CONCEPTS

Definition and Classification of Illegality in the Timber Value Chain
CONCEPTS

Definition and Classification of Illegality in the Timber Value Chain
One of the issues facing the forest sector is the presence of illegal activity in the different forest value chains, which undermines competitiveness and often causes irreversible harm to the environment.

Despite the magnitude of the problem, gaps remain when it comes to conceptualizing illegality within the timber value chain and adequately describing and classifying these illegal activities.

Accordingly, Concepts | Definition and Classification of Illegality in the Timber Value Chain, as part of the study “Estimating and Improving Timber Legality in Peru,” aims to identify and analyze these different concepts and forms of illegality in an effort to come up with a proposal on how to define illegality and classify its forms.

The methodology included reviews of primary and secondary sources of both domestic and international literature on concepts and forms of illegality in the timber value chain; field work in the form of 35 interviews of key stakeholders in the cities of Lima, Pucallpa, Iquitos, Puerto Maldonado, and Iñapari; and online surveys of forestry experts, which received 20 responses. In addition, the Peruvian Society for Environmental Law (SPDA) helped to develop a legal basis for the study and examined offenses based on information provided by the Forest and Wildlife Resources Oversight Agency (OSINFOR).

The study posits, for example, that no clear definition of the concept of “illegal logging” exists in Peruvian law, and that to arrive at an effective definition, several points of contention will first need to be settled. It also holds that whatever the definition, it must be clear and be acceptable to all stakeholders.

The evidence indicates that the most common forms of illegality occur during the timber production and transport phases. As to levels of severity, timber extraction from unauthorized areas was found to be the most serious offense, while the least serious was extraction from legal areas without necessarily meeting all management plan conditions.

Lastly, it is important to point out one of the constants in illegal activity throughout the value chain—corruption, inasmuch as “large-scale illegal logging operations cannot occur without the explicit or implicit consent of those government officials in charge of protecting the forests” (Pereira et al., 2012).
**Concepts | Definition and Classification of Illegality in the Timber Value Chain**

Collection of Studies: “Estimating and Improving Timber Legality in Peru”

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# Acronyms and Abbreviations

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<th>Definition</th>
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<tr>
<td>ARFFS</td>
<td>Regional forest and wildlife authority</td>
</tr>
<tr>
<td>BPPs</td>
<td>Bosques de producción permanente (Permanent production forests)</td>
</tr>
<tr>
<td>CIEL</td>
<td>Centre for International Environmental Law</td>
</tr>
<tr>
<td>CITEmadera</td>
<td>Center for Productive Innovation and Technology Transfer - Wood</td>
</tr>
<tr>
<td>CITES</td>
<td>Convention on International Trade in Endangered Species of Wild Fauna and Flora</td>
</tr>
<tr>
<td>DEMA</td>
<td>Forest management declaration</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental Investigation Agency</td>
</tr>
<tr>
<td>FAO</td>
<td>United Nations Food and Agriculture Organization</td>
</tr>
<tr>
<td>FEMA</td>
<td>Special Prosecutors for Environmental Matters</td>
</tr>
<tr>
<td>FLEGT</td>
<td>Forest Law Enforcement, Governance, and Trade</td>
</tr>
<tr>
<td>GTF</td>
<td>Forest transport permit</td>
</tr>
<tr>
<td>INTERPOL</td>
<td>The International Criminal Police Organisation</td>
</tr>
<tr>
<td>IUFRO</td>
<td>International Union of Forest Research Organizations</td>
</tr>
<tr>
<td>MAAP</td>
<td>Monitoring of the Andean Amazon Project</td>
</tr>
<tr>
<td>MEF</td>
<td>Ministry of Economy and Finance</td>
</tr>
<tr>
<td>MINAGRI</td>
<td>Ministry of Agriculture</td>
</tr>
<tr>
<td>MINAM</td>
<td>Ministry of the Environment</td>
</tr>
<tr>
<td>NGOs</td>
<td>Non-governmental organizations</td>
</tr>
<tr>
<td>OP</td>
<td>Operating plan</td>
</tr>
<tr>
<td>OSINFOR</td>
<td>Organismo de Supervisión de los Recursos Forestales y de Fauna Silvestre (Forest and Wildlife Resources Oversight Agency)</td>
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<tr>
<td>PRODUCE</td>
<td>Ministry of Production</td>
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<tr>
<td>RGF</td>
<td>Forest Management Regulation</td>
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<tr>
<td>RGFFSCNCC</td>
<td>Regulation for Forest and Wildlife Management in Native and Rural Communities</td>
</tr>
<tr>
<td>RGPFSAF</td>
<td>Forest Plantation and Agroforestry System Management Regulation</td>
</tr>
<tr>
<td>RLFFS</td>
<td>Regulation of the Forest and Wildlife Act</td>
</tr>
<tr>
<td>SERFOR</td>
<td>National Forest and Wildlife Service</td>
</tr>
<tr>
<td>SIGO</td>
<td>Management Information System – OSINFOR</td>
</tr>
<tr>
<td>SINAFC</td>
<td>National Forest and Wildlife Management System</td>
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<tr>
<td>SINCFVS</td>
<td>National Forest and Wildlife Monitoring and Surveillance System</td>
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<tr>
<td>SNIFFS</td>
<td>National Forest and Wildlife Information System</td>
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<td>SPDA</td>
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<tr>
<td>SUNAT</td>
<td>Superintendencia Nacional de Aduanas y Administración Tributaria (National Superintendency of Customs and Tax Administration)</td>
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<tr>
<td>UNEP</td>
<td>United Nations Environment Programme</td>
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This document falls under the study "Estimating and Improving Timber Legality in Peru" and aims to identify and analyze the different concepts and forms of illegality in Peru’s timber value chain in an effort to come up with a proposal on how to define illegality and classify its forms.

The methodology included reviews of both domestic and international literature, 35 interviews of relevant stakeholders in the cities of Lima, Pucallpa, Iquitos, Puerto Maldonado, and Iñapari, and online surveys of experts, which received 20 responses. In addition, the Peruvian Society for Environmental Law (SPDA) helped to develop a legal basis for the study and examined offenses based on information provided by the Forest and Wildlife Resources Oversight Agency (OSINFOR).

**Concepts of Illegality**

No clear definition of the concept of "illegal logging" exists in Peruvian law, despite how vitally important it is. In order to arrive at an effective definition, several points of contention will first need to be settled, specifically the following four:

1. **Narrow vs. broad definition.** In other words, the concept of 'illegal logging' would either be separated from 'illegal trade' in timber, or a definition that encompasses both would be considered.

   These differences exist in both importing and exporting countries, but whatever the scenario, one must bear in mind that, unlike other crimes, illegal logging is not considered to be a specific and concrete action, but rather a series of actions prohibited by law.

2. **Illegality vs. informality.** Here, informality would either be included under illegality, with the same treatment, or it would be separated and receive different treatment.

   In this case, it is necessary to bear in mind that informal logging is associated mainly with small-scale operations in which those who log trees do so as their livelihood and are unable to cope with the challenges posed and costs required by law to formalize their operations.

   In Peru, this is the result of a model implemented several years ago when Law 21,147 was still in place. That law allowed for 1,000 hectare contracts that did not require forest management, nor was there government oversight. This led to a disconnect between what was happening in the forests and in industry, which in general showed no concern over the conditions under which timber was being extracted for processing. Subsequent legislation eliminated this option, but left many small-scale loggers without the ability to legally access forests.

