



global witness

Making the Forest Sector Transparent

Annual Transparency Report

Country: Peru

Partner: Derecho, Ambiente y Recursos Naturales (DAR)

Year: 2010

Language: English

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Making the Forest Sector Transparent

Making the Forest Sector Transparent is a four-year programme supporting civil society groups in forest-rich countries to advocate for greater transparency and good governance. An important part of the programme is the production of annual report cards by independent NGO partners to monitor the forest sector in their countries. The number of NGO partners has increased year-on-year, starting in Cameroon, Ghana, Liberia and Peru in 2009, to including Ecuador in 2010 and Guatemala and the Democratic Republic of Congo (DRC) in 2011.

The 2011 Report Card consists of 20 key indicators on important provisions of the legal and regulatory framework that applies to the forest sector governance. The partners collected data between July 2011 and August 2011. Each indicator includes an 'objective' assessment of whether clear provisions exist and information on them is publicly available, resulting in a 'yes', 'partial', or 'no' overall. This is combined with a more 'subjective' assessment of whether there is evidence of change in the last year (where a report card was produced in 2010) and analysis of whether the provision enables transparent access to information and/or decision-making. Data collection was largely carried out through office-based research, for example by searching the websites of government institutions and other official sources of information, supplemented where appropriate by contacting key informants and requesting specific information. The data presented on each indicator is organised as shown in the Table below.

Indicator assessment

Does it exist?	Is it available?	Indicator	
Yes – specific provision in current laws and norms that have been passed by state and applies to the forest sector	Yes – available to public from official sources (websites, publications, media)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
Partial – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	Partial – some information provided but not complete (e.g. only parts of manuals)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
No – no current provision or plans to establish (even though needed)		No	
Not applicable - not relevant to the country-specific context		N/A	

Specific questions guided the determination of the existence and availability of the provisions for each indicator. In order to receive a 'yes', the provision needed to both exist in the legal and regulatory framework and information needs to be publicly available on it, whereas a 'partial' or 'no' indicator reflected that either one or the other criteria (or both) was partially or not met.

The change in the last year was assessed against the following scale:

-  Significantly Improved - major development such as new law or information system
-  Improved - steps forward such as initiatives with potential to improve transparency
-  No Change - no evidence of major change in the conditions for transparency
-  Worsened - steps backward such as activities taking place without transparent processes
-  Significantly Worsened - major deterioration such as termination of laws or systems

Specific information was provided on the full titles of the applicable laws or other norms, the names of the authorities or institutions responsible for them, the dates when they were passed, and the website or other official sources where they can be accessed.

For further information please go to www.foresttransparency.info.

Is there a Freedom of Information Act?

Yes, the objective of the present Law of Transparency and Access to Information is to promote transparency in government actions and regulate the fundamental right of access to information enshrined in paragraph 5 of Article 2 of the Constitution of Peru.

Title: Political Constitution of Peru of 1993
Transparency and Access to Public Information Law N° 27806
Modification of the Law N° 27806, Transparency and Access to Public Information Law LEY N° 27927

Date: 30/12/1993
13/07/2002
13/01/2003

Source: <http://www.tc.gob.pe/constitucion.pdf>
http://www.minjus.gob.pe/transparencia2/Ley_de_Transparencia.pdf
http://www.construyendoperu.gob.pe/Documentos/Transparencia/ley_27927.pdf

What other rules provide for transparency?

In addition to any specific freedom of information laws, are there references to transparency in the Constitution, general laws, regulations, decrees etc. that all public institutions must adhere to (the next indicator is specifically about the forest sector)

There are various regulations that contribute to transparency. Among those currently in force are the following ones issued by relevant public bodies.

Title: Citizens' Rights of Participation and Control Law, approved by Law N ° 26300
Consolidated text of the Law N ° 27806, Law of Transparency and Access to Public Information. Supreme Decree 043-2003-PCM
Regulation that establishes the dispositions related to advertising, publishing and disseminating Normative Projects general legal rules, approved by Supreme Decree N ° 001-2009-JUS.

Date: 26/09/2001
24/04/2003
15/01/2009

Source: <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/26300.pdf>
http://www.vivienda.gob.pe/transparencia/documentos/DS_043_2003_PCM.pdf
<http://www2.osinerg.gob.pe/MarcoLegal/docrev/pdf/DS-001-2009-JUS-CONCORDADO.pdf>

Are there any forest sector specific laws / rules / statements that provide for transparency?

Are there any forest-specific written laws and regulations, key announcements or speeches that develop the right to access public information on the sector, for example a Service Charter.

The general rules of the public sector are applicable to the public institutions of the forest sector. This year, specific standards and guidelines have been developed that aim to improve transparency through websites.

Title: Regulation of the Law of Transparency and Access to Public Information. Supreme Decree 072-2003-PCM
Regulation on Transparency, Access to Public Environmental Information and Citizens Participation and Consultation in Environmental Issues, approved by Supreme Decree N° 002-2009-MINAM
Creation of the Executive Committee responsible for proposing and formulating legislative initiatives and/or specific measures under the National Plan to Combat Corruption, for the Promotion of Civil Servants Ethics, Transparency, Access to Information, Best Practices, Institutional Securities and Combating Corruption in the Ministry of Environment. Ministerial Resolution No. 172-2009 MINAM
Supreme Decree approving the implementation of the Transparency Portal Standard on Public Administration Entities. Supreme Decree 063-2010-PCM
Guidelines for the implementation of the Transparency Portal Standard on Public Administration Entities. Ministerial Resolution N ° 200-2010-PMC

Date: 07/08/2003
17/01/2009
25/08/2009
03/06/2010
24/06/2010

Source: <http://www.digemid.minsa.gob.pe/normatividad/DS07203.htm>
http://www.congreso.gob.pe/dgp/ciae/carpeta-informativa/derecho_cons_puebl_indige/compi_norma_legal_nacio/DS_002-2009-MINAM.pdf
http://www.minam.gob.pe/index.php?option=com_docman&task=cat_view&gid=69&limit=20&order=hits&dir=DESC&Itemid=39&limitstart=2
http://200.37.186.36/web/index.php?option=com_remository&Itemid=183&func=startdown&id=6442
dggi.mininter.gob.pe/dggi/doc_marcolegal/3_marcolegal.pdf

Is there any settlement process for disputes regarding access to information?

Are there clear, documented, and understood steps for resolving conflicts between transparency and confidentiality norms, or where / when authorities fail or refuse to provide information?
If so, is this dispute-settlement process well-advertised, not prohibitively costly and therefore realistically accessible to most people?

Yes, according to what is stated in Article 11 of the "Law on Transparency and Access to Public Information", after completing the administrative process, one can opt to start the dispute process (regulated by the Law No.27584), or the constitutional process of Habeas Data (regulated by the Constitutional Procedural Code).

If no reply is given through the administrative process within the time set by law after the access to information is solicited, or if the access to information is denied, the right to appeal can be claimed. If the latter is denied or not resolved within the time set by law, the administrative process is considered concluded.

Title:

Consolidated text of the Law N° 27806, Law of Transparency and Access to Public Information. Supreme Decree 043-2003-PCM
Constitutional Procedural Code, approved by Law N° 28237
Consolidated text of the Law N° 27584, Law Regulating Contentious Administrative Process, as amended by Legislative Decree No. 1067, approved by Supreme Decree N° 013-2008-JUS

Date: 24/04/2003
31/05/2004
29/08/2008

Source: http://www.vivienda.gob.pe/transparencia/documentos/DS_043_2003_PCM.pdf
http://www.tc.gob.pe/Codigo_Procesal.html
http://blog.pucp.edu.pe/media/1309/20080905-TUO%20LEY%20QUE%20REGULA%20EL%20PROCESO%20CONTENCIOSO%20ADMINISTRATIVO_blog.doc

Do communities have legal standing?

Does any part of the codified law recognise 'a community' as 'a legal person', for example able to hold property titles or sue and be sued?

Yes, according to Article 89 of the Political Constitution of Peru, the legal existence and status of Native and Peasant Communities is recognized.

