

Many developing countries are facing challenges in implementing the REDD+ safeguards. Peru participates in a variety of REDD+ initiatives and is piloting a number of projects as part of its readiness process.²⁸ Some of these projects specifically aim to reduce illegal logging in specific areas. For

example, there are projects proposed and in early stages of implementation in Loreto and Madre de Dios that aim to reduce illegal logging by improving enforcement and increasing surveillance.²⁹ However, the leakage and permanence safeguards compromised by illegal logging cannot be

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dealt with on a purely project-based scale. Efforts need to be coordinated to ensure that gains made in REDD+ project or program areas are not negated due to leakage or lack of permanence. Additionally, using Peru’s existing legal and enforcement framework for managing logging will not be sufficient to comply with relevant REDD+ safeguards. Peru needs to reform its system to have *effective regional and national approaches* to address illegal logging and its drivers.

Part of the challenge for developing countries is determining *how* to effectively

address and respect safeguards, given that there is no clarity about what the safeguards mean and how to demonstrate that they are being effectively implemented. The UNFCCC is currently negotiating whether to develop additional guidance on REDD+ safeguards information systems. This is an opportunity to clarify what is expected in demonstrating compliance with safeguards, which in turn can help ensure that countries design and implement REDD+ effectively.

For instance, international guidance could specify that alongside any REDD+ projects governments are piloting, countries need to demonstrate efforts to curb illegal logging at a national scale. Guidance could request countries to both identify relevant laws dealing with illegal logging and assess the extent to which they are effective. Where laws are not effective, it will be important to understand why. Is it simply an enforcement problem? Or, like in Peru, are there more systemic problems with the legal framework and what is monitored? Additionally, guidance could connect drivers of deforestation that affect REDD+ safeguards implementation, such as conversion of forests to large-scale agriculture, and request that countries report on efforts to address those drivers.

While there are no universal solutions for the complex governance challenges countries face, further international guidance is needed to help countries develop REDD+ in a way that ensures compliance with safeguards and delivers positive

outcomes. Robust compliance with safeguards will improve the effectiveness of REDD+ and a country's ability to access additional finance. However, safeguards implementation must be promoted and supported,³⁰ and developed countries must provide sufficient resources to help REDD+ countries with readiness and preparation.

Efforts need to be coordinated to ensure that gains made in REDD+ project or program areas are not negated due to leakage or lack of permanence from illegal logging.

4 Conclusion **ILLEGAL LOGGING IN PERU UNDERMINES REDD+**

Peru provides an example of how illegal logging could undermine and in effect nullify REDD+. Without a substantial and competent legal framework in place to control current conditions, REDD+ activities will not be effective. Moreover, if projects move forward without overhauling the policy, legislative, and enforcement framework to prevent illegal logging, there will be significant risks of leakage and reversals, among other safeguards problems, in the future. International guidance and additional finance to support safeguards implementation could help countries make better progress toward achieving their REDD+ objectives and improving forest governance.