   Some authors hold that all informality constitutes illegality, but if everything informal is made illegal, the livelihoods of many people would be adversely affected. A determination must therefore be made as to what informal activities are also illegal and then work must be done on relevant regulations.

   This type of logging must also not be overlooked because at the global level, the volume of informal extraction is growing, and although each operator extracts small quantities of timber, when added together they constitute a significant flow in the value chain. Often, behind those loggers are organized mafias of ‘enablers’ who need to be fought.

3. **Inclusion vs. exclusion of land use changes within the concept of ‘illegal logging.’** There are three possibilities in this case: a definition that includes land use changes regardless of whether or not the timber is being sold; a definition that includes it only if the timber is being sold; and a definition that does not include it.

   Recent years have witnessed a significant increase in illegal logging associated with removal of forest cover for other land uses. According to a Chatham House report (Hoare, 2015), “as much as half of all timber traded internationally now comes from forest conversion, of which two-thirds is thought to be illegal.” It must also be noted that forest conversion causes the greatest environmental impacts on forests.

   According to its offenders databases, from 2009-2018 OSINFOR detected 108 cases of unauthorized land use change for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted (97 under Law 27,388 and 11 under Law 29,763). Of the cases reported, the most common offenses had to do with forest permits on private property (31 cases), afforestation and/or reforestation concessions (30 cases), and Brazil nut concessions (21 cases).

4. **A definition that includes all offenses that can be committed throughout the value chain vs. a definition that excludes minor offenses or those without any illegal intent behind them.** None of the literature speaks to this, but it was an important topic that came up in the interviews. Because of how complex both the resource and management thereof are, errors are often made in the field, and some of those involved believe that such errors should not be considered ‘illegal logging,’ or should at least be dealt with proportionally.
Forms of illegality are types of illegal acts that occur throughout the timber value chain. Often, one form is the natural continuation of another. It is also true that some flows get “laundered” at certain points along the chain, while others remain hidden until they reach the final consumer.

The proposed classification is based on links in the value chain and combines different classification options found in the literature. It comes the closest to Peru’s legal framework and the other findings from the study “Estimating and Improving Timber Legality in Peru.” In addition to the links in the chain, the standard offenses under the Forest Management Regulation, their degree of severity, and the type of harm have also been included.

Based on interviews, the most frequent forms of illegality are:

- Those that occur in the production or extraction phases and during transport, specifically, unauthorized extraction (primarily from restricted areas);
- Use of documentation (mainly forest transport permits (GTFs)) issued by the competent authority to conceal unauthorized extraction; this was further corroborated when examining OSINFOR’s databases of offenses.

As to the unauthorized extraction of timber, OSINFOR’s offenders registry indicates that from 2009 to 2018 OSINFOR identified 4,167 cases for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted. Of these cases, penalties were imposed for 3,668 under Law 27,308 (between 2009 and 2017), and for 499 under Law 29,763.

Regarding offenses in connection with facilitating illegal activities, OSINFOR’s offenders registry indicates that 3,013 cases were identified between 2009 and 2018 for which penalties were imposed for 3,668 under Law 27,308 (between 2009 and 2017), and for 460 under Law 29,763.

As to levels of severity, extraction from unauthorized areas was considered to be the most serious offense, while corruption, in its different forms, was identified as a constant throughout the chain, and, often, as the sine qua non for the commission of illegal acts.

Two main timber laundering methods were identified:

- The first comes after unauthorized extraction, using fraudulent GTFs from the forest to processing facilities or warehouses;
- The second occurs in primary processing plants, using yields, for which new fraudulent GTFs are generated.

As to recommendations on how to solve illegality-related problems, the responses obtained during the interviews were varied. They could, however, be grouped into the following thematic categories: improve the way rights to forest resources are granted; pay special attention to timber that comes from certain types of rights-granting mechanisms; evaluate alternative systems for small-scale loggers; do advance work in the office in order to reduce the field supervision workload; prioritize oversight at origin; evaluate the usefulness and effectiveness of checkpoints; have clear ground rules established by the National Forest and Wildlife Service (SERFOR); develop technical guidelines and improve regulations; improve institutional coordination and strengthen forest sector agencies; combat corruption and impunity; and prevent harm to Peru’s reputation and promote the industry.

These recommendations, combined with those found in the literature, were the subject of a four-question online survey, the main results of which are as follows:

- Regarding the question about which link in the timber value chain should be the focus of efforts to fight illegality, 41% of the responses indicated that focus should be placed on the production or harvesting phase, while 16% of responses pointed to primary processing and transport.
- As to approaches to combatting illegality (enforcement and penalties vs. promotion and incentives), 85% of those surveyed indicated that an approach that prioritizes promotion and incentives should be used.
- Of the policy recommendations mainly concerning the first approach (enforcement and penalties), the one garnering the most support was: Strengthen regional and national government oversight of permits, local forests, reforestation concessions, land use change authorizations, areas with a DEMA, and other types of forestry licenses and administrative acts (13%);
- As to the policy recommendations mainly concerning the second approach (promotion and incentives), the recommendation with the most support was: Invest in building the capacity of native and rural communities and local governments to increase legal logging in their territories (10%).

Finally, the document contains six appendices that include:

- The main examples of forms of illegality found in the literature;
- A summary of the legal basis prepared by the SPDA;
- The policy recommendations found in the literature reviewed;
- The list of stakeholders interviewed;
- The online survey;
- Detailed results of the online survey.
1. Eleven of the cases punished under Law 27,308 correspond to 2015, and therefore there is no way to know which of these concern only changes in use and not unauthorized forest clearance, bearing in mind that from July 15 to September 30, 2015 the offense included both scenarios.

2. Laundering of illegally logged timber, which includes: mixing illegally logged timber with legal timber; exceeding logging quotas on the ground; using logging concessions or licenses for one area to log in other areas and using land transport to conceal its origin; declaring volumes below those really processed in the sawmills; securing licenses illegally by hacking government websites (Nellemann, 2012).

3. For the offense of “facilitating the extraction, transport, or sale of illegally extracted forest resources by means of a concession contract, management contract, permit, or timber harvest authorization.”

4. For the offense of “using documentation issued or approved by the competent forest authority to conceal the extraction, transport, processing, storage, or sale of forest resources or products extracted without authorization.”

Notes
The Peruvian forest sector

Peru ranks ninth in the world and second in South America in terms of forest area

**128 million hectares**

**72.1 million ha**
of Amazon forest

**56%** of Peru’s territory

**9.3 million ha** of BPPs

**3.7 million ha** of BPPs

**1.9 million ha** of BPPs

**17.5 million ha** of permanent production forests (BPPs)
(for sustainable timber harvesting)
Data updated to 2018

**FOREST CONCESSIONS**

**USE CONTRACTS**

**FORESTRY PERMITS**

**Natural forests**

**Local forests**

**Plantation forests**

**CONCEPTUAL AND REFERENCE FRAMEWORK**

**DIFFERENT APPROACHES TO THE CONCEPT OF ILLEGALITY AND THE FORMS IT TAKES**

**Forest sector authorities**

**SEFOR**
National Forest and Wildlife Service
National authority tasked with the management of forest and wildlife resources. Leads the National Forest and Wildlife Management System. Establishes the regulatory, technical, and administrative framework and guarantees market access and improved conditions for sector competitiveness.

