



**global witness**

# Making the Forest Sector Transparent

## Annual Transparency Report

**Country: Peru**

**Partner: Derecho, Ambiente y Recursos Naturales (DAR)**

**Year: 2011**

**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	
<b>Yes</b> – specific provision in current laws and norms that have been passed by state and applies to the forest sector	<b>Yes</b> – available to public from official sources (websites, publications, media)	Yes	
	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Partial	
	<b>No</b> – although evidence that exists, it is not available (includes when only unofficial sources)	No	
<b>Partial</b> – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Yes	
	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Partial	
	<b>No</b> – although evidence that exists, it is not available (includes when only unofficial sources)	No	
<b>No</b> – no current provision or plans to establish (even though needed)		No	
<b>Not applicable</b> - 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](http://www.foresttransparency.info).



## Freedom of Information Law



Is there a Freedom of Information Act, which has been passed by the government and established in law?  
Is the Act publically available in full from official sources (websites and/or offices)?

Law 27806 on Transparency and Access to Public Information has been in force since 1 January 2003. It regulates every citizen's right to request information and the obligates State bodies to publish information on their institutional websites and/or disseminate it in newspapers and periodical reports. However, the majority of government bodies do not meet the minimum standards required by the regulation, which makes the information available both insufficient and incomplete, and raises the need for corrective measures.

Furthermore, instrumental documents such as work agendas, institutional memorandas, and registers of sanctions, amongst others, are not published; these are of public interest and should be accessible. The information is dispersed and not classified and/or scanned for provision to the public, meaning that implementation is still weak, which makes it difficult for citizens to access decision-making.

Meanwhile, official requests for information on forest issues have been carried out in the framework of this Law; however, the information has not been provided in a timely fashion. There have been delays in delivery, and even more so if these are large files containing management plans or if the information involves a management report. This means that the information does not fulfil its purpose at the time in which it is requested.

**Title:**

- Section 5 of Article 2 of the Constitution of Peru of 1993, which enshrines the fundamental right of access to information
- Law 27806 .- Law of Transparency and Access to Public Information
- Law 27927.- Law that amends Law 27806
- Law 29091.- Law that amends paragraph 38.3 of Article 38 of the General Administrative Procedure Act and provides for publication of various legal provisions in the portal of the Peruvian state and institutional portals
- Supreme Decree 063-2010-PCM - Approving the implementation of the Transparency Portal Standard in Public Administration Bodies
- Ministerial Resolution 200-2010-PCM - Approving the Directive 001-2010 "Guidelines for the Implementation of the Transparency Portal Standard Public Administration Bodies

**Organisation:**

- President's Office of the Republic
- Congress of the Republic
- Congress of the Republic
- Congress of the Republic
- Presidency of the Council of Ministers
- Presidency of the Council of Ministers

**Date:**

- 30/12/1993
- 13/07/2002
- 13/01/2003
- 26/09/2007
- 03/06/2010
- 24/06/2010

**Source:**

- <http://www.tc.gob.pe/constitucion.pdf>
- [http://www.peru.gob.pe/normas/docs/LEY\\_27806.pdf](http://www.peru.gob.pe/normas/docs/LEY_27806.pdf)
- [http://www.construyendoperu.gob.pe/Documentos/Transparencia/ley\\_27927.pdf](http://www.construyendoperu.gob.pe/Documentos/Transparencia/ley_27927.pdf)
- [http://www.ongei.gob.pe/Bancos/banco\\_normas/archivos/ley\\_29091.pdf](http://www.ongei.gob.pe/Bancos/banco_normas/archivos/ley_29091.pdf)
- [http://www.ongei.gob.pe/Bancos/banco\\_normas/archivos/Ds\\_063\\_2010\\_PCM.pdf](http://www.ongei.gob.pe/Bancos/banco_normas/archivos/Ds_063_2010_PCM.pdf)
- [http://www.ongei.gob.pe/Bancos/banco\\_normas/archivos/n\\_200-2010.pdf](http://www.ongei.gob.pe/Bancos/banco_normas/archivos/n_200-2010.pdf)

## National Forest Policy

 Is there an explicit current document described as the national forest policy? Is the policy document available in full to the public from official sources (websites and/or offices)?

The National Forest Strategy was made official in 2004 as a document of National Forest Policy, but it needs to be adapted to REDD issues, not only because this is a new and emerging theme, but because it is linked to other sectors of natural resources management. It is worth pointing out that there is currently a third version of the National Forest Policy updated to June 2010, but the policy has still not been approved. This version gives a guideline for incentives but does not mention REDD explicitly.

The Forest and Wildlife Law 27308, which is still in force, and the recently approved Forest and Wildlife Law 29763, which will come into force when it has an implementing regulation, have been approved and/or promulgated without the explicit existence of a National Forest Policy, which has consequently had no influence on their implementation; however, the recent Forest Law considers following up a National Policy.

Furthermore, the documents which make up the implicit policy of the Sector Forest are drafted in Spanish, but have not been translated into other local languages, and they are only accessible through publication in the Official Newspaper "El Peruano" (a newspaper which, though distributed nationwide, arrives with a few days delay and in small quantities) and the websites of each institution linked to the forest sector. Added to the fact that the material is technically complex and large in size, this means that access to the information is limited for community populations.

**Title:**

- a. Proposal of National Forest and Wildlife Policy (3rd version)
- b. National Forest Strategy from 2002 to 2021 officially recognised through Supreme Decree 031-2004-AG

**Organisation:**

- a. General Directorate of Forestry and Wildlife, Ministry of Agriculture.
- b. Ministry of Agriculture through the General Directorate of Forestry and Wildlife (previously INRENA).

**Date:**

- a. 19/08/2010
- b. 18/08/2004

**Source:**

- a. <http://www.minag.gob.pe/dgffs/pdf/TUPA/PoliticaNacionalFFS.pdf>
- b. [http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/decsup/D.S.Nº20031-2004-AG%20\(Ofic.%20doc.Estrat.%20Nac.%20forest.%202002-2021\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/decsup/D.S.Nº20031-2004-AG%20(Ofic.%20doc.Estrat.%20Nac.%20forest.%202002-2021).pdf)

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## Codified Forest Laws and Norms

 Is there a codified forest law and lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative? Are the law and supporting norms available in full to the public from official sources (websites and/or offices)?