ENDNOTES

- 1 World Bank Study, *Justice for Forests: Improving Criminal Justice Efforts to Combat Illegal Logging*, 2 (2012), http://sitieresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Illegal_Loading.pdf.
- 2 Global Witness, *Peru's Deadly Environment: The Rise of Killings in Land and Environmental Defenders* (2014), http://www.globalwitness.org/perudeadlyenvironment/docs/peru_deadly_environment_en.pdf.
- 3 *Id.*
- 4 Matt Finer, et al., *Logging Concessions Enable Illegal Logging Crisis in the Peruvian Amazon*, SCIENTIFIC REPORTS 2 (2014), <http://www.nature.com/srep/2014/140417/srep04719/pdf/srep04719.pdf>.
- 5 Joint Declaration of Intent between Peru, Norway, and Germany, *Cooperation on reducing greenhouse gas emissions from deforestation and forest degradation (REDD+) and promote sustainable development in Peru*, (Sept. 23, 2014), <http://www.regjeringen.no/pages/38817732/DeclarationofIntentPeru.pdf>.
- 6 UNFCCC, Decision 1/CP.16, Appendix I (2010).
- 7 *ee e.g.* Forest Carbon Partnership Facility, Common Approach to Environmental and Social Safeguards for Delivery Partners (2011), http://www.forestcarbonpartnership.org/sites/forestcarbonpartnership.org/files/Documents/PDF/Nov2011/FCPF%20Readiness%20Fund%20Common%20Approach%20_Final_%2010-Aug-2011_Revised.pdf.
- 8 Matt Finer, et al., *Logging Concessions Enable Illegal Logging Crisis in the Peruvian Amazon*, SCIENTIFIC REPORTS (2014), <http://www.nature.com/srep/2014/140417/srep04719/pdf/srep04719.pdf>.
- 9 *Id.* at 1 (citing Republica del Perú, Ley Forestal y de Fauna Silvestre, Ley No. 27308 (2000)).
- 10 *Id.*; Julia M. Urrunaga, et al., Environmental Investigation Agency, *The Laundering Machine: Fraud and Corruption in Peru's Concession System are Destroying the Future of its Forests* (2012), <http://eia-international.org/wp-content/uploads/The-Laundering-Machine.pdf>; M. Finer, M. Blue Sky, & C.N. Jenkins, Sector forestall en Loreto, Perú: estado actual e implicancias ecológicas y sociales, *Rev. Latinoam. Derecho y Políticas Ambient.*, 151–184 (DAR 2012); R. Sears & M. Pinedo-Vasquez, Forest Policy Reform and the Organization of Logging in Peruvian Amazonia, *Dev. Change* 42, 509–531 (2011); W. Neuman & A. Zarate, *Corruption in Peru Aids Cutting of Rain Forest*, NEW YORK TIMES (2013), http://www.nytimes.com/2013/10/19/world/americas/corruption-in-peru-aids-cutting-of-rain-forest.html?_r=0.
- 11 Julia M. Urrunaga, et al., Environmental Investigation Agency, *The Laundering Machine: Fraud and Corruption in Peru's Concession System are Destroying the Future of its Forests*, 3 (2012), <http://eia-international.org/wp-content/uploads/The-Laundering-Machine.pdf>.
- 12 Matt Finer, et al., *Logging Concessions Enable Illegal Logging Crisis in the Peruvian Amazon*, SCIENTIFIC REPORTS 1, (2014) <http://www.nature.com/srep/2014/140417/srep04719/pdf/srep04719.pdf>.
- 13 *Id.*
- 14 *Id.*
- 15 *Id.* (citing Dirección General Forestal y de Fauna Silvestre, *Spatial Data of logging concessions* (Ministerio de Agricultura 2010)).
- 16 *Id.* at 2.
- 17 *Id.* (citing United States-Peru Trade Promotions Agreement (2006)). Some of these commitments included: "to deter the falsification of information on key documents (such as PGMF, POA, and GTF); deter timber harvesting outside authorized areas; and improved the management of forest concessions." *Id.* PGMF, POA, and GTF are various forms required in the logging process through the National Forest Law in Peru.
- 18 *Id.* at 2.
- 19 J. Saunders & R. Reeve, *The EU Timber Regulation and CITES*, Chatham House & CIFOR, Energy, Environment and Resources PP EER 2014/08 (2014).
- 20 Matt Finer, et al., *Logging Concessions Enable Illegal Logging Crisis in the Peruvian Amazon*, SCIENTIFIC REPORTS (2014), <http://www.nature.com/srep/2014/140417/srep04719/pdf/srep04719.pdf>.
- 21 *Id.*
- 22 *Id.*
- 23 Julia M. Urrunaga, et al., Environmental Investigation Agency, *The Laundering Machine: Fraud and Corruption in Peru's Concession System are Destroying the Future of its Forests*, 4 (2012), <http://eia-international.org/wp-content/uploads/The-Laundering-Machine.pdf>.
- 24 Matt Finer, et al., *Logging Concessions Enable Illegal Logging Crisis in the Peruvian Amazon*, SCIENTIFIC REPORTS (2014), <http://www.nature.com/srep/2014/140417/srep04719/pdf/srep04719.pdf>.
- 25 *Id.*
- 26 *Id.*
- 27 *Id.*
- 28 Fiorella Burneo, et al., *Background Paper: Peru's REDD+ Benefit Sharing International Dialogue*, 6, (Feb. 24–28, 2014), http://theforestsdialogue.org/sites/default/files/tfd_redd_background_paper_peru_0.pdf.
- 29 REDD Project in Loreto's Timber Concession, THE REDD DESK.ORG, [http://theredddesk.org/countries/initiatives/madre-de-dios-amazon-redd-project](http://theredddesk.org/countries/initiatives/redd-project-loreto%E2%80%99s-timber-concession; Madre de Dios Amazon REDD Project, THE REDD DESK.ORG, http://theredddesk.org/countries/initiatives/madre-de-dios-amazon-redd-project).
- 30 UNFCCC, Decision 1/CP.16 Appendix 1, para 2 (2010).



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