**OSINFOR**
Forest and Wildlife Resources Oversight Agency
Agency tasked with oversight and enforcement of sustainable harvesting and conservation of forest and wildlife resources in the forests to which the government grants legal access through a range of mechanisms.

**Regional governments**
Regional forest and wildlife authority for their territory. Controls and monitors forest and wildlife resources in their region.

**CONCEPTS** - Definition and Classification of Illegality in the Timber Value Chain

**I. Definition and Classification of Illegality in the Timber Value Chain**

**DIFFERENT APPROACHES TO THE CONCEPT OF ILLEGALITY AND THE FORMS IT TAKES**

**Forest sector authorities**

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Agency tasked with oversight and enforcement of sustainable harvesting and conservation of forest and wildlife resources in the forests to which the government grants legal access through a range of mechanisms.

**Regional governments**
Regional forest and wildlife authority for their territory. Controls and monitors forest and wildlife resources in their region.

**Mechanisms for legal forest access**

**Natural forests**

**Local forests**

**Plantation forests**
**Concepts of illegality in the timber value chain**

In "Introduction: Understanding the Complexities of Illegal Logging, Governance Responses and Associated Timber Trade," Kleinschmit et al. (IUFRO, 2006) argue that "one of the basic challenges facing the forestry sector is the diverse understanding of what illegal logging means. This ambiguity has consequences not only for reorienting the scale of illegal logging and associated trade but also for identifying its drivers and impacts." Therefore, "depending on the dominant understanding of illegal logging, governance responses might address particular activities while overlooking others." A compilation of the concepts and forms of illegality in the timber value chain and how they are classified, along with a summary of what is happening in Peru, are provided below.

According to the United Nations Food and Agriculture Organization (FAO), "a practical definition of legally-produced timber would require more than just listing all laws applicable to forest goods production chain, from theat all stages of forest management and the rights to the land to corrupt activities to financial management." "[A]ll illegal acts that relate to forest ecosystems, forest-related industries and the people who manage or use forest resources in violation of the laws that govern logging and protect biodiversity wherever such permits are obtained fraudulently." This definition is "not confined to activities in forests themselves; rather, it extends to [breaking the law] at any point along the supply chain" (Hoare, 2015).

In "New vs. broad definition of illegal logging", Tacconi et al. (2003) define illegal forestry activities as:

> "…is any activity that uses or harms forest resources in violation of the laws for the land to convert activities to augment forest incomes, sometimes at all stages of forest management and the forest goods production chain; from the planning stages, to harvesting, and transport of raw and processed products, to financial management."

Meanwhile, the Chatham House report (2013) also cited by Tacconi et al. in the IUFRO report, introduces a number of definitions of illegal logging in the sector offered by various authors. For instance, Tacconi et al. define illegal forestry activities as:

> "Any illegal activity related to forest resources, forest-related industries, and the people who manage or use forest resources in violation of the laws that govern logging and protect biodiversity wherever such permits are obtained fraudulently." These definitions refer only to production, the exclusion of trade-related activities. Along those same lines, Tacconi and Lucchi (2006) cite the definition used by Muñoz (2006):

> "Any illegal activity related to forest resources, forest-related industries, and the people who manage or use forest resources in violation of the laws that govern logging and protect biodiversity wherever such permits are obtained fraudulently." These definitions refer only to production, the exclusion of trade-related activities.
The illegality that occurs on a small scale cannot be dismissed, since logged volumes appear to be increasing. The Chatham House report (2015), which looked at behavior in nine timber producing countries, indicates that "logging by small-scale producers has soared in many countries" and that "such activity is often illegal and remains beyond the scope of many policy and regulatory efforts."

Some authors hold that large-scale operations should not be disregarded either. According to the Pereira et al. (2012) study, one of the biggest failures when combating illegal logging is "a misplaced focus on low-level criminals" engaged in illegal logging—"who often resort to crime in response to extreme poverty in which they live or a lack of other options"—rather than on criminal organizations or intermediaries. "These criminal organizations are sophisticated, well-organized, and have access to an abundance of resources with which to fund their illegal activities."

In light of the vast disparities in the way it is viewed and treated, informality is something that should be considered when defining illegality.

**3 Inclusion of changes in land use**

The Chatham House report (2015) emphasizes that its definition of ‘illegal logging’ includes the “illegal clearance of forests for other land uses” and that this “practice can involve converting forest land without the necessary permit or operating under a licence that has been obtained illegally, including through corrupt processes.” Such conversion may involve illegalities in other sectors—"for example the breach of requirements enshrined in agricultural or mining legislation.”

The report further points out that “[i]n recent years, there has been a significant increase in illegal logging linked to the clearance of forests for other land uses” and that this increase “is negating some of the improvements in forest governance.”

| Large-scale concessions have improved legal compliance, which may be related to the increase in legality verification and certification. | The report goes on to state that “half of all tropical timber traded internationally is estimated to come from the clearance of forests for other land uses; of that volume, nearly two thirds is from illegal conversion.” The IUFRO report also contends that conversion is a serious problem that “should be considered by policy initiatives aimed at reducing illegality in the sector”.

Meanwhile, a study by Forest Trends indicates that “at least half of all tropical deforestation is caused by commercial agro-industry” (Lawsom, 2014).

The above study notes that “[i]n many tropical timber-producing countries, there has been a dramatic shift over the past ten years in how the majority of this wood is produced. In the past, almost all tropical timber was selectively logged from natural forests.” “More recently, however, a growing proportion of production in key countries originates from the clear-felling of tropical forests, mostly to make way for commercial agricultural plantations.”

Andaluz (cited by Pautrat and Lucich, 2006) indicates that a distinction is commonly made between “informal logging and trade” and “illegal logging and trade,” but that in reality, informal presupposes illegal. Andaluz continues by stating that the term “informal” has traditionally been used to emphasize activities that have repercussions on society, e.g., when there is a significant number of offenders who act based on a lack of basic means for subsistence, as well as a lack of opportunities or mechanisms for formalizing operations (Andaluz, 2005, p. 37).

Along these lines, Tacconi et al. (2003) indicate that, while informal activities are not necessarily automatically illegal (given that they may be regulated), in many cases informal producers may be carrying out illegal activities or not complying with the law because they find legal procedures to be very complex and or transaction costs to be too high. However, despite the “apparent increase in the production of illegal timber by informal, small-scale producers” and “whether those informal activities are actually illegal will need to be ascertained” and a specific regulation will have to be developed to address them.

The authors warn that considering all informal activities to be illegal could have negative impacts on the livelihoods of many people, including indigenous and other rural communities (Tacconi et al., 2003).