The legal framework for the forest sector is provided for by the Forest and Wildlife Law 27308 (still in force) which has been applied through official regulation and other lower level regulations. Access to it has been limited in terms of understanding the regulation, because of its technical language. Added to this are general forest regulations, which need to be brought into line with lower level provisions for its application and adapted to the reality of the area. Furthermore, only some technical-forest administrations at a regional level make regulations and procedures for each type of process available to the public.

Although the State began a process of updating the forest legislation, which concluded with Forest and Wildlife Law 29763 (recently approved but awaiting implementing regulation), it did not carry out an exhaustive analysis

of forest regulations. It is expected that the implementing regulation of this law will start a process to formulate further legislation, which needs to consider their compatibility with REDD, international trade agreements like the Voluntary Partnership Agreements, and other advances and initiatives, even more so if this Forest Law makes express reference to the regulation of forest ecosystem services.

- Title:**
- a. Law N° 27308, Forest and Wildlife Law (current law in operation).
  - b. Supreme Decree N° 014-2001-AG- Regulation of the Forest and Wildlife Law.
  - c. Law 29763, Forest and Wildlife Law (law that enters into force once it has an implementing regulation).
  - d. Law 27783, Principles of Decentralisation Law.
  - e. Law 27867, Organic Law of Regional Government.
- Organisation:**
- a. Congress of the Republic
  - b. Ministry of Agriculture through its Line Directorate the Institute of Natural Resources, now absorbed into the National Forest Directorate
  - c. Executive Branch and Congress of the Republic through the Land Commission
  - d. Congress of the Republic
  - e. Congress of the Republic
- Date:**
- a. 16/07/2000
  - b. 09/04/2001
  - c. 22/07/2011
  - d. 17/07/2002
  - e. 16/11/2002
- Source:**
- a. <http://www.legislacionforestal.org/ley-forestal-y-de-fauna-silvestre-4/>
  - b. <http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>
  - c. <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>
  - d. [http://www.pmde.gob.pe/archivos/leyesynormas/ley\\_bases\\_descentralizacion.pdf](http://www.pmde.gob.pe/archivos/leyesynormas/ley_bases_descentralizacion.pdf)
  - e. [http://www.ceplan.gob.pe/documents/10157/17736/ley\\_27867.pdf](http://www.ceplan.gob.pe/documents/10157/17736/ley_27867.pdf)
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### Signed International Trade Agreements on Forests

-  Has the country signed an international trade agreement that relates to forest products (logging and other products)? Are the agreements, including official discussions on their content, available in full to the public from official sources (websites and/or offices)?

In signed free trade agreements, there is a list of annexes and categorisation of the customs benefits, which identifies the goods commercialised between the signatory countries. Some of these agreements are designed to protect forest resources and implement contingency plans for illegal extraction processes, as well as those linked directly to commercialisation. The Free Trade Agreement with the USA prompted the process of updating forest legislation, with the Peruvian State taking on a series of commitments in environmental management and in the forest sector, thereby improving the legal trade of timber products. Meanwhile, negotiations for the Free Trade Agreement with the European Union were completed on 28 February 2011 and according to the Ministry of Foreign Trade and Tourism will come into force at the beginning of 2012 because of the complexity of the implementation process.

Although these international agreements are in the official language (Spanish), they have not been translated into other community languages, making access to these documents difficult for those populations. It is worth pointing out that the majority of them do not have an internet service in their locality, which is another factor limiting their access to the information.

Furthermore these agreements have not entered into a consultation process; the only participants have been the responsible bodies of each government. However, implementation of the Free Trade Agreement signed with the

USA involved the formation of an environmental consultative committee, which acted as an observer representing civil society of the fulfilment of the commitments assumed by the Peruvian State.

**Title:**

- a. Peru-USA Trade Promotion Agreement approved by Legislative Resolution 28766.
- b. Free Trade Agreement between the Government of the Republic of Peru and the Government of the People's Republic of China, ratified by Supreme Decree 092-2009-RE, implemented by Supreme Decree 005-2010-MINCETUR.
- c. Peru-Chile Free Trade Agreement signed on August 22, 2006 and ratified by DS-RE 057-2006. Amendment ratified by Supreme Decree 052-2008-RE. The Agreement came into effect on 1 March 2009 through Supreme Decree N ° 010-2009-MINCETUR.

**Organisation:**

- a. Ministry of Foreign Trade and Tourism
- b. Ministry of Foreign Trade and Tourism
- c. Ministry of Foreign Trade and Tourism

**Date:**

- a. 28/06/2006
- b. 23/06/2003
- c. 22/02/2009

**Source:**

- a. <http://www.legislacionforestal.org/acuerdo-de-promocion-comercial-peru-ee-uu/>
- b. [http://www.mincetur.gob.pe/newweb/Portals/0/comercio/tlc\\_china/texto\\_acuerdo.html](http://www.mincetur.gob.pe/newweb/Portals/0/comercio/tlc_china/texto_acuerdo.html)
- c. <http://www.mincetur.gob.pe/newweb/Default.aspx?tabid=2852>

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### Provisions for Transparency in Forest Laws

 Are there any forest-specific written laws and regulations that develop the right to access public information on the sector? Are the provisions in laws and regulations available to the public through official websites and other sources?

There are currently explicit provisions on transparency and access to information for the forest sector, which have been regulated through the Forest Law 29763 (recently approved but awaiting implementing regulation) and form part of the National Anti-Corruption Plan for the Forest and Wildlife Sector. These have still not been exercised, however, because they are in the process of being implemented.

Under the framework of the Law on Transparency and Access to Public Information 27806, information has been solicited on forest issues from the public institutions associated with the forest sector, but compliance with the deadlines for delivering the information indicated in the regulation is still inadequate and they do not provide the information requested; furthermore, they do not publish on their transparency websites the full information required by the Law.

The information provided by the government organisations influences decision-making. For example, access is allowed to the summaries of management plans and annual management reports, amongst other documents, which were not previously available to citizens.

With the implementation of the National Anti-Corruption Plan for the Forest and Forest Wildlife Sector, corrective measures will be applied to improve this situation. This is a step forward in encouraging access to information by citizens.

**Title:**

- a. Ministerial Resolution 0552-2010-AG - "Technical Guidelines on the Systematization and Administration of Forest and Wildlife Information".
- b. National Anti-Corruption Plan of the Forest and Wildlife Sector approved by Supreme Decree 009-2011-AG specifically the strategic objective I.