Despite this, in order to be registered in the Register of Legal Entities, they need to have previous administrative recognition according to what is established in Article 2 of the Regulation of the General Law of Peasant Communities, approved by Supreme Decree No.008-91-TR, and in Number 4.1 of the Guideline which defines the applicable normative framework and establishes the norms regulating the subscription procedure for Native Communities, approved by the Resolution of the National Superintendent of Public Registers No.157-2001-SUNARP-SN.

Title: Law of Native Communities and Agricultural Development of the Forest and high land jungle, approved by Law Decree N° 22175
General Rural Communities Act, approved by Law No. 24656
Regulation of the General Rural Communities Act, approved by Supreme Decree N° 008-91-TR
Directive that defines the applicable regulations and establishes norms that regulate the registration procedure for Native Communities, approved by the Resolution of the National Superintendent of Public Registers N° 157-2001-SUNARP-SN.

Date: 09/05/1978
14/04/1987
15/02/1991
10/06/2001

Source: <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/22175.pdf>
http://www.justiciaviva.org.pe/acceso_justicia/justicia_comunal/3.pdf
http://www.cepes.org.pe/allpa/legislacion_ds00891b.shtml
<http://spij.minjus.gob.pe/>

Language: Inadequate for indigenous people

Do NGOs have legal standing?

Does any part of the codified law recognise NGOs as 'a legal person', for example able to hold property titles or sue and be sued?

Yes, in order to achieve legal standing they need to constitute themselves as an association, foundation or committee; of which the first two options are the most common.

Title: Civil Code, approved by Legislative Decree N° 295

Date: 25/07/1984

Source: <http://www.acnur.org/biblioteca/pdf/01166.pdf>

Is there a national forest policy document? Is it available?

Is there an explicit current document described as the national forest policy? If so, has it been used to inform the forest law and other norms (or has it been produced after the forest law)? Is it up-to-date or does it require revisions in the light of REDD, mining, or other threats and opportunities?

Currently the proposed National Forest and Wildlife Policy is in the process of consultation and approval. This is intended to promote forest sector development by ensuring sustainable production of goods and services from forests and other wild ecosystems.

Principally due to the regrettable events in Bagua (where there was a violent confrontation between indigenous peoples and the police in 2009), participative processes have been prioritised for the formulation of the Forest Law.

Title: Third draft of the National Forest and Wildlife Policy - PNFFS
Formalize the document "National Forest Strategy, Peru, 2002-2021" Supreme Decree N° 031-2004-AG
National Strategy of Fight Against Illegal Logging in Peru, declared of national interest by Supreme Decree N° 019-2004-AG
Protocol of Emendation to the Peru-US Trade Promotion Agreement: Annex 18.3.4. Annex on the Forest Sector Management, approved by the Congress of the Republic by means of Legislative Resolution N° 29054, and ratified by Supreme Decree N° 040-2007-RE
National Environmental Policy, approved by Supreme Decree N° 012-2009-MINAM

Date: 07/06/2010
18/08/2004
18/08/2004
25/06/2007
25/05/2009

Source: <http://www.minag.gob.pe/legislacion-forestal-y-de-fauna-silvestre/version-preliminar-de-la-propuesta.html>
[http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/decsup/D.S.N%C2%BA%20031-2004-AG%20\(Ofic.%20doc.Estrat.%20Nac.%20forest.%202002-2021\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/decsup/D.S.N%C2%BA%20031-2004-AG%20(Ofic.%20doc.Estrat.%20Nac.%20forest.%202002-2021).pdf)
www.peruforests.org/documents/DS019-2004-AG.doc
<http://www.tlcperu-eeuu.gob.pe/index.php?ncategoria1=222&ncategoria2=223>

Language: Inadequate for indigenous people

Is the forest law available?

The current law is the Forests and Wildlife Law No. 27308 adopted in 2000.

In June 2008, Legislative Decree No. 1090 was approved, but it was repealed in June 2009. Currently, there is a proposal for a Forest and Wildlife Law; it has been drawn up in a participatory way since September 2009 under the review of the commission of agriculture in the Congress.

<http://www2.congreso.gob.pe/Sicr/TraDocEstProc/CLProLey2006.nsf>

Title: Forests and Wildlife Law, approved by Law N° 27308
Regulation of the Forests and Wildlife Law, approved by Supreme Decree N° 014-2001-AG
Legislative Decree No. 1090 approving the Forest and Wildlife Law
Act suspending the application of Legislative Decrees Nos.. 1090 and 1064, approved by Law N ° 29376
Law revoking the Legislative Decrees No. 1090 and 7064, approved by Law N° 29382
Draft of the Forest and Wildlife Law

Date: 16/07/2000
09/04/2001
28/06/2008
28/06/2008
19/06/2009
17/05/2010

Source: <http://www.legislacionforestal.org/ley-forestal-y-de-fauna-silvestre-4/>
<http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>
[http://www.minag.gob.pe/dgffs/pdf/2008/DL2008/DL%20N%C2%B0%201090%20\(Aprueban%20la%20Ley%20Forestal%20y%20de%20Fauna%20Silvestre\).pdf](http://www.minag.gob.pe/dgffs/pdf/2008/DL2008/DL%20N%C2%B0%201090%20(Aprueban%20la%20Ley%20Forestal%20y%20de%20Fauna%20Silvestre).pdf)
http://www.cepes.org.pe/apc-aa/archivos-aa/4a15e4303d8c04dde2018292e444138c/LEY_29376.pdf
<http://www.dar.org.pe/Documentos%20para%20Grupo%20Nacional%20de%20Coordinacion/2.%20Decretos%20Legislativos/2.%20DL%201064/1.%20Normas%20legales/3.%20Ley%20N%C2%BA%2029382%20-%20Deroga%20DL%201090%20y%201064.pdf>
<http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/versionpreliminar-lffs.pdf>

Language: Inadequate for indigenous people

Are all forest regulations, procedures, decrees, etc. available?

Are all lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative available? (This indicator refers to rules directly related to forest operations. See next indicator for rules related to other operations affecting forests).

The Forest Law portal of the General Forest and Wildlife Directorate of the Ministry of Agriculture has organized the legal standards by theme, chronological order, and region, and includes a link to the main repealed laws and regulations. While the standards are available there is no search mechanism to access the rules organized in chronological order.

When the 2009 Report Card was produced this information was not available; the Report Card contributed to the restitution of the web page.

Title: Portal of Forest and Wildlife Legislation

Date: Institutional Site Search: 29 Sep 2010

Source: <http://www.legislacionforestal.org/legislacion/por-temas/>
http://www.minag.gob.pe/dgffs/index.php?option=com_content&view=article&id=27&Itemid=56

Are forest-related policies, laws, agreements etc public?

Are all other significant regulations, procedures, decrees, technical directives etc. that affect forests available (for example norms related to carbon and REDD; agriculture and biofuels; conservation and national parks; roads, energy and other infrastructure)?

The regulations from other sectors that affect the forest are available, taking into consideration that mining, hydrocarbons, agricultural exports and biofuels policies are a priority for the government.

The 2009 Report Card contributed to the increase in information held on web pages.

Title: Policy tools gathered in the document "Systematization and Mapping of the Actors in the Deforestation Process in the IIRSA Hubs North and South Peru", developed by DAR Forest Programme
National Climate Change Strategy Supreme Decree 086-2003-PCM
Market Promotion Act Biofuels
National Environmental Policy, approved by Supreme Decree N° 012-2009-MINAM
National Program for Conservation of Forests for Mitigation of Climate Change. Supreme Decree 008-2010-MINAM
Portal of Natural Protected Areas Legislation

Date: 07/08/2003
27/09/2003
April 2009
25/05/2009
14/06/2010
Institutional Site Search: 29 Sep 2010

Source: http://www.argentinarenovables.org/archivos/leyes/peru/Ley_Peru.pdf
<http://www.sernanp.gob.pe/sernanp/archivos/imagenes/Estrategia%20Nacional%20de%20Cambio%20Climatico.pdf>
<http://www.dar.org.pe/transparenciaforestal/indexdocumentos.html>
http://www.minam.gob.pe/index.php?option=com_docman&Itemid=65

http://www.cepes.org.pe/apc-aa/archivos-aa/4a15e4303d8c04dde2018292e444138c/DS_008_2010_MINAM.pdf
http://www.legislacionanp.org.pe/index.php?option=com_frontpage&Itemid=1

Language: Inadequate for indigenous peoples

Has the country signed up to international agreements?