Definitions and Classification of Illegality in the Timber Value Chain

Large-scale concessions have improved legal compliance, which may be related to the increase in legality verification and certification.
Forms of illegality and their classification

Several authors offer a way to classify forestry activities that involve illegality. Some refer to “forms,” some to “types,” and others simply to “examples” of illegal activities. The Pereira et al. (2012) study, for example, groups offenses associated with illegal logging into three broad categories:

- Illegal products, including the harvesting of protected tree species and the felling of trees below allowable size classes. Product restrictions are also sometimes advanced on the basis of value added along the chain.
- Illegal locations, including the harvesting of timber in locations where logging is prohibited or in locations where a valid permit, whether on private lands, public community-owned forests, or state-controlled forests. It also includes felling trees from prohibited sites within concessions, such as areas with steep slopes or those located near rivers or streambeds.
- Illegal practices, involving a failure to comply with jurisdictions’ laws and regulations. Examples include failing to meet affirmative obligations to file forest management plans, failing to conduct social and environmental impact assessments, and failing to perform post-harvest reforestation activities. They may also include practices like operating or transporting logs without legal permits.

The same study establishes three categories into which forest crimes generally fall: 14

A United Nations Environment Programme (UNEP)/International Criminal Police Organisation (INTERPOL) document describes several types of illegal forestry activities, dividing them into two categories (Nellemann, 2012):

- Illegal logging, which includes logging without permits in unprotected areas, logging in excess of permit or concession quotas, logging with forged or re-used permits, and obtaining permits through bribes.
- Laundering of illegally logged timber, which includes mixing illegally harvested logs with legal logs by exceeding cutting quotas on-site, using permits or logging concessions in one area to cut in a different area, using road transport to hide the origin, under-reporting processed volumes in mills, obtaining permits illegally through hacking of government sites.

Even though the initial division here is broader than Pereira’s, illegal activities related to the establishment of plantations, agricultural expansion, the construction of roads, and the export process are introduced.

The piece by Kleinschmit et al. (2016) includes a “Typology of Illegal Activities” table, which separates offenses into five broad categories:

- Violations of public trust, which includes acts of corruption committed by public officials, e.g., unlawful allocation of forest land to others, using logging concessions, permits, and authorizations in exchange for bribes, etc.;
- Violations of public, communal, or private ownership rights, which includes the illegal expropriation of indigenous, communal, or private land and/or forests, slash and burn agriculture, etc.;
- Violations of forest management regulations and other contractual agreements, which includes logging without authorization and/or required plans, logging in excess of permitted cuts, logging in prohibited and protected areas, arson to force conversion to other land use, etc.;
- Violations of transport and trade regulations, which includes transporting logs without authorization, smuggling timber, exporting and importing timber in contravention of national and international laws, etc.;
- Violations of timber processing regulations, which includes operating without a processing license, using illegally obtained wood in industrial processing, untrue declarations of volumes, species, and values, etc.

The main actors in each case are also identified. For the majority of illegal activities, the most likely culprit is a formal company, and to a lesser extent, small-scale loggers; public officials were found to be involved in just five of the activities. This may contradict other authors cited herein who indicate that “collusion with public officials is required for most illegal operations” (Kleinschmit et al., 2016). The complete table can be found in Appendix 1.

Contreras-Hermosilla (2002) holds that illegal forest acts are varied and include:

- Unauthorized occupation of public and private lands; illegal logging outside concession boundaries; extracting more timber than authorized; woodlands arson; illegal transport of timber and other forest products, falsifying transportation documents, smuggling timber; transfer pricing and other illegal accounting practices; illegal forest processing.

The author also provides a table (see Appendix 1) with examples of illegal practices in the forestry sector, which is broken down into six main categories. Contreras-Hermosilla makes an important distinction when addressing corruption in the forestry sector, which he calls a “special case” because of the increasing awareness of the issue and the immense costs associated with it.

He cites some general interpretations of what constitutes corruption, among them the definitions offered by Shleifer and Vishney (1993) who refer to corruption as “the sale by government officials of government property for personal gain,” and Pope (1996) who, in a Transparency International report, characterizes it as “behavior on the part of officials in the public sector…in which they improperly and unlawfully enrich themselves…by the misuse of the public power entrusted to them.” Pautrat and Lustich (2006) define corruption as “the abuse of public office for private gain.”

Contreras-Hermosilla further states that practically all of the illegal activities listed as examples of illegal practices in the sector may be affected by corruption. He emphasizes that the “fundamental rationale for giving special attention to corrupt actions in the forestry sector is that those actions undermine the apparatus of government. This is critical in a sector—such as the forestry sector—that generates many social and environmental impacts that call for a strong and ‘clean’ intervention from the state.” He concludes by noting that “controlling forest corruption thus goes to the very heart of strategies for improving the forestry sector governance condition of a country.”

Meanwhile, the Chatham House report (2015) indicates that “[c]orruption in the forest sector ranges from relatively low-level activities, such as paying enforcement officials to allow illegal timber through checkpoints, to more serious offences, including paying bribes to high-ranking officials for the allocation of logging rights.”

Finally, Pereira et al. (2012) hold that corruption is one of the main problems underlying these illegal activities and that “large-scale illegal logging operations cannot occur without the explicit or implicit consent of those government officials in charge of protecting the forests.”

Illegal forest acts are varied and include: Unauthorized occupation of public and private lands; illegal logging outside concession boundaries; extracting more timber than authorized; woodlands arson; illegal transport of timber; falsifying transportation documents; and international bans, etc.; violation of transport and trade regulations, which includes transporting logs without authorization, smuggling timber, exporting and importing timber, illegal transport of timber and other forest products, falsifying transportation documents.

Policy recommendations in the literature

The policy recommendations found in the literature were quite varied. However, these recommendations can be grouped into two broad categories:

- Improve measures to prevent illegal logging from occurring (promotion and incentives approach);
- Improve oversight, control, and penalties (enforcement and penalties approach).
In Peru, a number of forest stakeholders have prepared papers that examine legality in the timber value chain and delve into areas such as the forms of illegality. The Peruvian government has also looked at the issue and has developed policies, guidelines, and regulations, a summary of which can be found in Appendix 2. The aspects that are germane to this study are detailed below.

**1. Links in Peru’s timber value chain**

Peru’s Forest and Wildlife Act indirectly lays out a value chain for timber and makes reference to it in the following sections:

a. Section 2 addresses the management of forest and other wild vegetation ecosystems, defining aspects of forest management and access to the use of ecosystems. For purposes of this study, this refers to the production link.

b. Section 6 deals with the system of controls, but covers different aspects of forest product management including the transport, (primary and secondary) processing, sale, and export of products.

Figure 1 provided a graphic representation of this value chain as a point of departure for subsequent analysis of the concepts and forms of illegality. A description of the links in the chain, including the main forms of illegality present in each one, is provided below.

**2. Forest production**

For purposes of this study, the forest production phase includes operations within the forest, e.g., advance studies, management plan preparation, silviculture treatments, forest road network planning, logging, etc.

The Forest and Wildlife Act and its regulations establish mechanisms for legally accessing forests. Figure 2 illustrates the main timber-production access mechanisms; the right side of the graph depicts the requirements or prerequisites for the granting of such mechanisms. The government agency with the power to grant the permit or authorization is displayed in parentheses.

Source: Prepared by the author based on the Forest and Wildlife Act and its regulations. Does not include forest plantations on private or native community lands.

*ARFFS = Regional forest and wildlife authority*
1. Article 153 of the Forest and Wildlife Act provides that forestry licenses may be forfeited on the following grounds:
   a. Use of false information in licensed forest management plans;
   b. Unauthorized logging or extraction of forest and wildlife resources;
   c. Unauthorized land use change;
   d. Infliction of severe damage that gravely endangers the environment and biodiversity, pursuant to existing regu-
      lations;
   e. Failure to pay the required fees for logging rights by the established deadlines;
   f. Engaging in activities other than those permitted under the forestry license;
   g. Where applicable, failure to make the investments pledged in exchange for the forestry license, unless evidence is pro-
      vided that this was due to force majeure or unforeseen cir-
      cumstances.