- c. Procedural Stages for Document Management by the Directorates of the Ministry of Agriculture approved by Sector Directive 005-2010-AG-DM.
- d. Law 29763, Forest and Wildlife Law (Law that come into effect once it is regulated), specifically in paragraphs 1, 2 and 12 of the Preliminary Title, as well as in its Article II General Principles, and in Rules 142, 143 and 144 of title IV "Transparency in forest and wildlife management".

**Organisation:**

- a. Ministry of Agriculture
- b. General Directorate of Forests and Wildlife – Ministry of Agriculture
- c. Ministry of Agriculture
- d. General Directorate of Forests and Wildlife – Ministry of Agriculture

**Date:**

- a. 31/08/2010
- b. 13/07/2011
- c. 23/11/2011
- d. 22/07/2011

**Source:**

- a. [http://www.minag.gob.pe/dgffs/pdf/2010/ResolMin/RM%20N%C2%B0%20552-2010-AG-\(Lineamientos%20sobre%20sistematizaci%C3%B3n%20y%20administraci%C3%B3n%20de%20Informaci%C3%B3n%20Forestal\).PDF](http://www.minag.gob.pe/dgffs/pdf/2010/ResolMin/RM%20N%C2%B0%20552-2010-AG-(Lineamientos%20sobre%20sistematizaci%C3%B3n%20y%20administraci%C3%B3n%20de%20Informaci%C3%B3n%20Forestal).PDF)
- b. <http://www.legislacionforestal.org/aprueban-el-plan-nacional-anticorrupcion-del-sector-forestal-y-de-fauna-silvestre-ds-009-2011-ag/>
- c. <http://www.minag.gob.pe/download/pdf/marcolegal/normaslegales/directivas/directiva-sectorial005-2010-ag-dm.pdf>
- d. <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>

### Legal Recognition of Customary and Traditional Rights



Are customary and traditional rights recognised in codified forest law and norms? Are the provisions in the law and norms available in full to the public from official sources (websites and/or offices)?

Article 78 of the new Forest Law 29763 recognises the customary and traditional rights of indigenous peoples, and is available on the websites of the institutions connected with the forest sector, specifically on the website of the General Directorate for Forests and Wildlife, although at present it is not available in community languages. The only document translated so far to facilitate access to information for these populations on their collective rights is Convention 169, which has been translated into Quechua. This translation was provided by the International Labour Organisation (ILO) itself.

Although the State tried to implement a process of participation for the new Forest and Wildlife Law by opening it up to a wider audience (local population, NGOs, business people and indigenous populations), this process was considered insufficient and very short-term.

**Title:**

- a) Article 8.1, 8.2, 9.1 ILO Convention 169 concerning respect for customary rights and respect for traditional methods.
- b) Article 18 of the Organic Law for the sustainable use of natural resources provided by Law 26821.
- c) Forest permits in community lands consistent with Article 12 of Law 27308 - Forest and Wildlife Law (current law in force) and Article 43 of the Regulations of the Forest Law.
- d) Rural and Native Communities - Article 134 of the Peruvian Civil Code.
- e) Approved Terms of Reference for the development of Forest Management Plans in Rural and/or Native Community Forests with commercial aims at low, medium and high scale through Departmental Resolution 232-2006-INRENA.
- f) Law 27811, which establishes the regime for the Protection of Collective Knowledge of Indigenous Peoples derived from Biological Resources.

g) Law 29763 New Forest Law (which comes into force once it is regulated) specifically in paragraphs 3 on Prior Consultation and 5 on Intercultural Knowledge, Traditions and Worldview of Article II of the Introduction, and Article 78 regarding respect of traditional knowledge in Title IV "Forests in Native Community Lands".

- Organisation:**
- a) International Labour Organisation
  - b) (---)
  - c) Ministry of Agriculture – General Directorate of Forests and Wildlife
  - d) (---)
  - e) Ministry of Agriculture, formerly INRENA
  - f) National Institute for the Defense of Skills and Protection of Intellectual Property (Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual - INDECOPI)
  - g) Executive Branch and Congress of the Republic through the Land Commission
- Date:**
- a) 02/12/1993
  - b) 25/06/1997
  - c) 04/04/2001
  - d) 27/07/1984
  - e) 27/07/2006
  - f) 08/08/2002
  - g) 22/07/2011
- Source:**
- a) <http://www.legislacionforestal.org/convenio-169-de-la-oit/>
  - b) <http://www.legislacionforestal.org/ley-organica-para-el-aprovechamiento-sostenible-de-los-recursos-naturales/>
  - c) Page 28 of the Legal Norms Manual on illegal logging [http://www.spda.org.pe/\\_data/publicacion/20091015180142\\_.pdf](http://www.spda.org.pe/_data/publicacion/20091015180142_.pdf)
  - d) <http://www.legislacionforestal.org/codigo-civil/>
  - e) <http://www.legislacionforestal.org/archivos/varios/2010/09/Resolucion-Jefatural-232-2006-TdR-Comunidades-Nativas1.pdf>
  - f) <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/27811.pdf>
  - g) <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>



### Legally Recognised Procedure for Consultation on New Forest-Related Norms



Are there any documented procedures (in the form of regulations, official guidance etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc (for example on REDD)? Are the reports from consultation processes available?

With the promulgation of the Law on the Right to Prior Consultation of Indigenous or Native Peoples, there is now a legal mandate which requires there to be a consultation process before any legislative measure which might directly affect the indigenous populations and their collective rights. In addition, the recently promulgated Forest and Wildlife Law (Law No. 29763) stipulates recognition of this right and its fulfilment. This law was the product of a consultation process for which documents, guides and methodologies were drawn up, in a similar fashion to the formulation of the National Forest Anti-Corruption Plan. Although the process was questioned because time was limited, it provided invaluable experience as a guiding framework for the implementation of this type of process, bearing in mind the level of participation of the players involved, the access to information (which can be found on the Ministry of Agriculture website), the forums opened, the contributions received from the participants and the time spent on it. These are experiences which can help to define an appropriate, participative and inclusive process, taking into account the lessons learned.

This consultation process highlighted the need to consider appropriate deadlines that provide timely due information and allow for the active participation of all stakeholders, with respect to their traditions, customs and language.

For example, during the consultation of indigenous peoples, they requested that the information stage needed to be preceded by a pre-information stage, with technical support for them to understand the proposal in its entirety. Since the previous processes did not have this pre-stage, the forums and hearings were sharply questioned because of their technical level and because there was not sufficient time for the population to find out about the proposal. Nevertheless, this experience served as a trial run for a methodological instrument on how to reach partial consensus on a legislative proposal. In the case of REDD+, the government has to date only offered “information” meetings for the indigenous populations, which only last one day, and are not effective in ensuring that these populations understand them correctly.