Which forest-related international agreements or processes has the country signed up to? (See www.foresttransparency.info/report-card/downloads/ for the list of agreements monitored.)

Yes, Peru has signed several international agreements such as CITES, UNFCCC, CBD, ITTO, etc.

Title: The State approves the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) by Law Decree N° 21080
The State approves the Convention on Biological Diversity adopted in Rio by Legislative Resolution N° 26181
The State approves the UN Framework Convention on Climate Change, approved by Legislative Resolution N° 26185
The State approves the International Tropical Timber Agreement 1994, adopted in Geneva and signed by Peru, by Legislative Resolution N° 26515
National Action Program to Combat Desertification (PAN - PERU), approved in 1996 and formalized by the Ministerial Resolution 0620-2001-AG
Protocol of Emendation to the Peru-US Trade Promotion Agreement: Annex 18.3.4. Annex on the Forest Sector Management, approved by the Congress of the Republic by means of Legislative Resolution N° 29054, and ratified by Supreme Decree N° 040-2007-RE. Supreme Decree N° 009-2009-MINCETUR rules it to come into force and execution by 17 January 2009
The State approves the International Tropical Timber Agreement 2006 by Legislative Resolution N° 29474
UNODC in PERU
Proposal for the Development of Readiness (R-PPs)
Convention on Wetlands of International Importance especially as Waterfowl Habitat

Date: 22/01/1975
11/05/1993
12/05/1993
04/08/1995
23/06/2003
25/06/2007
14/12/2009
Institutional Site Search: 16 Oct 2010
Sept 2010
Institutional Site Search: 29 Sept 2010

Source: http://www.senasa.gob.pe/servicios/sanidad_vegetal/defensa_fitosanitaria/00007.pdf
<http://www.congreso.gob.pe/ntley/Imagenes/Leyes/26185.pdf>
<http://www.unccd.int/actionprogrammes/lac/national/1996/peru-spa.pdf>
<http://www.tlcperu-eeuu.gob.pe/index.php?ncategoria1=222&ncategoria2=223>
<http://www.unodc.org/peruandecuador/es/nosotros/unodc-en-peru.html>
http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Sep2010/Segunda_Borrador_RPP_16_sep_10.pdf

Does customary / traditional forest law exist in this country?

Are there any customary and traditional forest rules in the country? If both customary and codified forest law exist, which one has predominated in the country and have there been efforts from the forestry administration to match both?

Yes, according to "Analysis of the legal framework for forest management by smallholders and communities in the Peruvian Amazon" by the ForLive Project, outside the laws and official regulations for the use of timber and non-timber forest products, communities have their own rules or agreements, which vary slightly depending on the ethnic group to which the community belongs.

In general, the official law predominates; there are few efforts to merge the rules. An additional example was the Administrative Decree No 232-2006-INRENA. In spite of being one of few laws that have merged together the rules, the impact that it had when adopted by the indigenous organisations was considerable.

Title: "Analysis of the legal framework for forest management by smallholders and communities in the Peruvian Amazon" ForLive Project

Date: August 2008

Source: <http://www.cifor.cgiar.org/Knowledge/Publications/Detail?pid=2757>

Is there a national forest forum?

Is there any form of government-recognised national level roundtable dialogue which meets regularly (annually or more often) to allow citizens to raise issues of concern with the national forest authorities? If so, what is the status of any discussions or decisions made (are they documented; are they legally binding in any way)?

Currently, the Agricultural Commission of the Congress set up the working group on the Bill No. 4141/2009-PE "Forest and Wildlife Law" to discuss and debate the draft law. It was sent by the executive, which will also be discussed and consulted through public hearings in the regions.

Partly, as a permanent spaces for dialogue, Article 5 of the Forest and Wildlife Law, approved by Law No. 27308, provides for the establishment of the National Advisory Council on Forest Policy (CONAFOR) that, similar to the National Table for Forest for Dialogue and Consultation (MNDCF) formalized by Ministerial Resolution No. 235-2005-AG, has not been implemented to date.

Title: The State formalizes the National Table for Forest Dialogue and Consultation (MDCF), by Ministerial Resolution N° 235-2005-AG.
The State sets up the National Group of Coordination for the Development of Amazonian People, which is in charge of outlining a Comprehensive Sustainable Development Plan for Amazonian People, with regard to Education, Health, Securitization and Formalization of Lands and other necessary measures, by the Supreme Resolution No.117-2009-PCM.
The State declares a priority the review and up-date of the Forests and Wildlife Legislation, by Ministerial Resolution N° 0544-2009-AG

Declaration of priority of the development of an Anti-Corruption Plan for Forests and Wildlife.
Ministerial Resolution No. 0505-2010-AG
Space for discussion of the project law No. 4141 - Law of Forests and Wildlife. Worktable the
project law No. 4141/2009-PE "Forest and Wildlife Law"

Date: 01/03/2005
11/06/2009
01/08/2009
22/07/2010
Date of Review: 12 October 2010

Source: <http://www.congreso.gob.pe/>
<http://www.infobosques.com/descargas/biblioteca/135.pdf>
<http://www.dar.org.pe/documentos/RM%20N%C2%BA%200544-2009-AG.pdf>
<http://www.dar.org.pe/Documentos%20para%20Grupo%20Nacional%20de%20Coordinacion/RS%20N%C2%BA%20117-2009-PCM%20-%20Constituyentes%20Grupo%20Nacional%20de%20Coordinaci%C3%B3n.pdf>

Are there local forest forums?

Are there any government-recognised local roundtable dialogue forums which meets regularly (annually or more often) to allow citizens to raise issues of concern with the forest authorities? If so, what is the status of any discussions or decisions made (are they documented; are they legally binding in any way)?

Yes, the Regional REDD Table in San Martin has been recognized by the State through the Regional Executive Resolution No. 084-2009-GRSM/PGR. However there are also Regional REDD Boards in Madre de Dios, Piura, and Cuzco, in which government bodies participate, but they have not been recognized by a regional standard. These forums are promoted principally by civil society.

Title: The State sets up the Round-table of Forest Coordination in the Region of Lambayeque, in accordance with Regional Ordinance N° 005-2003-GR.LAMB-PR
The State sets up the Regional Roundtable of Dialogue and Forest Coordination of Madre de Dios, in accordance with Regional Ordinance N° 015-2009-GRMDD-CR
Regional Hearings for the discussion of the project law No. 4141 – Forest and Wildlife Law
Recognition of the Regional Table in San Martin REDD, Regional Executive Resolution No. 084-2009-GRSM/PGR

Date: 28/05/2003
07/06/2009
Date of Review: 12 October 2010
09/11/2009

Source: <http://spij.minjus.gob.pe/>
<http://spij.minjus.gob.pe/>
<http://www.congreso.gob.pe/>
http://www.regionsanmartin.gob.pe/consejo_regional/resoluciones/2009/RES2009864.pdf

Is there an established, government-recognised list of stakeholders?

Is there an official list of individual stakeholders or stakeholder types whom the government is obliged to consult or to share information with?

The Forest and Wildlife Law in article No. 5 created the National Advisory Council on Forest Policy (CONAFOR), as an advisory body to the highest level of the Ministry of Agriculture on Forest Policy and Wildlife. While the law establishes this body, there is no official identification of the different stakeholders in the sector.

Title: Article No. 10 of the Regulations of the Forest and Wildlife Law, approved by Supreme Decree N ° 014-2001-AG

Date: 09/04/2001

Source: <http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>

Are reports on consultation processes public?

Does government publish the results of any forest-related consultation processes?

Yes, after finalising the consultation process, the results of the development of National Forest Policy and the Forest and Wildlife Law were presented.

The process of participation and the subsequent production of reports were only developed this year, which is why there is a difference with what was reported in the RCC 2009.

Title: Anti-Corruption Plan of the Forest and Wildlife Sector
Draft of the Forest and Wildlife Law
Third draft of the National Forest and Wildlife - PNFFS

Date: 09/2010
17/05/2010
07/06/2010

Source: http://www.pfsi.us/pasf/documentos/3era_VERSION_PASF.pdf
<http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/versionpreliminar-lffs.pdf>
<http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/pnffs-3raversion-dgffs-07jun10.pdf>

Language: Inadequate for indigenous peoples

Is there any law recognising the right to free prior informed consultation?