   For their part, the different forest management regulations require forestry license holders to prove the legal provenance of the goods, products, and byproducts they have in their pos-
   session or that they have harvested or managed.

   The literature describes several examples of illegal activities in connection with the access mechanisms available in the pro-
   duction stage, including two ways of creating “false or mislead-
   ing timber inventories as part of the preparation of their Annual Work Plans” (EIA 2018). The Environmental Investigation Agency, 2018. One entail
trees included on maps and accompanying lists that do not exist in the forest. The other entails trees that do exist, but are in concessions or communities too remote to be profitably

   For its part, a FAO/CITEmadera report (2018) discusses the case of forest plantations. The Forest and Wildlife Act offers a number of options designed to make this high-potential activ-
   ity more viable, but these also “open the door” to laundering wood from unknown sources or to unfeathered logging.

   The Environmental Investigation Agency (EIA) (2018) indicates that another emerging way to launder illegally logged timber is to authorize nonexistent plantations for logging, as well as volumes that are not in line with reality, by means of “land use change authorizations.”

   Additionally, both the FAO/CITEmadera (2018) and EIA (2018) reports note issues with forestry permits in native communi-
tiess, where timber is often logged and sold by a third party—
by agreement with the community—without that third party
having any liability vis-à-vis with the operating plan. After using the documents from these permits to launder wood, the third parties abandon the area and the community is
left on its own.

   It is also important to mention the construction of roads in the forest for logging. According to the Monitoring of the Andean Amazon Project (MAAP), such roads are often opened without
authorization and then formalized after the fact, the associated illegality occurs mainly when these roads extend to areas where there are no legal logging concessions, when they cross into

  eforested concessions, or when they pass through protected areas (Sierra, 2019).

   According to the MAAP, roads that “do not connect anything” often serve to expand the agricultural frontier inasmuch as they appear in places where there are informal agreements between
loggers and farmers to transform forests into farmland.

   1. According to the EIA, “the GTF from processing facilities is thereby divorced from the timber’s origins, making it impossi-
   ble to verify legal origin further down the supply chain.”

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   duction stage, including two ways of creating “false or mislead-
   ing timber inventories as part of the preparation of their Annual Work Plans” (EIA 2018). One entail
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   Camouflaging valuable timber is another form of illegality associated with transport. The valuable wood is hidden in
trucks and covered with wood that has a lower commercial
value, which is how it passes through controls undetected (Pautrat and Lucich, 2006).

   Companies in this link, such as primary processing facilities (sawmills), must have authorization from the corresponding ARFFS to operate. Timber in these facilities is subject to inspec-
tion by the ARFFS.

   Article 122 of the Forest and Wildlife Act provides that sawmills are “obligated to verify the legal origin of the products they
transform, although how they should do this is not laid out by law” (EIA, 2018).

   Additionally, according to current regulations, processing facil-
ites are required to keep and maintain an up-to-date oper-
ations logbook, which is a document in which information about timber inputs and outputs must be recorded and
updated. For a GTF to be issued, information on the products to be transported must be logged in this document.

   The matter of processing yields also warrants mention. Pur-
suant to Article 177 of the Forest Management Regulation, SERFOR must update technical studies of forest timber yields at least every 10 years. Article 177 further provides that if
a forestry license holder asserts that they can achieve higher yields than previously determined, they must submit a request to SERFOR, accompanied by the appropriate technical study, for a visual inspection prior to processing. This is important because when actual yields are lower than previously deter-
mined levels, the difference can be used to issue GTFs, thereby allowing illegally-sourced timber to be laundered.
Primary processing marks a core point of contention amongst the different forest stakeholders. The dispute lies in whether or not it is necessary to be able to trace each piece of wood to the operating plan area, or the very tree, from which the timber was extracted.

In some instances, portable sawmills or chainsaws are used to square or quarter logs directly in the forest; this activity is sometimes linked to illegal logging as well (FAO, 2018).

This phase marks a core point of contention amongst forest stakeholders, both public and private. The dispute lies in whether or not it is necessary to be able to trace each piece of wood to the operating plan area, or the very tree, from which the timber was extracted.

Some argue that traceability back to the tree should extend to the moment the timber enters the primary processing plant. Therefore, timber can be monitored through volume verification (input – output = unprocessed stocks + timber being processed + products ready for shipping) in primary and secondary processing facilities alike (FAO, 2018).

The position of the EIA and others, however, is that from any link in the timber value chain, wood should be able to be traced back to the tree and the forestry license, and because of this, the GTF issued by the primary processing plant must indicate the forestry license from which each piece of wood comes.

5 Commercialization
After timber is extracted, logs are purchased/sold by harvest (zafra) or by volume, and transported by boya or chata – if by river – or by truck, if by road (FAO, 2018).

After primary processing, sawn wood is sold by board foot, generally by the truckload. At this point, lesser-known species are sold identifying the species to ensure consistency with the volumes authorized and harvested as reflected in the management plans and the GTFs.

The wood then moves to warehouses or re-saw mills nationwide, where it is purchased/sold in the form of boards, generally in quantities of less than a truckload. Lesser-known species are pooled and sold under the label “oaks.” Special attention is required at this point since wood is sold to secondary processing facilities in small amounts and no GTF is required, only waybills and invoices (FAO, 2018).

6 Secondary processing
Secondary processing is a process by which value is added to forest and wildlife products and by-products that have already undergone primary processing. The responsibilities of the Ministry of Production (PRODUCE) within the forest chain begin with this link inasmuch as it has assigned functions related to secondary processing facilities. For example, PRODUCE is responsible for keeping a registry of these facilities and for implementing, in coordination with SERFOR, whatever mechanisms or tools necessary to guarantee the legal origin of forest products entering the facilities.

At this point in the chain the situation becomes noticeably more complex. Of the 24,495 formal companies that existed in 2015, 14.5% (3,556 companies) were involved in forest management, 8.7% (2,127 companies), in primary processing, and 77% (18,812 companies), in secondary processing (FAO, 2018). Most of the latter are also microenterprises.

The FAO report cited above also indicates that secondary processing lacks control procedures for stocks or volumes to enable verification of legal wood volumes coming in against volumes of timber or wood products being processed and sold.

7 Exports
Legally-sourced timber is exported from Peru to different destinations in various ways. The EIA study states that exporters often fail to provide enough information “to check legality from the point of harvest” (illegible or incomplete paperwork is submitted) and that corrupt authorities sign off on the false information submitted.

The EIA and the Center for International Environmental Law (CIEL) (2017) take the position that exporters endeavor to avoid OSINFOR oversight by providing, for example, GTFs from forestry licenses that have not been reported to OSINFOR. They also contend that exporters select the batches they ship based on the how strict the laws of the importing country are, i.e.,
they ship batches on the OSINFOR Management Information System’s (SIGO) “green list” to countries with the most stringent legislation.

The EIA and CIEL also affirm that exports are shifting from timber from forest concessions to timber extracted under forestry permits, mainly from native communities and local forests.