**Title:**

- a. Analysis of the Law on the Right to Prior Consultation of Indigenous Peoples and criteria for its implementation in the context of discussion on the draft Forest and Wildlife Law.
- b. Process of free prior informed consultation of Indigenous Peoples of the Bill 4141/2009-PE under the ILO Convention 169
- c. Guide for the process of review of the forest and wildlife legislation (Forest Law, National Forest Policies and Regulations)
- d. Participatory Construction for the Anti-Corruption Plan of the Forest and Wildlife Sector
- e. Statutory right to prior consultation of indigenous or native peoples recognized by Convention 169 of the International Labour Organization (ILO)

**Organisation:**

- a. Land Commission of the Congress of the Republic
- b. Land Commission of the Congress of the Republic
- c. Ministry of Agriculture through the General Directorate of Forests and Wildlife
- d. Ministry of Agriculture through the General Directorate of Forests and Wildlife
- e. Congress of the Republic, Commission of Constitution and Regulation

**Date:**

- a. 10/11/2010
- b. 23/11/2010
- c. 03/11/2009
- d. Review date: 21 July 2010
- e. 24 August 2011

**Source:**

- a. [http://f1.grp.yahoofs.com/v1/gJ4pTkOjNpR5yqTBheUrl4uOS7K9412Fwy\\_iKmVRP2dpLrYkkmPi4aYnNE1O5JWFJOYeGVR-OfWP5BJmzMVKRYDB2smTk\\_AVQ/ANALISIS%20DE%20LA%20LEY%20DE%20CONSULTA%20PREVIA.pdf](http://f1.grp.yahoofs.com/v1/gJ4pTkOjNpR5yqTBheUrl4uOS7K9412Fwy_iKmVRP2dpLrYkkmPi4aYnNE1O5JWFJOYeGVR-OfWP5BJmzMVKRYDB2smTk_AVQ/ANALISIS%20DE%20LA%20LEY%20DE%20CONSULTA%20PREVIA.pdf)
- b. [http://f1.grp.yahoofs.com/v1/gJ4pTgCLWJt5yqTB3\\_j9aCCiA52idzeoDaKGpJeKaZBRU2\\_51U7ly4YY6XnIIHs22wwAdSPqOGVILW-METODOLOGIA%2023%2011%202010.pdf](http://f1.grp.yahoofs.com/v1/gJ4pTgCLWJt5yqTB3_j9aCCiA52idzeoDaKGpJeKaZBRU2_51U7ly4YY6XnIIHs22wwAdSPqOGVILW-METODOLOGIA%2023%2011%202010.pdf)
- c. [http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/documentossecretariatecnica/guia\\_para\\_el\\_proceso\\_ley\\_forestal-versionfinal-fbv.pdf](http://www.minag.gob.pe/download/pdf/especiales/leyforestalydefaunasilvestre/documentossecretariatecnica/guia_para_el_proceso_ley_forestal-versionfinal-fbv.pdf)
- d. <http://www.pfsi.us/pasf/documentos/Metodologia/METODOLOG%cdA%20DEL%20PROCESO%5b1%5d.pdf>
- e. <http://www2.congreso.gob.pe/Sicr/TraDocEstProc/CLProLey2011.nsf>

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### **Law Recognising Right to Free Prior Informed Consent**



Is there any law that recognises the right to consent of indigenous peoples and communities on forest uses? Is the law available in full to the public from official sources (websites and/or offices)?

The provisions of ILO Convention 169, the Forest and Wildlife Law 29763 (recently approved but awaiting implementing regulation), and the Law on the Right to Prior Consultation of the Indigenous or Native Peoples 29785, set out the norms that require free, prior and informed consent, and the procedures to follow to ensure that the indigenous peoples are consulted.

There is a need to carry out participatory processes for the regulation of these norms, conforming to ILO Convention 169 and the Declaration of Human Rights, to ensure that an agreement or informed consent can be reached.

It is also necessary to consider a prior analysis of the experiences collected in the previous consultation processes carried out. These are a necessary input for the implementation of the norms.

**Title:**

- a. Article 8.1, 8.2, 9.1 of ILO Convention 169, concerning customary rights and traditional methods.
- b. Article II, Introduction of Forest and Wildlife Law 29763 (recently approved and coming into force once it is regulated)
- c. Law on the Right to Prior Consultation of Indigenous or Native Peoples 29785, recognised in Convention 169 of the International Labour Organization (ILO).

**Organisation:**

- a. International Labour Organisation
- b. Executive Branch and Congress of the Republic through the Land Commission
- c. Congress of the Republic, Commission of Constitution and Regulation

**Date:**

- a. 02/12/1993
- b. 22/07/2011
- c. 06/08/2011

**Source:**

- a. <http://www.legislacionforestal.org/convenio-169-de-la-oit/>
- b. <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>
- c. [http://www.justiciaviva.org.pe/webpanel/doc\\_int/doc08092011-182543.pdf](http://www.justiciaviva.org.pe/webpanel/doc_int/doc08092011-182543.pdf)

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### **National Land Tenure Policy**

 Is there an explicit current document that sets out the national policy on land tenure, including forest tenure? Is the policy document available in full to the public from official sources (websites and/or offices)?

The Peruvian legal framework relating to ownership, tenure or access to forest resources is defined by article 66 of the Political Constitution of the State, which states that: "Natural resources, both renewable and non-renewable, are a national asset. The State has sovereign power over their use. The conditions for their use and granting to individuals are set out by organic law. The licence grants its holder a real right, subject to the aforementioned legal norm." Consequently, the concept of private property is outside the political-legal framework for the natural resources, because they are in the public domain, and thus inalienable.

Likewise, the development of a National Forest Policy will serve as an instrument for establishing the explicit policy relating to tenure and access to forest and wildlife resources. Furthermore, through zoning and national forest planning that will be driven forward with the implementation of Law 29763 - Forest and Wildlife Law (recently approved and enters into force once it has an implementing regulation), the potential and limitations for the direct and indirect use of forest ecosystems and other wild vegetation ecosystems will be determined. This is an important step forward in forest management.

Finally, the process of formalising the tenure of forest lands must be strengthened by the regional governments in the framework of their responsibilities, bearing in mind that five regions already have taken responsibility in the forest sector. These responsibilities are framed in general legislation and must be included as part of their regional development policy, amongst which is found the improvement of criteria for handing over possession of lands which in some cases affect the change in land use.