Is there any law to implement the country's commitment to ILO Convention 169 on the right to consultation?

No, the Congress approved the Law of Consultation of Indigenous Peoples, but this was commented on by the President of the Republic and the President of the Cabinet (the Executive) by virtue of their constitutional power to observe all or part of a law approved by the Congress. These comments are in contradiction of what was established in ILO Convention 169 about indigenous peoples and tribes, nonetheless the Congress approved all of the Executive's observations. To date, the bill is in Congress waiting to be submitted to a new vote.

Is there any law recognising the right to free prior informed consent?

Is there any law on the right to consultation which gives veto powers to communities and/or indigenous peoples?

No, one of the executive's notes to the record of Law on Consultation of indigenous peoples is that they don't have the right to veto any legislative or administrative measures that affect them.

Is there a procedure for consultation on new norms?

Are there any documented procedures (in the form of regulations, official guidance notes etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc? If so, is it implemented?

Yes, among others, there was consultation, based on the laws listed below, on the formulation of National Forest Policy, the Forest and Wildlife Law, and the Anti-Corruption Plan of the forest and wildlife sector. These forums are promoted principally by civil society.

Title: Fecha de revisión: 12 de Octubre de 2010
Rights Act of Participation and Citizen Control, approved by Law N° 26300
Organic Law of Municipalities, approved by Law N° 27972
Regulation over Transparency, Access to Environmental Public Information and Citizens Participation and Consultation in Environmental Issues, approved by Supreme Decree N° 002-2009-MINAM
Guide to the revision of forest and wildlife legislation (Forest law, national forest policy and regulation)
Methodology for developing the Anti-Corruption Plan of Forests and Wildlife (FSAP)

Date: 26/09/2001
27/05/2003
17/01/2009
01/08/2009
Date of Review: 12 October 2010

Source: <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/26300.pdf>
http://www.aedes.com.pe/dmdocuments/Ley_27972.pdf
http://www.congreso.gob.pe/dgp/ciae/carpeta-informativa/derecho_cons_puebl_indige/compi_norma_legal_nacio/DS_002-2009-MINAM.pdf
http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/documentossecretariatecnica/guia_para_el_proceso_ley_forestal-versionfinal-fbv.pdf

Language: Inadequate for indigenous people

Is there a published policy on forest tenure?

It there an explicit current document which defines or describes land and forest tenure policy? If so, has it been used to inform the forest law and other norms (or has it been produced after the forest law)? Is it up-to-date or does it require revisions in the light of REDD, mining, tenure conflicts, or other threats and opportunities?

Forest land ownership is not delivered in accordance with Article 66 of the Constitution of Peru and the Organic Law on the Use of Natural Resources. Forest land cannot be granted in property, but through forest concessions for the use of timber and non-timber resources.

Title: Political Constitution of Peru of 1993 (Art. 66°)
Law for the sustainable use of natural resources, approved by Law N ° 26821
Law on Forests and Wildlife, approved by Law N° 27308

Date: 30/12/1993
26/06/1997
16/07/2000

Source: <http://www.tc.gob.pe/constitucion.pdf>
http://www.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA_OTRO/marco-legal/1.3.%20Ley26821.pdf
<http://www.adaalegreconsultores.com.pe/normas/Agricultura/8.pdf>

Language: Inadequate for indigenous peoples

Is there a register of private forestland owners? Is it accessible to the public?

Where private forestland ownership is possible within the Constitution and legal framework, can the ownership of each area of forest be publically accessed?

There is no register of ownership of forest lands, but there is a Register of Concessions of Forests, Wildlife and for Forestation and Reforestation.

Title: Directive No. 001-2006-SUNARP/SN governing the registration of Forest Concessions, Wildlife and Afforestation and Reforestation, regulated by the Forest and Wildlife Law, Law No. 27308, approved by Resolution of the National Superintendency of Public Records No. 070-2006-SN-SUNARP.

Date: 14/03/2006

Source: <http://spij.minjus.gob.pe/>

Is there a difference in law between ownership and use?

Does the law make a clear difference between owners and users of forests / forest products? If so, please explain it.

Yes. Ownership implies the possibility to use, enjoy, manage and claim a good - while rights over forest lands are limited to the use of their fruits and products by those entitled to such rights.

Title: Civil Code, approved by Legislative Decree N° 295
Law for the sustainable use of natural resources, approved by Law N ° 26821
Law on Forests and Wildlife, approved by Law N° 27308

Date: 25/07/1984
26/06/1997
16/07/2000

Source: www.manuelaenelcongreso.org/files/CODIGO%20CIVIL.pdf
http://www.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA_OTRO/marco-legal/1.3.%20Ley26821.pdf
<http://www.adaalegreconsultores.com.pe/normas/Agricultura/8.pdf>

Language: Inadequate for indigenous peoples

Is the ownership of different forest products clear?

Is it codified and understood who has rights to timber, minerals, non-timber forest products, wildlife, water, carbon etc? Are all these types of product available to all, or is there some form of differentiation (for example, private forest owners can issue the right to log, but only the state can issue the right to mine; or only the state can issue the right to log, but local communities who own the land can issue the right to collect non-timber forest products).

Yes, according to what was established in Article 4 of Law 26821, Constitutional Law for the Use of Natural Resources: "Natural resources, kept in their original place, being these renewable or not, are the heritage of the nation. The benefits and products of natural resources obtained in the form established by the Constitutional Law for the sustainable use of natural resources, by means of award of concessions, belong to the owners of the rights granted."

It should be mentioned that in the specific case of the right of carbon trading, this right has not been defined in the legislation on the subject.

Title: Law for the sustainable use of natural resources, approved by Law N ° 26821
Law on Forests and Wildlife, approved by Law N° 27308

Date: 26/07/1997
16/07/2000

Source: <http://www.adaalegreconsultores.com.pe/normas/Agricultura/8.pdf>
http://www.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA_OTRO/marco-legal/1.3.%20Ley26821.pdf

Is there a dispute-settlement process for tenure conflicts?

Are there clear, documented, understood and accessible steps for resolving tenure conflicts?

Yes, but there are no data to determine the exact number of lawsuits because the government has not systematized such information.

Title: Policy for the exclusion and clearing forest areas for timber concessions. Departmental Resolution No. 082-2003-INRENA

Date: 20/06/2003

Source: [http://www.minag.gob.pe/dgffs/pdf/normatividad/2003/resjef/R.J.%20N%C2%BA%20082-2003-INRENA%20\(Aprob.%20Direct.%20exclusi%C3%B3n%20y%20compesac.\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2003/resjef/R.J.%20N%C2%BA%20082-2003-INRENA%20(Aprob.%20Direct.%20exclusi%C3%B3n%20y%20compesac.).pdf)

Are ownership and forest land use maps available?

It is possible, at national or sub-national level, to view or obtain maps indicating forest ownership and current permit-holders for different forest use? So, for example, it is possible to calculate what proportion of forest land has documented title, or what proportion is under logging concessions? Are such maps digitised?

Yes. There is a digital map information base of the rights granted available at the level of National Forest Authority, but this is not published on the website; it is necessary to access it through a request pursuant to Executive Resolution N ° 257-2004-INRENA.

Title: Public Services - Departmental Resolution No. 257-2004-INRENA
Executive Resolution No. 090-2007-COFOPRI/DE

Date: 14/12/2004
20/11/2007

Source: [http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/R.J.%20N%C2%BA%20257-2004.INRENA%20\(Servicios%20al%20P%C3%ABlico\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/R.J.%20N%C2%BA%20257-2004.INRENA%20(Servicios%20al%20P%C3%ABlico).pdf)
<http://www.cofopri.gob.pe/pdf/pnf/RS-090-2007-COFOPRI-DE.pdf>

Do permits exist for all uses / services?

In addition to logging permits, are there any permits for conservation activities, environmental services (e.g. water conservation, or carbon storage), or eco-tourism services provided by forests?