According to the EIA study, attempts are made to have most exports considered to be “products of secondary transformation” in order to avoid tracing them back the forest. One example of this is that between 2015 and 2016, declarations of sawn wood exports to the National Superintendency of Customs and Tax Administration (SUNAT) went down 25%, while declarations of products under tariff code 4409 (not including basic sawn wood) were up 16%.

The EIA also asserts that there are clear differences in terms of control of CITES vs. non-CITES species under Peruvian law. This is true from stump to port and opens up a wide range of possibilities for the export of illegally-sourced wood.

**FIGURE 3**

Agencies with enforcement and sanctioning powers in the forest sector

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**Enforcement, oversight, and monitoring**

Peruvian law sets out a system for enforcement, oversight, and monitoring of the forest sector in which the following government agencies have enforcement and sanctioning powers:

- The Forest and Wildlife Act specifies conduct that constitutes forest and wildlife violations, based on the following criteria:
  - The goal of discouraging behaviors that enable or facilitate the illegal extraction, processing, and sale of forest and wildlife resources;
  - The level of severity;
  - Whether the conduct or action entails pillaging, endangering, or harming forest and wildlife resources, whether or not this happens in a licensed area;
  - Whether the behavior obstructs, impedes, or hinders the management, administration, control, supervision, or enforcement of forestry and wildlife resources.
  - Encroachment into national lands that are home to forest and wildlife resources.

For its part, the Forest Management Regulation creates a standard of legality by laying out a series of offenses related to forest resource management and classifies these according to their level of severity: mild, serious, and very serious. Of the total offenses specified, 21 are considered to be directly related to the illegal logging and trade of wood and most of these are classified as ‘very serious.’

If these 21 offenses are examined in terms of the links in the forest value chain (implicit in the law), the results are the following: 17 apply to production, 7 to transport, 12 to processing, and 10 to commercialization. The focus, therefore, is on forest production and processing, as detailed in the table below.
### TABLE 1
Standard of illegality in Peru’s value chain

<table>
<thead>
<tr>
<th>LINK</th>
<th>OFFENSE</th>
<th>LEVEL OF SEVERITY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Production</strong></td>
<td>Failure to tag logs or stumps with the codes provided by the competent forest authority, or improperly using codes</td>
<td>Serious</td>
</tr>
<tr>
<td></td>
<td>Failure to comply with the obligations or conditions set forth in forestry licenses, management plans, or other administrative acts not related to the grounds for forfeiture</td>
<td>Serious</td>
</tr>
<tr>
<td></td>
<td>Unauthorized land use change</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Unauthorized forest clearance</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Unauthorized logging, extraction, and/or harvesting of forest resources, except for purposes of subsistence</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>As a regent, participating in, directing, or supporting activities or conduct that might cause harm to the area and resources in question</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Allowing entry or facilitating third-party access to logging areas to engage in unauthorized activities, potentially harming the ecosystem in the process</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>As a regent or specialist, using false information to prepare management plans, implementation reports, and other technical documents for which they are responsible</td>
<td>Very serious</td>
</tr>
<tr>
<td><strong>Transport</strong></td>
<td>Transporting forest specimens, products, or by-products without the proper supporting documentation</td>
<td>Very serious</td>
</tr>
<tr>
<td><strong>Production, processing</strong></td>
<td>Not having an operations logbook or not keeping the logbook up to date</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Not recording information in the operations logbook as required by law</td>
<td>Very serious</td>
</tr>
<tr>
<td><strong>Processing, commercialization</strong></td>
<td>Establishing or relocating warehouses or other storage sites, collection points, sales centers, processing facilities, or seedling nurseries without authorization from the competent authority</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Procuring, processing, selling, exporting and/or possessing forest resources and/or products extracted without authorization</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Procuring, processing, selling, exporting and/or possessing forest resources and/or products coming from unregistered seedling nurseries or processing, sales, and storage centers</td>
<td>Very serious</td>
</tr>
</tbody>
</table>

**Source:** Prepared by the author based on the Forest Management Regulation.

### CONCEPTS: Definition and Classification of Illegality in the Timber Value Chain

<table>
<thead>
<tr>
<th>LINK</th>
<th>OFFENSE</th>
<th>LEVEL OF SEVERITY</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Production, processing, commercialization</strong></td>
<td>Failure to file the information requested by the competent authority by the established deadline</td>
<td>Serious</td>
</tr>
<tr>
<td></td>
<td>Preventing and/or resisting giving access to the information and/or documentation required by the competent authority</td>
<td>Serious</td>
</tr>
<tr>
<td></td>
<td>Preparing, formulating, signing, submitting, or remitting documents with doctored, false, or incomplete information, in either hard copy or electronically</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Using or submitting false or doctored documents during field visits or inspection or enforcement actions</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Using documentation issued or approved by the competent forest authority to conceal the logging, transport, processing, storage, or sale of forest resources or products extracted without authorization</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Facilitating third-party use of documentation issued or approved by forest authorities to conceal the logging, transport, processing, storage, or sale of forest resources or products extracted without authorization</td>
<td>Very serious</td>
</tr>
<tr>
<td></td>
<td>Preventing, impeding, and/or hindering the competent authorities from doing their work in: granting rights; conducting inspections, field visits, and enforcement actions; implementing provisional and precautionary measures and supplementary penalties; or exercising eminent domain</td>
<td>Very serious</td>
</tr>
</tbody>
</table>
13. The annual work plan is the main short-term forest-planning instrument. Its primary source of information is the forest census,

12. A summary of the main recommendations, listed along with the respective link in the value chain and approach, can be found in

10. A table containing additional examples may be found in Appendix 1.

9. Brazil, Cameroon, the Democratic Republic of the Congo, Ghana, Indonesia, Laos, Malaysia, Papua New Guinea, and the

8. Coase (1937) describes transaction costs as costs that enterprises must take into account via a cost control structure when defin-

6. Andaluz, Carlos. 2004. "Laundering of illegally logged wood, which includes mixing illegally logged logs with legal logs by exceeding cutting quo-

Notes

5. “Laundering of illegally logged wood, which includes mixing illegally logged logs with legal logs by exceeding cutting quo-

3. Money laundering is understood to be the process of disguising the origin of the proceeds of illegal or criminal activity. The aim of the operation, which is usually performed in several levels, is to make funds or assets obtained through illegal activities appear to be the result of legitimate activities so they can circulate without issue through the financial system. Financial Action Task Force. Available in Spanish at: http://www.gafilat.org/content/faq> In: Evaluación sectorial de exposición a los riesgos de

2. In addition to collection points and warehouses

1. Forest sector defines them as the costs incurred when moving a good from an offeror to a requestor. They are associated with regulations, legal certainty, lack of information on markets, taxes, transport, patents, certifications, etc. (Najera et al., 2017).

1. According to Article 171 of the Forest Management Regulation, the operations logbook is the document that records information so that forest products, by-products, and specimens can be traced.

1. Pursuant to Article 119 of the Forest Management Regulation, traceability is based on pre-established mechanisms and proce-


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METHODOLOGY

DIFFERENT VOICES AND TRENDS

This study was conducted in three main phases:

- Literature review
- Field work
- Organization of the data and preparation of the report

In the context of the cooperation agreement between it and the USAID/U.S. Forest Service FOREST program, the SPDA provided the legal basis for the study.