**Title:**

- a. Constitution of Peru 1993 (Article 66)
- b. Organic Law for the sustainable use of natural resources, approved by Law 26821
- c. Law 27308, Forest and Wildlife Law (current law in force)

- d. Regulation of classification of land by their main use capacity (Supreme Decree 017-2009-AG)
- e. Law of private investment in the development of economic activities in lands of the national territory 26505 (Forests)
- f. Regulation of Law 26505, referring to private investment in the development of economic activities in land of the national territory and of rural communities (Supreme Decree 011-1997-AG) (Forests)

**Organisation:**

- a. Ministry of Agriculture
- b. (---)
- c. Ministry of Agriculture
- d. Ministry of Agriculture
- e. Ministry of Agriculture
- f. Ministry of Agriculture

**Date:**

- a. 30/12/1993
- b. 26/06/1997
- c. 16/07/2000
- d. 01/09/2009
- e. 18/07/1995
- f. 13/06/1997

**Source:**

- a. <http://www.tc.gob.pe/constitucion.pdf>
- b. [http://www.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA\\_OTRO/marco-legal/1.3.%20Ley26821.pdf](http://www.produce.gob.pe/RepositorioAPS/1/jer/PROPESCA_OTRO/marco-legal/1.3.%20Ley26821.pdf)
- c. <http://www.adaalegreconsultores.com.pe/normas/Agricultura/8.pdf>
- d. <http://www.legislacionforestal.org/reglamento-de-clasificacion-de-tierras-por-su-capacidad-de-uso-mayor/>
- e. [www.congreso.gob.pe/ntley/Imagenes/Leyes/26505.pdf](http://www.congreso.gob.pe/ntley/Imagenes/Leyes/26505.pdf)
- f. <http://www.cepes.org.pe/legisla/ds01197.htm>

### Land Ownership and Forest Use Maps

 Are there official maps showing current forest ownership by title and/or forest areas where concessions, permits and other authorisations have been granted? Are the maps available in full to the public from official sources (websites and/or offices)?

The maps currently available comply with the partial objective of providing information regarding the location of the titles granted for forestry extraction; however, this is still deemed insufficient because it is necessary to identify the holders of this right and the type of use granted, as well as identifying their respective contract, permit and/or title, as is the case with maps granting oil extraction rights in Peru.

The information in the maps will be of greater use if they include information from all the sectors associated with management of natural resources, and there are no discrepancies in the information provided by different organisations.

It is important to continue with the process of making the detailed information in the maps available to the public, not only so that citizens can be aware of it, but also so that the information provided can help them to take specific decisions regarding the rights which might assist them.

**Title:**

- a. Public Services – Departmental Resolution N° 257-2004-INRENA
- b. Directoral Resolution N° 090-2007-COFOPRI/DE
- c. Map of Forestry Concessions
- d. Map of Activity of Forestry Concessions and others

e. GEO Server – Peru in maps

**Organisation:**

- a. Ministry of Agriculture
- b. Ministry of Housing through COFOPRI
- c. National Office of Electronic Government and Information ONGEI
- d. Ministry of Agriculture through the General Directorate of Forests and Wildlife
- e. Ministry of Environment

**Date:**

- a. 14/12/2004
- b. 20/11/2007
- c. Search date: 21/07/2010
- d. Search date: 21/07/2010
- e. Search date: 15/08/2010

**Source:**

- a. [http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20\(Servicios%20al%20P%C3%ABlico\).pdf](http://www.minag.gob.pe/dgffs/pdf/normatividad/2004/resjef/RJ.%20N%C2%BA%20257-2004.INRENA%20(Servicios%20al%20P%C3%ABlico).pdf)
- b. <http://www.cofopri.gob.pe/pdf/pnf/RS-090-2007-COFOPRI-DE.pdf>
- c. <http://mapas.geoidep.gob.pe/ConcesionesForestales/>
- d. <http://www.minag.gob.pe/dgffs/pdf/Mapas/Ocupacion.pdf>
- e. <http://geoservidor.minam.gob.pe/intro/>

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### **Regulated Permit System for Commercial Logging Operations**



Is there a formally regulated system of permits for commercial logging operations? Are the contracts/permits granted under the system publically available from official sources (websites and/or offices)?

There is a formal regulated system of forest authorisations, permits and licences, which are differentiated according to the method of access to the forest. However, civil society organisations and local communities cannot obtain the contracts/permits granted directly; this information can only be accessed if accreditation is provided by the holder of the right or by means of a formal request for information. The fact that the Forest Authority does not have a specific register makes it difficult for the local population to identify these rights holders; similarly, neither is there a register of the communities which are using their forests.

However, there is a register of forest licences/concessions and other associated rights administered by the National Office of Public Registers (SUNARP). Access to this information requires the completion of an application and payment for public information of an official nature.

Having this type of information available is not only important, but also contributes to transparency, and serves to uphold rights against third parties. The difficulty in gaining access limits decision making of the populations linked to forest operations.

This is even truer if the responsibilities which were transferred to the regional governments are taken into consideration. They have full powers with regard to the forest sector for granting permits for operations and other certificates of use. What is required is an integrated system so that information is not dispersed and one organisation is responsible for this function. On this point, the new Forest Law (Law No. 29763), provides for this aspect with the creation of SINAFOR, the National System for Forest and Wildlife Management.

**Title:**

- a. Article 10 and 11 Law No. 27308, Forest and Wildlife Law
- b. Articles 83 and 85 of the Supreme Decree N° 014-2001-AG.- Regulation of the Forest and Wildlife Law
- c. Approved Terms of Reference for the development of Forest Management Plans of native and/or rural forests with commercial aims at low, medium and high scale through Departmental Resolution No. 232-2006-INRENA
- d. Promotional measures for timber concessions at the national level (DS 008-2010-AG)

e. Resolution N° 070-2006-SUNARP-SN Approved Directive regulating the registration of forestry, wildlife and reforestation concessions in the norms for the Forest and Wildlife Law 27308

**Organisation:**

- a. Congress of the Republic
- b. Ministry of Agriculture through its Line Directorate the Institute of Natural Resources (INRENA) now absorbed by the National Forest Directorate
- c. Ministry of Agriculture, formerly INRENA
- d. Ministry of Agriculture, General Directorate of Forests and Wildlife
- e. National Office of Public Registers – SUNARP