Yes, these rights are regulated in titles relating to land use planning, and management and utilization of forest resources of the Forest and Wildlife Law, as well as in its regulation. Among these are forestry concessions for timber production, and concessions for non-timber uses (concessions for other forest products and concessions for ecotourism, conservation and environmental services).

Title: Law on Forests and Wildlife, approved by Law N° 27308
Regulation of the Law on Forests and Wildlife, approved by Supreme Decree N° 014-2001-AG

Date: 16/07/2000
09/04/2001

Source: <http://www.fonamperu.org/general/bosques/documentos/RLF.pdf>
<http://www.adaalegreconsultores.com.pe/normas/Agricultura/8.pdf>

Is information on any forest land unallocated or not under any type of concession published?

Is there a 'pool' of forest, owned by the state or others, for which permits or user-rights are potentially available?

Yes, digital base map of forest land is available at the National Forest Authority, but this is not published on the website. It is accessible through a request pursuant to Resolution Jefatural N° 257-2004-INRENA. Since 2005, there have not been processes for forestry concessions for timber, because the objective of the National Forest Authority was first to consolidate those concessions already granted and to improve the model. To date, neither of them has taken place.

Title: Public Services - Departmental Resolution No. 257-2004-INRENA
PAUTRAT, Lucila and others. "Preliminar Analysis on Governability and Accomplishment of Forest Law Legislation in Peru". Washington.
SUÁREZ DE FREITAS, Gustavo. "Vision of the National Forest Authority as Framework of the Sustainable, Competitive and Inclusive Forest Development in the Peruvian Amazon". Paper presented in the International Seminar "Programme of Sustainable, Competitive and Inclusive Forest Development in the Peruvian Amazon", Lima

Date: 14/12/2004
October 2006
September 2009

Source: <http://siteresources.worldbank.org/EXTFORESTS/Resources/985784-1217874560960/PeruAnalysis.pdf>
[http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20\(Servicios%20al%20P%C3%BAblico\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20(Servicios%20al%20P%C3%BAblico).pdf)

Is it clear how the decision to start a round of permit allocation is made?

The first step in the allocation of permits is to decide where: Are there clear, documented, and understood steps for deciding to allocate permits, for example when to allocate which parts of the state forest to logging, mining, carbon, ecotourism or other concessions?

There are legal devices by means of which persons in charge are identified and the periods for the assignment of forest concessions in Permanent Production Forests are set. This is in accordance with Title V of the Regulation of Law 27308 - Forest and Wildlife Law.

Title: Law on Forests and Wildlife, approved by Law N° 27308
Regulation of the Law on Forests and Wildlife, approved by Supreme Decree N° 014-2001-AG

Date: 09/04/2001
16/07/2000

Source: <http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>
<http://www.legislacionforestal.org/ley-forestal-y-de-fauna-silvestre-4/>

Is there a stakeholder consultation process prior to permit allocation?

At the time an area of forest is identified for allocation to any sort of concessionaire, are stakeholders (other than the forest owner) consulted, for example on any conditions to be attached to the permit?

No, the establishment of Permanent Production Forests did not include a consultation process. Harvesting units were identified in those areas, which were offered through public tender process and subsequently granted through forest concessions

Are the areas assigned for each round of permit allocation advertised?

When an area of forest is identified for allocation to any sort of concessionaire, is this publicly advertised so that the opportunity for new permits / user rights is open to anyone?

In the case of forest concessions for wood, areas of forest to be assigned are published before each competition. In the case of other types of concessions and permits the areas are primarily determined at the applicant's request.

Title: Approve creation of the Permanent Production Forest in the department of Loreto Ministerial Resolution No. 1349-2001-AG
Approve creation of the Permanent Production Forest in the department of Madre de Dios Ministerial Resolution No. 1351-2001-AG
rean Bosques de Producción Permanente en el departamento de Ucayali RESOLUCION MINISTERIAL N° 026-2002-AG
For example: approved technical study of the procedure for the promotion and determination of the size of the unit of use for permanent production forests. Supreme Decree No. 019-2002-AG.

Permanent Production Forests created within the Heritage Forest departments of San Martín, Huanuco, Pasco, Junin, Ayacucho, Cusco and Puno Ministerial Resolution No. 0549-2002-AG

Date: 27/12/2001
28/12/2001
07/01/2002
20/02/2002
05/06/2002

Source: <http://spij.minjus.gob.pe/CLP/contenidos.dll/CLPlegcargen/coleccion00000.htm/tomo00435.htm/a%C3%B1o129824.htm/mes137589.htm/dia137827.htm/sector137833/sumilla137834.htm>
<http://faolex.fao.org/docs/texts/per31094.doc>
<http://spij.minjus.gob.pe/CLP/contenidos.dll/CLPlegcargen/coleccion00000.htm/tomo00435.htm/a%C3%B1o129824.htm/mes129825.htm/dia130129.htm/sector130134/sumilla130135.htm>
<http://spij.minjus.gob.pe/CLP/contenidos.dll/CLPlegcargen/coleccion00000.htm/tomo00435.htm/a%C3%B1o110520.htm/mes128349.htm/dia129728.htm/sector129729/sumilla129733.htm>
<http://spij.minjus.gob.pe/CLP/contenidos.dll/CLPlegcargen/coleccion00000.htm/tomo00435.htm/a%C3%B1o110520.htm/mes128349.htm/dia129728.htm/sector129729/sumilla129732.htm>

Is there transparent independent verification (due diligence) of the eligibility of any applicants for forest permits?

Prior to the final allocation of any area of state forest to logging, mining, carbon, ecotourism or other concessions are there "due diligence" checks on the eligibility, suitability, or (technical and/or financial) capability of applicants, and is this analysis made public?

No. The role of the ad hoc committee of forest concessions was to allocate forest concessions under a transparent process, which was established through an INRENA Resolution. However, the committee eventually failed to conduct the verification of the proposals to access forest concessions in a transparent and independent manner.

Is the final permit allocation decision-making process transparent?

Is the final decision to allocate any permit made in way which allows citizens to assure themselves that the correct process has been followed? – is the process documented and published?

In the case of forest concessions for wood, areas of forest to be assigned are published before each competition. In the case of other types of concessions and permits the areas are primarily determined at the applicant's request.

Title: Forest and Wildlife Law, approved by Law N° 27308
Regulation of the Law on Forests and Wildlife, approved by Supreme Decree N° 014-2001-AG
Ad hoc committee formed and in charged with leading the process of granting forest concessions in public bidding for timber Departmental Resolution No. 032-2002-INRENA

Date: 16/07/2000
09/04/2001
30/01/2002

Source: <http://spij.minjus.gob.pe/>
<http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>
<http://www.legislacionforestal.org/ley-forestal-y-de-fauna-silvestre-4/>

Language: Inadequate for indigenous peoples

Has the permit allocation system improved?

Have there been recent attempts to make improvements to the permit allocation system? Have there been recent changes to the system to accommodate 'newer' forms of permits such as conservation, carbon storage, or ecotourism? If so please give details. Were these successful?

Through the Legislative Decree No. 1090, it was attempted to introduce a new procedure for the granting of forest concessions, but it was repealed. A new forest law and wildlife law is currently being evaluated in the Congress, which seeks to improve the system of licensing.

Are the final permit / contract documents made public?

Are all contracts / concession agreements / permits in the public domain? If so, which law or regulation specifies that they should be? Are they entirely in the public domain or are certain 'commercially confidential' clauses hidden?

No, only the contract template approved by Resolution No. 131-2003-INRENA is available. Contracts and permits signed with rights holders are not in the public domain.

Are all forest operations required to carry out an EIA?

Some types of permit, for example small-scale or Community Forest logging activities might be exempted from submitting an EIA.

The legislation does not stipulate the presentation of an Environmental Impact Assessment for forest rights; however, this criterion is included within the General Forest Management Plan, which is a requirement for any form of use of forest resources.

Are any environmental / social impact assessments for forest operations available to the public?

Where an EIA or similar is a requirement for any concession, is it published? Is there any public consultation during the EIA, or any public presentation of the conclusions and recommendations?

The law does not require the presentation of an Environmental Impact Assessment for forest concessions; however, this criterion is included within the General Forest Management Plan (GFMP). Public consultation is not carried out for the approval of the GFMP.