**Literature review**

Information on concepts and forms of illegality in the timber value chain was collected from primary and secondary sources. The literature review served as the basis for the study’s conceptual framework and included a variety of domestic and international documents:

- Studies, reports, and articles on the illegal logging and trade of timber
- Peruvian laws and regulations
- Case studies and experiences

Each document was mined for information related to concepts and forms of illegality throughout the timber value chain and policy recommendations. Based thereon, a conceptual framework was devised that identified both points in common and points of disagreement and categorized the information.
Field work

Field work consisted of interviews with key forest sector, timber, and timber processing industry stakeholders in Lima, Iquitos (Loreto), Pucallpa (Ucayali), and Puerto Maldonado (Madre de Dios). Loreto, Ucayali, and Madre de Dios boast 76% of Peru’s Amazon forests and produce most of the country’s roundwood (82% in 2016); they are also home to 61.8% of associated companies and account for 79% of related revenue (FAO, 2018). Meanwhile, Lima is the largest secondary processing hub in Peru, concentrating 26% of companies and accounting for nearly 81% of sales (FAO, 2018).

In determining who would be interviewed, an attempt was made to ensure inclusion of all schools of thought in terms of crafting a general and criminal definition of illegal logging and to include all possible spheres: public, private, civil society, and academia. During this phase, 35 relevant stakeholders from Peru’s forest sector were interviewed: 18 government officials, 13 business people and forestry experts, and 4 representatives of civil society organizations and academic institutions.

The interviews followed the format below:
- Brief explanation of the study’s objectives
- Discussion guided by the following questions:
  a. In your opinion, what are illegal logging and trade of timber? How would you define them?
  b. What are the main forms of illegality throughout the timber value chain?
  c. How could these forms be classified?
  d. What measures would you propose for reducing illegal logging and trade in each link of the timber value chain?
- Final comments

Organization of the data and preparation of report

The information from the interviews was processed, taking into account this study’s main sections (concepts, forms, and policy recommendations). Similar ideas were grouped together and points of dispute were identified. Most of what the interviewees said can be found in the section entitled “Results,” which presents their comments in an organized, and in some cases summarized, form.

In addition, in order to evaluate the policy recommendations and determine which were most important and urgent, an online survey was administered to forestry experts using Survey Monkey. Twenty people responded, including some of the interviewees from the previous phase.

The survey consisted of four questions that asked the respondents their thoughts about which link in the timber value chain should be the focus of efforts to reduce illegality, what approach should be prioritized in combating illegality, and the main policy recommendations.

Lastly, the SPDA reviewed and analyzed the OSINFOR offenders database (see summary in Appendix 2) in an effort to categorize the most frequent offenses by year, region, type of access mechanism, etc.

Notes

29. Each interview lasted an average of 40 to 90 minutes.
30. The final list of interviewees can be found in Appendix 4.
31. The questions and the response options can be found in Appendix 5 of this report.
32. It should be noted that the requests for access to public information included requests for records of forestry and wildlife-related offenders kept by SERFOR and the regional governments of Amazonas, Ucayali, Loreto, Madre de Dios, Huánuco, and San Martín. However, those records either lacked the quality required for analysis or could not be obtained in a timely manner.

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Lastly, the SPDA reviewed and analyzed the OSINFOR offenders database (see summary in Appendix 2) in an effort to categorize the most frequent offenses by year, region, type of access mechanism, etc.
Below is a summary of the interviewees’ opinions and positions as well as an analysis thereof in the context of the conceptual framework developed from the literature review.

**Concepts of illegality**

Coming up with an appropriate definition of illegality in the timber value chain is key for developing the sector, but it is no simple task.

In the interviews, the first thing many of the forestry professionals noted was simply that Peru’s laws offer no clear definitions and that this gap needed to be addressed urgently. Some even indicated that government agencies often interpret the regulations in such a way as to ensure that the definition they use fits in with their institutional objectives.

Some of the interviewees suggested definitions that could be used to characterize illegality in Peru’s timber value chain.

<table>
<thead>
<tr>
<th><strong>TABLE 2</strong></th>
<th>Interviewees’ proposed definitions of illegal logging</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEFINITION</strong></td>
<td><strong>LINK</strong></td>
</tr>
<tr>
<td>Changes to forest cover without a legal framework to support them</td>
<td></td>
</tr>
<tr>
<td>Anything other than what is specifically allowed</td>
<td>Production</td>
</tr>
<tr>
<td>All unauthorized logging, including logging outside of licensed areas</td>
<td>Production</td>
</tr>
<tr>
<td>Any disturbance of the forest without authorization or outside of a regulated system that allows timber harvesting</td>
<td>Production</td>
</tr>
<tr>
<td>Extraction of forest resources that is not in compliance with the regulations. For timber to be legal it must be authorized; it must have an approved management plan and operating plan; the logging rights fee must have been paid; and it must be transported with a GTF</td>
<td>Production, transport</td>
</tr>
<tr>
<td>All timber extracted without a permit or in violation of the terms of the permit remains illegal throughout the entire chain</td>
<td>Production, transport, processing, commercialization</td>
</tr>
</tbody>
</table>

Source: Prepared by the author based on field work.
Points of contention around the conceptualization of illegality

All of the definitions proposed in the table above could be valid. However, a single definition of illegal logging, beyond being a simple statement, must reconcile several points of dispute. The main disagreements identified are listed below; the first three were taken from both the literature and the interviews, while the last one was taken only from the interviews:

1. The definition must draw a distinction between 'illegal logging' and 'illegal trade' in timber, or, a concept that encompasses both will have to be considered. In other words, the following dilemma must be worked out:

   Narrow definition that includes only operations in the forest and deals with illegal trade as a separate concept  
   VS  
   Broad definition that includes illegal activities along the entire timber value chain as a single concept

   Regarding this point, many of the interviewees agreed that the definition should include the full array of illegal activities and not just illegal operations in the forest.

   Some also stressed that the lack of clarity on this particular point leads to differences in treatment in terms of administrative and criminal justice.

2. Special treatment should be given to small-scale loggers (understood to be informal based on the scale of their operations), or they should be included in the universe of illegal activity without further distinction. In other words:

   Illegality includes informality and they are treated in the same way  
   VS  
   Informality is considered separately so it can be given special treatment

   Another point discussed was the difference between illegality and informality, with the latter understood to involve small-scale loggers. The problem faced by these loggers is that current legislation does not offer them affordable and convenient access to the forest and many have been engaged in subsistence logging for a long time.

   Many of the interviewees also noted that most of these small-scale loggers would like to formalize their operations and are therefore not illegal. In other words, only those who do not wish to formalize their operations, despite having the technical and financial capacity to do so, should be considered illegal loggers.

   Nevertheless, although the volumes extracted by each informal logger might be minimal, this timber is purchased by others, and the volumes do ultimately become significant as they move along the value chain.

   There are organized illegal logging mafias. These mafias often play an ‘enabling’ role, i.e., they pay small-scale loggers to enter unauthorized areas to extract timber. These small-scale operators then sell the timber to the enablers. When law enforcement comes in and seizes timber, the loggers generally cover for the enablers, so the mafias persist.

   These mafias are organized and violent and go as far as to threaten and endanger the lives of government officials, business people, and other formal operators.