**Date:**

- a. 16/07/2000
- b. 09/04/2001
- c. 27/07/2006
- d. 04/08/2010
- e. 10/03/2006

**Source:**

- a. <http://www.legislacionforestal.org/ley-forestal-y-de-fauna-silvestre-4/>
- b. <http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>
- c. <http://www.legislacionforestal.org/archivos/varios/2010/09/Resolucion-Jefatural-232-2006-TdR-Comunidades-Nativas1.pdf>
- d. <http://www.legislacionforestal.org/establecen-medidas-de-promocion-para-concesiones-forestal-con-fines-maderables-a-nivel-nacional-ds-008-2010-ag/>
- e. <http://www.dar.org.pe/legis/pdf/RSUNARP.pdf>

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### **Legal Requirement for Stakeholder Consultation before Allocation of Commercial Logging Permits**

 Is there a requirement in the forest law and norms for stakeholder consultation prior to the allocation of commercial logging permits? Are the reports from consultation processes available?

For determining the Permanent Production Forests, in which concessions are granted, there are no participation processes. In these areas, the Operating Units are determined that are put up for public tender, with the process culminating in the granting of forest licences.

Similarly, when granting the permits and authorisations, the forest authority does not adopt a consultation process prior to the granting of these rights.

**Title:**

- a. Supreme Decree 014-2001-AG.- Regulation of the Forest and Wildlife Law
- b. Law 27308 – Forest and Wildlife Law where it defines environmental services (still in force)

**Organisation:**

- a. Ministry of Agriculture through its Line Directorate the Institute of Natural Resources (INRENA), now absorbed by the National Forest Directorate
- b. Congress of the Republic

**Date:**

- a. 09/04/2001
- b. 16/07/2000

**Source:**

- a. <http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>
- b. <http://dgffs.minag.gob.pe/pdf/ley27308.pdf>

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## **Verification Process (Due Diligence) of the Eligibility of Permit Applicants**

-  Prior to the allocation of permits for logging or other extractive use (e.g. mining) of forest land, is there a formal process in the regulations for independent “due diligence” checks to verify the eligibility, suitability and capability (technical and financial) of applicants? Are the findings and conclusions of the verification process made available to the public?

There is currently no process, nor is one planned by law, to verify the technical and financial capacity of bidders; the only evaluation carried out is whether the bidder meets the minimum conditions to enter into a contract with the State (having a Tax Identification Number; authorised representatives; a Management Plan; and others). As there is no process for verification of applicants, the information is not available nor does it affect decision-making processes.

This type of verification should be carried out to determine the suitability of the holder of the right of operation and implement measures for strengthening abilities, given that experience has shown that a number of licence holders do not have the sufficient technical and/or financial capacity and end up transferring their rights under the contract to third parties, or authorize exploitation of the natural resource without the correct technical parameters.

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## **Forest Management Plans**

-  Once a permit or concession has been issued, is there a formal requirement for the completion of forest management plans on the operations? Are the forest management plans available to the public from official sources (websites and/or offices)?

In general, Forest Management Plans are not carried out, and if they are then they are not available to the public. If plans were available as dynamic and flexible tools for management and control of the forest management operations, whose design allowed identification in advance of the activities and operations for sustainable use, they would allow both the holder and the public concerned to analyse them and obtain results of the levels of compliance.

In particular, it would allow the Office for Supervision of Forest and Wildlife Resources (OSINFOR in Spanish) to have full control and oversight of sustainable use and conservation of the forest and wildlife resources, as well as of the ecosystem services.

In addition, the new Forest and Wildlife Law sets out the creation of the National System of Forest and Wildlife Management (SINAFOR), a body charged with making available to the public access to the operating management plans and general forest management plans which were approved prior to this Law and in its framework. It also classifies the information generated by the body: a) as confidential, certain sections of the plans which will be regulated in specific norms and b) as non-confidential, information on the relation of forest species subject to use, the assessment of extraction, the debts with regard to operating licences and environmental impacts resulting from development of the activity.

This will allow both the authority and the citizen to access information and decision-making, as up until now neither civil society nor communities have had the chance to influence these plans. The only influence that they have had is through some projects carried out by third parties (e.g. NGOs) which involved sustainable forest operations.

**Title:** a. Article 96 of Supreme Decree 014-2001-AG. Regulation of the Forest and Wildlife Law  
b. Article 45 of the Forest and Wildlife Law 29763

**Organisation:** a. Ministry of Agriculture through its Line Directorate the Institute of Natural Resources (INRENA), now absorbed by the National Forest Directorate  
b. Executive Branch and Congress of the Republic – through the Land Commission

Date: a. 09/04/2001  
b. 22/07/2011

Source: a. <http://www.legislacionforestal.org/reglamento-de-ley-forestal-y-de-fauna-silvestre/>  
b. <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>

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### Regulation of Environmental Services

Is there a formally agreed system for the regulation of environmental services, such as water, carbon and biodiversity, as it affects forests? Are the regulations for the system available to the public from official sources (websites and/or offices)?

Although there is a general legal framework for environmental services and/or ecosystem services, specific legislation is required in this regard, for the purposes of regulating the chains of use and their assessment for a fair distribution between the beneficiaries.

If there is no specific legislation, the possibility arises that participants may draw up contracts which benefit just one of the parties, using the environmental services in an inappropriate manner and without the necessary information conditions. In turn, this makes it difficult for civil society organisations and communities to take decisions, as they are not represented in the procedures for regulation of environmental services (which allow them to participate directly).

Regulation is anticipated for article 2.9 of the Introduction of the Forest and Wildlife Law (Law No. 29763 recently approved but awaiting an implementing regulation), which indicates that it is the duty of the State to prioritise assessment, valuation and promotion of a payment or compensation scheme for the goods and services in forest ecosystems, as well as other financial instruments which benefit management of the asset. This represents an important change because it regulates specifically the treatment of the ecosystem services.

It is also relevant to mention that the State has begun a process for formulation of the Readiness Preparation Proposal (R-PP) for REDD, which involved the participation of civil society via the REDD Roundtable that exchanged information between the participating institutions with regard to the projects they were carrying out. In addition, bearing in mind the very stipulations of the R-PP, there is a requirement for a prior process to inform the organisations and/or stakeholders that the project may affect.