Is information on logging locations given to the public?

Are local people informed of where permits holders will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if loggers are legally in that location?

Yes, digital base map of forest concessions is available at the National Forest Authority, but this is not published on the website. Access to the map is possible through a request pursuant to Resolution Jefatural N ° 257-2004-INRENA General maps marking the location of concessions was made available this year on the DGGFS (MINAG) website. These do not allow the identification of specific holders.

Title: Public Services - Departmental Resolution No. 257-2004-INRENA

Date: 14/12/2004

Source: [http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20\(Servicios%20al%20P%C3%BAblico\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20(Servicios%20al%20P%C3%BAblico).pdf)

Is there a stakeholder consultation process on individual logging locations?

In addition to any consultation on the general location, timing and allocations of logging concessions (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of logging at the local level, for example as part of developing a forest management plan?

No, There is no public hearing process for the preparation, approval and implementation of management plans The local actors have the opportunity to comment to the rights' holders through Forest Management Committees. However the promotion and strengthening of committees was not prioritized by the National Forest Authority.

Is information on permitted logging volumes (quotas) public?

Once all preparations and forest management plans are completed and logging operations start, can local people find out how much timber is permitted to be extracted (for example on an annual basis from a specific area)?

No, local people do not know the volume of approved wood, nor do they know the volume of timber cut. At a regional level, only rights holders are provided with this information.

Are the forest management plans (for logging) public?

No, forest management plans are not published. The national forest authority has not classified information as either public or private, although this is required by the law of transparency and access to public information. At the regional level, only rights holders are given this information.

Is information on locations for other forest products given to the public?

Are local people informed of where permits holders for non-timber forest products, or wildlife hunting, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

Yes, digital base map of forest concessions is available at the National Forest Authority, but this is not published on the website. Access to the map is possible only through a request pursuant to Executive Resolution N ° 257-2004-INRENA

General maps marking the location of concessions was made available this year on the DGGFS (MINAG) website. These do not allow the identification of specific holders.

Title: Public Services - Departmental Resolution No. 257-2004-INRENA

Date: 14/12/2004

Source: [http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20\(Servicios%20al%20P%C3%BAblico\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20(Servicios%20al%20P%C3%BAblico).pdf)

Is there a stakeholder consultation process on non-timber permit locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the extraction of non-timber forest products at the local level, for example as part of developing a forest management plan?

No, There is no public hearing process for the preparation, approval and implementation of management plans. The local actors have the opportunity to comment to the holders of rights through Forest Management Committees. However the promotion and strengthening of committees was not prioritized by the National Forest Authority.

Is information on permitted quotas of non-timber products made public?

Once all preparations and permits are completed and extraction non-timber forest products starts, can local people find out how much of a product (for example wildlife hunting) is permitted to be extracted (for example on an annual basis from a specific area)?

Local people do not know the volumes or other fees approved, nor do they know the volumes or shares of other products used. At a regional level, only rights holders are given this information.

Are the forest management plans (for other forest products) public?

No, forest management plans are not published. The national forest authority has not classified information as either public or private, although this is required by the law of transparency and access to public information. At the regional level, only rights holders are given this information.

Is information on locations of environmental services permits given to the public?

Are local people informed of where permits holders for environmental services, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

Permits for environmental services have not been granted yet.

Is there a stakeholder consultation process on environmental services locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the environmental services permits at the local level, for example as part of developing a forest management plan?

Permits for environmental services have not been granted yet.

Is information on the quality / quantity of environmental services made public?

Once all preparations and permits are completed and a provision of environmental services contract starts, can local people find out about the size / value / or limits on these services?

Permits for environmental services have not been granted yet.

Are the management plans for environmental services public?

Permits for environmental services have not been granted yet.

Is information on locations of (eco)tourism or other cultural services permits given to the public?

Are local people informed of where permits holders for tourism, ecotourism, or other cultural services, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

Yes, prior to awarding the grant of Ecotourism and Conservation, the information is published both in the newspaper El Peruano and in a local newspaper.

Some of the resolutions on grant concessions are available in the Forest Law Portal and Wildlife.

Information on the location of each of the communities is not published, but there is a map with all non-timber concessions in Peru.

<http://www.minag.gob.pe/dgffs/pdf/Mapas/Concesiones%20No%20Maderables.pdf>

There is also a digital base map of forest concessions at the national forest authority, but it is not published on the website. Access to the map is possible only through a request, pursuing Departmental Resolution No. 257-2004 – INRENA.

Title: Public Services - Departmental Resolution No. 257-2004-INRENA
Portal of Forest and Wildlife Legislation

Date: 14/12/2004
Revision Date: October 22, 2009

Source: [http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20\(Servicios%20al%20P%C3%BAblico\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20(Servicios%20al%20P%C3%BAblico).pdf)
<http://www.legislacionforestal.org/legislacion/por-temas/legislacion-forestal/concesiones-para-ecoturismo/>

Is there a stakeholder consultation process on (eco)tourism locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the tourism or ecotourism concessions at the local level, for example as part of developing a forest management plan?

No, There is no public hearing process for the preparation, approval and implementation of management plans. The local actors have the opportunity to comment to the holders of rights through Forest Management Committees. However the promotion and strengthening of committees was not prioritized by the National Forest Authority.

Is information on the quality / quantity of (eco)tourism services made public?

Once all preparations and permits are completed and a provision of tourism or ecotourism services contract starts, can local people find out about the size / value / or limits on these services?

Local people do not know the size, value or limits of such services. At a regional level, only rights' holders are provided with this information

Are the management plans for (eco)toursim services public?

No, forest management plans are not published. The national forest authority has not classified information as either public or private, although this is required by the law of transparency and access to public information. At the regional level, only rights holders are given this information.

Is there a strategic process to assess priorities between development options?

Is there a Strategic Environmental Assessment to identify and resolve conflicting land uses between forests, mining, large-scale agriculture and infrastructure development? Does the National Forest Policy document seek to address this? Do any policy documents from the other sectors?

Yes, the Ministry of Environment, which chairs the Technical Advisory Committee on Zoning, has published Guidelines for Land Policy, which promote the processes of Zoning on the basis of the Ecological Economic Zoning. Also, this document responds to the need that the authorities of the regional and local governments have to reorient the various economic activities on their territories in order to avoid socio-environmental conflicts on overlapping titles and inappropriate uses within their territories.

In regions where these functions have been transferred there are also processes similar to the Ecological Economic Zoning.

Title: Policy Guidelines for Land Management.
Directive "Methodology for Ecological and Economic Zoning." Executive Council Decree No. 010-2006-CD-CONAM.
Regulation of Ecological and Economic Zoning (EEZ). Supreme Decree 087-2004-PCM.
Rule that creates the Technical Advisory Committee on Land.

Date: 26/02/2010
26/06/2006
23/12/2004

Source: http://www.plandet.gob.pe/Portals/0/PLANIFICACION%20METROPOLITANA/DESCARGAS/ZEE/DS_087_2004_pcm%20-Reglamento%20de%20la%20ZEE.pdf
<http://sinia.minam.gob.pe/index.php?idElementoInformacion=200>
http://www.minam.gob.pe/index.php?option=com_content&view=article&id=616:aprueban-lineamientos-de-politica-para-el-ordenamiento-territorial&catid=1:noticias&Itemid=21

Is it clear who decides if / when to make decisions between development options?

Are there clear, documented, and understood steps for making decisions over the use or conversion of forest lands for other purposes such as mining, large-scale agriculture or infrastructure development?

There are no rules or guidelines on how decisions are made regarding development options. Decisions are made according to political priorities that the government has defined.

Is there a stakeholder consultation process on decisions between different development options?

At the time an area of forest is identified for allocation to any sort of non-forest purpose, are stakeholders consulted, for example on any conditions or mitigation commitments?

No, the decisions are made without a proper consultation process, but rather according to the priorities set by government policy.

Is the final decision-making process on different development options transparent?

Is the final decision to allocate any forest to non-forest use made in way which allows citizens to assure themselves that the correct process has been followed? – is the process documented and published?

The decision-making process is not transparent. However, according to Item 4.2 of the Policy Guidelines for Land Management, the Technical Advisory Committee on Zoning are going to propose a monitoring and evaluation system for the process of occupation and land use, in coordination with the various levels of government and after consultation of the civil society.