Title: a. Article 94 of the General Law of the Environment  
b. Article 60 of the Forest and Wildlife Law 29763 recently approved (which will come into force when it is regulated)  
c. Article 62 of the Forest and Wildlife Law 27308 where it defines environmental services (still in force)

Organisation: a. Ministry of Environment  
b. Congress of the Republic through the Commission of Andean, Amazonian and Afro-Peruvian Peoples  
c. Congress of the Republic

Date: a. (---)  
b. 22/07/2011  
c. 16/07/2000

Source: a. [http://www.minam.gob.pe/index.php?option=com\\_content&view=article&id=483&Itemid=133](http://www.minam.gob.pe/index.php?option=com_content&view=article&id=483&Itemid=133)  
b. <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>  
c. <http://dgffs.minag.gob.pe/pdf/ley27308.pdf>



## Strategic Environmental Assessment of Development Priorities



Is there a formal strategic process set out in policy to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands? Is the policy available in full to the public from official sources (websites and/or offices)?

Legislative Decree 1078 for modifying Law 27446, the National Environmental Impact Evaluation System Law, strengthened the obligation to use Strategic Environmental Evaluation in policies, plans and programmes for sectoral, regional and local development likely to have significant environmental implications.

In addition, strategic axis no. 6 (on natural resources and the environment) of the Bicentenary Plan in Peru to 2021 sets out seven specific objectives, one of which is to strengthen the National Environmental Management System across the three levels of government (national, regional and local), thereby encouraging the active participation of citizens in the plans or programmes.

Although it is true to say that civil society and the indigenous communities have participated in processes of Territorial Planning and Ecological and Economic Zoning, they had no direct influence on the decision-making, as this depended on the political priorities defined by the government.

As far as access to information and reports on strategic environmental evaluation is concerned, these are available to the civil society organisations and the communities. Specifically, the consultations carried out by the Ministry of the Environment for processes such as Territorial Planning (OT) and Ecological and Economic Zoning (ZEE) are available.

<b>Title:</b>	<ul style="list-style-type: none"><li>a. Regulation of Ecological and Economic Zoning, Supreme Decree N° 087-2004-PCM. Norm that creates the Technical Consultation Committee of Territorial Planning</li><li>b. Directive "Methodology for Ecological and Economic Zoning". Decree of the Directive Council N° 010-2006-CONAM-CD</li><li>c. Guidelines of the Territorial Planning Policy approved by the Ministerial Resolution No 026-2010 MINAM</li><li>d. National Environmental Policy, approved by Supreme Decree N° 012-2009-MINAM</li><li>e. National Environmental Action Plan of Peru 2011-2021 (Approved by Supreme Decree N° 014-2011-MINAM)</li><li>f. Bicentennial Plan of Peru to 2021</li></ul>
<b>Organisation:</b>	<ul style="list-style-type: none"><li>a. Presidential Office of the Council of Ministers</li><li>b. National Council of Environment, absorbed by the Ministry of Environment</li><li>c. Ministry of Environment</li><li>d. Ministry of Environment</li><li>e. Ministry of Environment</li><li>f. National Centre for Strategic Planning</li></ul>
<b>Date:</b>	<ul style="list-style-type: none"><li>a. 23/09/2004</li><li>b. June 2006</li><li>c. 27/02/2010</li><li>d. 25/05/2009</li><li>e. 09/07/2011</li><li>f. (---)</li></ul>
<b>Source:</b>	<ul style="list-style-type: none"><li>a. <a href="http://biblioteca.unmsm.edu.pe/redlieds/Recursos/archivos/Legislacion/Peru/DS087-2004-PCM.pdf">http://biblioteca.unmsm.edu.pe/redlieds/Recursos/archivos/Legislacion/Peru/DS087-2004-PCM.pdf</a></li><li>b. <a href="http://sinia.minam.gob.pe/index.php?idElementoInformacion=200&amp;idformula=&amp;idTipoElemento=">http://sinia.minam.gob.pe/index.php?idElementoInformacion=200&amp;idformula=&amp;idTipoElemento=</a></li></ul>

- c. [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://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)
  - d. [http://www.minam.gob.pe/index.php?option=com\\_docman&Itemid=65](http://www.minam.gob.pe/index.php?option=com_docman&Itemid=65)
  - e. [http://www.minam.gob.pe/index.php?option=com\\_content&view=article&id=871:plan-nacional-de-accion-ambiental-plan-2010-2021](http://www.minam.gob.pe/index.php?option=com_content&view=article&id=871:plan-nacional-de-accion-ambiental-plan-2010-2021)
  - f. [http://www.minam.gob.pe/index.php?option=com\\_content&view=article&id=1423](http://www.minam.gob.pe/index.php?option=com_content&view=article&id=1423)
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### **Independent Monitoring of Forest Governance and Operations**

-  Is there an independent monitor, auditor, ombudsman or any other body with an officially recognised role to scrutinise forest governance and operations? Are reports by the independent body available to the public?

The work carried out by the People's Ombudsman in defence of natural resources has played a pivotal role in the process of updating Peruvian forest legislation, fulfilling not only an observer role but also as a monitor and intermediary between the interests of the State and the different stakeholders.

The reports drawn up by the People's Ombudsman are available to the public on its website. One of the most important is Report no. 151 "Forest Policy and the Peruvian Amazon: Progress and obstacles on the road to sustainability", which forms a working document for decision-making, and played a role in the process of updating the forest legislation with the result being the recently approved Law 29763, Forest and Wildlife Law (which will enter into force once it has an implementing regulation).

However, there is no impetus from a monitoring body or independent auditor from civil society for the forest sector, which supports and strengthens the functions of the National Forest and Wildlife Commission (CONAFOR in Spanish), and which is involved in this type of activities to act as a monitor in conjunction with the People's Ombudsman (which acts on the State's behalf).

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### **Forestry Tax Collection and Funding Systems**

-  Is there a regulated fiscal system to collect taxes and redistribute royalties from forest operations, or provide subsidies and funding to support forest operations? Are figures on the amounts collected and distributed available to the public from official sources?

The redistribution of taxes and royalties in the system called the Forest Canon of behalf of the regional and local governments is found in the Canon Law N° 27506. According to the provisions of sub-paragraph d) of article 7 of the Supreme Decree 005-2002-EF, Canon Law Regulation, modified by Supreme Decree 187-2004-EF, the amount of the Forest Canon shall be determined on a half-yearly basis. The National Institute of Natural Resources (INRENA - whose responsibilities were taken on by the General Directorate for Forests and Wildlife) should inform the Ministry of Economy and Finances of the location of concessions, authorisations and/or permits granted during this period within twenty working days of the last day of the month which ends the half year, for the purposes of determining the respective indices of distribution.

It would be important, by virtue of the right of access to information – and as a contribution to decision-making – to consider making public these documents sent by the forest authority (they are currently not made public, neither for the social organisations, nor for the indigenous communities), so that the population can find out about the distribution of this economic benefit in their sector and can request it through a proposal for participation to their local and/or regional government to improve their quality of life.

Articles 131 to 136 of Title II of Law 29763 - Forest and Wildlife Law (recently promulgated which will enter into force once it has implementing regulation), provides for actions of promotion, financing, certification and investment in forests and wildlife.

- Title:**
- a. Canon Law N° 27506
  - b. Law N° 28077 that modifies various articles of Canon Law N° 27506
  - c. Regulation of the Canon Law. Supreme Decree N° 005-2002-EF
  - d. Forest Canon (Ministerial Resolutions that approve the distribution index of the forest canon)
- Organisation:**
- a. Ministry of Economy and Finance
  - b. Ministry of Economy and Finance
  - c. Ministry of Economy and Finance
  - d. Ministry of Economy and Finance
- Date:**
- a. 09/07/2001
  - b. 25/09/2003
  - c. 07/01/2002
  - d. 01/06/2010
- Source:**
- a. <http://www.legislacionforestal.org/ley-de-canon/>
  - b. [http://www.mim.org.pe/marco\\_legal/ley\\_general\\_de\\_mineria\\_y\\_canon/Ley%2028077%20Modifica%20Ley%20del%20Canon.pdf](http://www.mim.org.pe/marco_legal/ley_general_de_mineria_y_canon/Ley%2028077%20Modifica%20Ley%20del%20Canon.pdf)
  - c. [http://www.peru.gob.pe/docs/PLANES/94/PLAN\\_94\\_DS%20%20N%C2%BA%20005-2002-EF\\_2008.pdf](http://www.peru.gob.pe/docs/PLANES/94/PLAN_94_DS%20%20N%C2%BA%20005-2002-EF_2008.pdf)
  - d. [http://www.mef.gob.pe/index.php?option=com\\_content&view=article&id=1547%3Acanon-forestal&catid=150%3Atransferencia-y-gasto-social&Itemid=100694&lang=es](http://www.mef.gob.pe/index.php?option=com_content&view=article&id=1547%3Acanon-forestal&catid=150%3Atransferencia-y-gasto-social&Itemid=100694&lang=es)
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### **Forest Infractions**

-  Is the Forest Authority obliged under the norms to collect information on any infractors of the forest law?  
Are lists of infractors available to the public from official sources?

Article 368 of the Regulation of the Forest and Wildlife Law 27308 (the law still in force) provides for INRENA (whose powers were taken on by the General Directorate for Forests and Forest Wildlife) to maintain a register of natural and legal persons penalised for infractions of Forest and Wildlife Legislation.

Similarly, sub-sections 5 and 8 of article 43 of Supreme Decree No. 065-2009-PCM, which approves the Regulation on Organisation and Functions of the Office for Supervision of Forest and Wildlife Resources (OSINFOR in Spanish), provides for the existence of an administrative register of concessions which have expired and/or been penalised for infraction of the Forest and Wildlife Law.

However, none of the institutions referred to provides or facilitates publicly the aforementioned register (or list of offenders). Publicising this register is important, not only to comply with the law, but also as a means of strengthening transparency in the management of these types of process and to promote access to decision-making. This would allow players in the forest sector to identify the offenders and have prior information before signing commercial contracts with forest operators, and also to identify the forest professionals involved in these types of processes.

- Title:**
- a. Article 4 of the Legislative Decree No 1085 that created OSINFOR
  - b. Article 18 of the Law 29763 Forest and Wildlife Law; the third paragraph expressly states that SERFOR is the national authority.

**Organisation:** a. President's Office of the Council of Ministers  
b. Executive Branch and Congress of the Republic through the Land Commission

**Date:** a. 28/06/2008  
b. 22/07/2011

**Source:** a. [http://www.osinfor.gob.pe/portal/archivos/recurso/dl\\_1085\\_-\\_ley\\_osinfor.pdf](http://www.osinfor.gob.pe/portal/archivos/recurso/dl_1085_-_ley_osinfor.pdf)  
b. <http://dgffs.minag.gob.pe/pdf/Ley29763.pdf>

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### Annual Forest Authority Report

 Is there a requirement set out in the norms for the Forest Authority to produce an annual summary of its activities? Is the report available in full to the public from official sources (websites and/or offices)?

Paragraph g of article 6 of Supreme Decree No. 014-2001-AG, Regulation of the Forest and Wildlife Law, states that INRENA (whose powers were taken on by General Directorate for Forest and Wildlife in the Ministry of Agriculture) is the responsible authority for drawing up and disseminating an annual report of forest and wildlife activities. However, to date there is still no annual report by the forest authority, which limits access to information and transparency in the management of the sector.

The responsible authority needs to regulate the obligation of every government body associated with this, presenting an Annual Report which identifies activities, obstacles, processes under way and opportunities for the forest sector.

On this point, it is important for the forest authority to meet its obligations by publishing an Annual Report of its activities, not only to comply with the law but also to use this tool for promotion of production, generation of capital and improvement of the quality of life of the populations involved. The General Directorate for Forests and Wildlife only publishes a statistical yearbook, which cannot be considered an Annual Report, rather a complement to such a report.

Law No. 29763 - Forest and Wildlife Law (recently approved which will come into force once it has an implementing regulation) provides for new bodies to come into operation - such as the National System for Forest and Wildlife Management (SINAFOR) and the National Forest and Wildlife Service (SERFOR) – which would consider producing plans which could be used as a basis for the Annual Reports, as they would periodically provide the type of information necessary to draw them up.

This would contribute to civil society organisations and indigenous communities having access to this information, with more accurate and expanded details of forest operations, which in turn would allow them to influence the decision-making for the plans for the following year.

**Title:** a. Forest Statistics Yearbook

**Organisation:** a. Ministry of Agriculture through the General Directorate of Forests and Wildlife

**Date:** a. Search date: 21/07/2011

**Source:** a. [http://www.minag.gob.pe/dgffs/index.php?option=com\\_content&view=article&id=58&Itemid=179](http://www.minag.gob.pe/dgffs/index.php?option=com_content&view=article&id=58&Itemid=179)

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