Title: Policy Guidelines for Land Management

Date: 26/02/2010

Source: http://www.minam.gob.pe/index.php?option=com_content&view=article&id=616:aprueban-lineamientos-de-politica-para-el-ordenamiento-territorial&catid=1:noticias&Itemid=21

Is information on implementation of non-forest use / conversion given to the public?

Once the final decision has been made, are local people informed of where mining, large-scale agriculture or infrastructure development in forests will be / is occurring, so that they are aware operations should be happening in their area, and to give them the opportunity to know if operations are legally in that location?

No, the implementation of non-forest uses is generally not known by the population. The population becomes aware of such operations only once they start.

Is there a system of tax / royalties redistribution?

Does the law provide for a portion of the taxes or royalties collected from permit holders to be redistributed to affected communities? If so, please give details.

Yes. The forest canon law stipulates that 50% of the revenues from the use of forest and wildlife products should be redistributed to the affected communities. This also includes the permits and authorizations assigned by the relevant authority to the benefit of Regional and Local Governments, as well as areas where concessions, authorizations and permits have been granted.

Title: Law of the Canon, approved by Law N° 27506; and its Regulation
Law amending several articles of Law No. 27506, Canon Law. LAW N ° 28077

Date: 10/07/2001
04/08/2003

Source: http://www.mim.org.pe/marco_legal/ley_general_de_mineria_y_canon/Ley%2027506%20Ley%20del%20Canon%20Minero.pdf
http://www.mim.org.pe/marco_legal/ley_general_de_mineria_y_canon/Ley%2028077%20Modifica%20Ley%20del%20Canon.pdf

Is the system of tax / royalties redistribution effective in meeting any legal obligations?

Does any tax / royalties redistribution system work in practice?

Yes, the Ministry of Economy and Finance carries out a quarterly distribution.

Title: Canon Law. LAW N ° 27506
Regulation of Canon Law. Supreme Decree 005-2002-EF
Ley que modifica diversos artículos de la Ley N° 27506, Ley de Canon. LEY N° 28077

Date: 10/06/2001
09/01/2002
04/08/2003

Source: http://www.mim.org.pe/marco_legal/ley_general_de_mineria_y_canon/Ley%2028077%20Modifica%20Ley%20del%20Canon.pdf

http://www.peru.gob.pe/docs/PLANES/94/PLAN_94_DS%20%20N%C2%BA%20005-2002-EF_2008.pdf
http://www.mim.org.pe/marco_legal/ley_general_de_mineria_y_canon/Ley%2027506%20Ley%20del%20Canon%20Minero.pdf

Is there a stakeholder consultation process regarding the use of community funds?

Are stakeholders aware of the tax redistribution system and are they given a chance to influence the use of any funds dedicated for their use?

There is no consultation process on the percentages of the distribution of funds. The items or components where money is to be spent are predefined.

Are figures for collection and distribution published?

Does the relevant authority regularly publish the taxes collected from each forest area and the amount redistributed to those communities entitled to receive a share? If so, how often do they publish this information?

Yes, but information can be found only at the local government level.

Title: Transfer refers to the National Government, Regional and Local, the Economic Transparency Portal of the Ministry of Economy and Finance.

Date: Revision Date: October 26, 2009

Source: <http://ofi.mef.gob.pe/transferencias/cuadros/Hoja1.aspx>

Is there a system of social obligations, where concession holders have to provide benefits directly to affected communities?

In addition to taxes, are there any obligations for permit holders to provide benefits to affected communities, in cash or in kind? Does the social obligations system work in practice?

No, there is no formal or legal mechanism that obliges permit holders to provide financial support or payments in kind to communities as part of a social obligation system. In practice, some permit holders reach agreements with communities to be able to operate without conflicts. It is important to differentiate this from payments for damages that permit holders cause to communities, and to note that the later is a matter falling under civil law, known as payments for damages.

Is there a stakeholder consultation process?

Are stakeholders aware of the social obligation system and are they given a chance to influence the projects or use of any funds provided directly to them by the concessionaire?

There is no formal or legal mechanism, nor is there a consultation process for such uses.

Is information on social obligations published?

Is the social obligation agreement publicly available? Are there regular reports on its implementation? If so, who is responsible for producing these?

There is no formal or legal mechanism, nor is there a consultation process for such uses.

Are there opportunities for citizens to discuss law enforcement issues as they arise?

Do any forest forums include representatives from the police or judiciary for example? Or are there other formal mechanisms to discuss law enforcement issues with officials from other (non-forest) agencies?

Yes, the State has created space for discussion of the Forest Law, through a technical secretariat within the Ministry of Agriculture.

Title: Portal: National Consultation for the Establishment of the Forest Policy and Forest Law Update and Wildlife.
Guide to the revision of forest and wildlife legislation (forest law, national forest policy and regulation).
The State declares a priority the review and up-date of the Forests and Wildlife Legislation, by Ministerial Resolution N° 0544-2009-AG.
Supreme Decree that sets up the Multi-sectorial Commission which will deal with the issue of the Amazonian People, approved by Supreme Decree N° 031-2009-PCM.
The State modifies R.S N° 117-2009-PCM by means of which the National Group of Coordination for the Development of Amazonian People was created, approved by Supreme Resolution N° 211-2009-PCM.
The State sets up the National Group of Coordination for the Development of Amazonian People, which is in charge of outlining a Comprehensive Sustainable Development Plan for Amazonian People, with regard to Education, Health, Securitization and Formalization of Lands and other necessary measures, working according to what established by the Supreme Resolution No.117-2009-PCM.

Date: 11/06/2009
25/08/2009
20/05/2009
01/08/2009
01/08/2009

Revision Date: 8 October 2010

Source: http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/documentossecretariatecnica/guia_para_el_proceso_ley_forestal-versionfinal-fbv.pdf
<http://www.legislacionforestal.org/declaran-prioritario-el-proceso-de-revision-y-actualizacion-de-la-legislacion-forestal-y-de-fauna-silvestre-rm-n%C2%BA-0544-2009-ag/rm-n%C2%BA-0544-2009-ag/>
<http://sc.pcm.gob.pe/web/images/docs/decreto%20supremo%20n%C2%B0%20031-2009-pcm.pdf>
<http://www.minag.gob.pe/legislacion-forestal-y-de-fauna-silvestre/inicio.html>

Are citizens actively participating in control operations?

Is there any form of joint operations including citizens and forest law enforcement (e.g "vigilancia verde" or forest monitoring)?

Citizens can participate in monitoring activities through the Committees of Forests Management (CGB), recognized by Article 3 of Law No.27308 and Article 51 of its Regulation, and amended by Supreme Decree N°.007-2006-AG, but currently these committees do not work.

Title: Forest and Wildlife Law, approved by Law N ° 27308
Supreme Decree 007-2006-AG, Amendment to the regulations of the Forest and Wildlife Law
Procedure for recognition of forest management committees. Quartermaster Resolution No. 0086-2007-INRENA-IFFS

Date: 16/07/2000
24/02/2006
10/05/2007

Source: <http://spij.minjus.gob.pe/>
<http://www.legislacionforestal.org/ley-forestal-y-de-fauna-silvestre-4/>
<http://www.minag.gob.pe/dgffs/pdf/2007/RI2007/R.I.%20N%C2%BA%200086-2007-INRENA-IFFS.pdf>

Language: Inadequate for indigenous peoples

Do (some) forest communities condone some 'illegal' activities?

Do any communities regard some laws as inequitable and so argue that they are justified in supporting or participate in illegal activities?

Yes, in some cases indigenous communities face economic y legal limitations on the formal use of their forest resources; therefore they resort to informal timber merchants in order to market their products. Some laws are not appropriate to the reality of the area or the indigenous population. For example, there is a rule that prohibits longitudinal cutting with a chainsaw, but due to the physical geography of communal forests and low financial resources, one cannot carry out longitudinal cuts with circular or disc saws, therefore the chainsaw becomes the main tool for the communities.

The web page of OSINFOR (Organisation for Supervision of Forest and Wildlife Resources) shows the relationship of the native communities to those who initiate the Single Administrative Procedure (PAU) for failure to comply with forest legislation.

Title: Article N ° 27 of the Forest and Wildlife Law No. 27308

Date: 16/07/2000

Source: http://www.osinfor.gob.pe/index.php?option=com_phocadownload&view=sections&Itemid=66

Is there an Independent Forest Monitor?

Is there any organisation contracted to conduct Independent Forest Monitoring (IFM) to monitor forest governance and operations? For how long has this existed? What, if any, benefits does this bring?

There is no independent forest monitoring. There is only supervision by the State via OSINFOR.

Does the government publish lists of infractors?

Does any authority regularly publish a list of infractors of the forest law? Is it obliged to do so under any law or other norm? Does such a list show the progress of each case through the legal system, and the amount of any fines paid?

According to what was established in Articles 362 and 385 of the Regulation of the Forests and Wildlife Law, approved by Supreme Decree No.014-2001-AG, there is a legal obligation in this respect. However, no list of infractors has been published.

Does the government publish lists of debarred / suspended operators?

Does any authority regularly publish a list of individuals or companies barred or temporarily suspended from holding forest-related permits (perhaps as a penalty for a previous infraction)? Is it obliged to do so under any law or other norm?

The existence of an Administrative Register of expired or sanctioned concessionaries for violation of the Law of Forest and Wildlife is foreseen by In articles 43.5 and 43.8 of the Supreme Decree N°.065-2009-PCM, that approves the Regulation of the Organization and Functions of the Agency for Supervision of Forest Resources and Wildlife (OSINFOR),. But such a register is not available online.

Title: Transparency Portal Oversight Office of Forest Resources and Wildlife

Date: Revision Date: October 8, 2010

Source: http://www.osinfor.gob.pe/index.php?option=com_phocadownload&view=category&id=51:resoluciones-directorales-2010-de-la-dscffs&Itemid=66&limitstart=40

Is there a national or local Anti-Corruption Committee, Bureau or Commission?

Has any sort of special initiative been set up to tackle corruption? If yes, have cases of corruption in the forest sector been reported and were these dealt with according to the law?

Currently, the Ad-hoc Technical Secretariat is responsible for drafting the Anti-Corruption Plan of the forest and wildlife sector.

Title: Anti-Corruption Plan of the Forest and Wildlife Sector

Date: September 2010

Source: http://www.pfsi.us/pasf/documentos/3era_VERSION_PASF.pdf
<http://www.pfsi.us/pasf/>

Language: Inadequate for indigenous peoples

Do parts of any law affecting forests limit transparency?

Are there any norms that prohibit or limit transparency in the forest sector? Or are there caveats or exclusions to transparency laws, for example 'commercial confidentialities' or 'national security'? What exactly do they exclude?

No, only at the level of the Law of Transparency and Access to public information is there an exclusion of information protected by bank, tax, commercial, industrial, technological and market secrecy.

Do any extra-sectoral operations overrule forest laws?

Do mining, road building, large-scale agriculture, hydropower or other infrastructure development have automatic veto over forest laws, thereby eliminating transparent access to decision-making?

Yes, there are problems at the level of territorial demarcation of forest areas when prioritizing mining, petrol and agro-industrial activities.

Title: Peru's Political Constitution of 1993 (Art. 66 °)
Law for the sustainable use of natural resources, approved by Law N ° 26821

Date: 30/12/1993
26/06/1997

Source: <http://www.tc.gob.pe/constitucion.pdf>
http://www.produce.gob.pe/RepositorioAPS/1/jer/PROPELCA_OTRO/marco-legal/1.3.%20Ley26821.pdf

Is it commonplace for authorities to ignore obligations?

Has it become normal operating procedure for any public institution to avoid obligations to transparency? If so, please give examples.

Partially. In the last two years public institutions have made efforts to increase the levels of compliance with the law of transparency and access to public information, but they are still insufficient.

Title: Location and characteristics of forestry concessions granted: Portal of Forest and Wildlife Legislation.
Information collection and distribution of tax: Consultation Transfer to the National Government, Regional and Local, the Economic Transparency Portal Ministry of Economy and Finance.
Transparency Portal Oversight Office of Forest Resources and Wildlife.
2009 Annual Report on Transparency in the Peruvian Forest Sector.

Date: Revision Date: October 8, 2010
Revision Date: October 26, 2009
Revision Date: October 22, 2009
2009

Source: http://www.osinfor.gob.pe/index.php?option=com_phocadownload&view=category&id=51:resoluciones-directorales-2010-de-ladscffs&Itemid=66&limitstart=40
<http://ofi.mef.gob.pe/transferencias/cuadros/Hoja1.aspx>
<http://www.legislacionforestal.org/legislacion/por-temas/legislacion-forestal/concesiones-para-ecoturismo/>
www.foresttransparency.info/cms/file/201

Are there any reforms to improve transparency or reduce confidentiality?

In particular, are there any 'quick wins' - issues where transparency could be improved, or where caveats and exclusions could be reduced, and no significant vested interests are against this? If so, please list any ongoing reforms.

Yes, they have issued a series of Supreme Decrees and specific directives in order to improve the implementation of mechanisms to access information through transparency websites.

Title:

Regulation on Transparency, Access to Environmental Public Information and Consultation and Citizen Participation in Environmental Matters, approved Supreme Decree 002-2009-MINAM

Law of Fiscal Responsibility and Transparency

Guide to the revision of forest and wildlife legislation (forest law, national forest policy and regulation)

Policy Guidelines for Land Management

Rights Act of Indigenous Peoples Consultation

Supreme Decree approving the implementation of the Transparency Portal Standard on Public Administration Entities. Supreme Decree 063-2010-PCM

Date: 17/01/2009
25/04/2009
01/08/2009
26/02/2010
Approved on 19/05/2010
03/06/2010

Source: http://www.congreso.gob.pe/dgp/ciae/carpeta-informativa/derecho_cons_puebl_indige/compi_norma_legal_nacio/DS_002-2009-MINAM.pdf
http://www.mef.gob.pe/NORLEGAL/leyes/ley_27245.pdf
http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/documentossecretariatecnica/guia_para_el_proceso_ley_forestal-versionfinal-fbv.pdf
http://www.minam.gob.pe/index.php?option=com_content&view=article&id=616:aprueban-lineamientos-de-politica-para-el-ordenamiento-territorial&catid=1:noticias&Itemid=21
<http://blog.pucp.edu.pe/media/2841/20100520-texto%20susitutorio%20final.pdf>
http://200.37.186.36/web/index.php?option=com_remository&Itemid=183&func=startdown&id=6442

Does the forest authority publish an Annual Report?

Is there an annual summary of activity by the forest authority and others they regulate? If so, how long after the year-end is it published? How comprehensive is it? Is it debated, for example by a 'forestry commission board' or by the legislature?

An annual report of forest activities is not published, but an annual yearbook of forest statistics is published. This document is a basic summary of the concessions, production and marketing of timber and non timber products.

Title: DGFFS Portal - Forest Statistics

Date: Revision Date: October 8, 2010

Source: http://www.minag.gob.pe/dgffs/index.php?option=com_content&view=article&id=58&Itemid=179

Does the forest authority have a central point of information?

Is there a person or office advertised and functioning as the source of public information? Is there any written statement (for example a regulation) about its roles and responsibilities? Is it committed to respond to enquiries with a certain amount of time?

The National Forest and Wildlife Information System is the centre for information; on its website you can find the Forest and Wildlife rules, forestry yearbooks since 2000, forest registration information, thematic maps, etc.

Title: Porta DGFFS - National Forest and Wildlife Information System
Rules of Organization and Functions of the Ministry of Agriculture - ROF, approved by Supreme Decree N ° 031-2008-AG

Date: Revision Date: October 8, 2010
11/12/2008

Source: http://www.minag.gob.pe/dgffs/index.php?option=com_content&view=article&id=126&Itemid=166
<http://spij.minjus.gob.pe/>

Does the forest authority publish annual audited accounts?

Are there any published annual audited accounts from any of the last five years? If not, when were the most recent accounts published? Is the forest authority exceptional in this regard or do most government departments show a similar pattern of (not) publishing accounts?

No, the forest authority does not publish its annual audited accounts, and this practice is common in public institutions in general.