3. Unauthorized land use change should, or should not, be included within the definition, whether or not the timber is sold.

   Definition includes unauthorized land use change, regardless of whether or not the timber is sold  
   VS  
   Definition excludes unauthorized land use change, if the wood is sold

   This particular issue was largely absent from the literature reviewed. In the interviews, however, it was indeed an important point. The interviewees stated that not all offenses should be considered illegal, especially if one takes into account how complex a task it is to manage such diverse forests.

   Examples of this may include the logging of trees that were located in an authorized area but not included in the operating plan, the accidental felling of seed trees, species identification errors, etc. In such cases, as long as errors are reported in a timely manner (in management plan implementation reports, for example) they do not generally pose a problem for agencies like OSINFOR.

   From 2009-2018 OSINFOR detected 108 cases of unauthorized land use change for which penalties were imposed either via a final ruling or with administrative channels having been exhausted—97 under Law 27,308 and 11 under Law 29,763 (six associated with the Forest Management Regulations and one with the Regulations for Forest and Wildlife Management in Native and Rural Communities). Of the 108 cases reported, the most common offenses had to do with forest permits on private property (31 cases), afterestation and/or reforestation concessions (30 cases), and Brazil nut concessions (21 cases).

   A number of interviewees contended that unauthorized change of use for agriculture should be treated separately since it is done without intent or premeditation, whereas when it comes to illegal logging for purposes of selling timber, there is an awareness that an illegal act is being committed. In other words, while migratory agriculture may be more harmful, these situations are different.

   Some believe that unauthorized change in use should be included in the concepts of illegality in the timber value chain only when the timber is being sold and moves along the chain. While the activity remains unlawful if the timber is not being sold, it should be treated as a separate concept.

4. The definition should include all offenses that can be committed throughout the value chain, or minor infractions should be separated and defined in other terms and dealt with proportionally.

   Definition includes all offenses that can be committed throughout the value chain  
   VS  
   Definition excludes minor infractions or those without criminal intent

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   In general, many interviewees noted the need for greater proportionality. A graduated scale should be set forth in legislation, for example when defining administrative and criminal penalties and the application thereof by OSINFOR and the Special Prosecutors for Environmental Matters (FEMs).

   Many interviewees also defined the above offenses as ‘informality’ rather than ‘illegality.’ In other words, they considered operators with formal access to timber but who do not necessarily log the timber following the guidelines established in the regulations, to be informal as well.

Wood traceability

The traceability of wood is linked to the concept of illegality in the timber value chain. It is also a source of disagreement. Businesses and many experts in forestry-related issues, as well as some civil society organizations, believe it is very difficult and not cost effective to trace timber products back to the operating plan area, since processes in the processing facilities are complex and different batches of wood are often mixed.

For those who support this position, the important thing is to examine the aims of timber tracing, i.e., what information is being sought. A determination must therefore be made as to whether the objective is to pinpoint the tree or the operating plan area from which a particular piece of wood comes, or to verify whether that piece of wood was legally sourced. If it is the latter, there is no need to trace the timber back to the forest, since an accounting of materials based on industry yields established by SERFOR® would make it entirely possible to demonstrate whether or not a batch of wood had been legally sourced. In the opinion of this group, the additional costs, both for the producer and for the enforcement agency, of tracing timber back to the forest, bring no concrete benefit in terms of reducing illegality.

Meanwhile, other representatives of civil society and government agencies like OSINFOR and SERFOR believe it is possible to trace timber, at the very least, to the set of forestry licenses associated with the timber a sawmill receives for processing. They further argue that tracing should be done on the ground and not just by checking documentation. SERFOR contends, for
example, that the forestry license associated with the timber should continue to be indicated on GTFs, at least until a system like the National Forest and Wildlife Information System (SNIFFS) Control Module is in place, which would make it possible to employ a method like “materials accounting.”

The interviewees who held this view explained that timber is not always mixed during primary processing since most saw-mills mill for third parties, meaning the batches must be kept separate. Many in this second group acknowledge, however, that it is very difficult to trace wood back to the forestry license after secondary processing. Moreover, there are no mechanisms in place to do so.

Forms of illegality and classification within Peru’s timber value chain

Table 3 presents the main forms of illegality indicated by the interviewees. They have been categorized based on the link in the chain in which they occur; several of the classifications examined in the conceptual framework have been combined.

For a more complete picture of the forms of illegality, the table has been supplemented with information from the literature review, particularly with respect to the context in Peru. The standard offenses under the Forest Management Regulation, their degree of severity, and the type of harm have also been included.

Clearcutting for purposes of land use change is the activity that causes the greatest environmental and social impacts and is done without any authorization. It should therefore be included in the concept of illegality.
### TABLE 3
Forms of illegality indicated by interviewees, supplemented with the conceptual framework

<table>
<thead>
<tr>
<th>OFFENSE**</th>
<th>FORM</th>
<th>TYPE OF HARM</th>
<th>LINK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preparation of technical documents with false information (very serious)</td>
<td>• Preparing operating plans (OPs) with non-existent trees</td>
<td>Competitiveness, fiscal, governance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Preparing OPs with trees outside of logging areas</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Preparing OPs with inflated volumes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unauthorized extraction (very serious)</td>
<td>• Extraction from unauthorized areas (areas with invalid or forfeited forestry licenses, protected natural areas, etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-compliance with conditions set forth in forestry licenses and management plans (serious)</td>
<td>• Non-compliance with management plan or OP conditions</td>
<td>Governance</td>
<td></td>
</tr>
<tr>
<td>Unauthorized land use changes (very serious)</td>
<td>• Land use change to introduce crops, with or without selling timber</td>
<td>Environmental, competitiveness, fiscal, governance</td>
<td></td>
</tr>
<tr>
<td>Unauthorized forest clearance (very serious)</td>
<td>• Forest clearance, with or without selling timber</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not found</td>
<td>• Enabling small, illegal logging operations</td>
<td>Competitiveness, fiscal, governance</td>
<td></td>
</tr>
<tr>
<td>Use of documentation issued by the competent forest authority to conceal timber harvested without authorization (very serious)</td>
<td>• Purchase/sale of forest transport permit (GTF) for plantation areas (private land or reforestation concessions)</td>
<td>Competitiveness, fiscal, governance</td>
<td>Transport</td>
</tr>
<tr>
<td></td>
<td>• Purchase/sale of GTF for authorizations (land use change or forest clearance)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Purchase/sale of GTF for permits (native communities and private property)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Purchase/sale of GTF for local forests</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Purchase/sale of GTF without ‘balances’ available based on the OP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preparation or submission of documents with doctored, false, or incomplete information (very serious)</td>
<td>• Doctored GTF (cloning, ruído, etc.)</td>
<td>Competitiveness, fiscal, governance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• GTF with false information (volumes, extraction areas, species)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transport of products without documentation to support their transport (very serious)</td>
<td>• Transport without GTF during times when checkpoints are not in operation</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Transport without GTF over routes without checkpoints</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Transport without GTF, camouflaging timber</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement and sale of forest products extracted without authorization (very serious) / procurement and sale of forest products from unregistered facilities (very serious)</td>
<td>• Purchase/sale of illegal timber</td>
<td>Competitiveness, fiscal, governance</td>
<td>Commercialization</td>
</tr>
<tr>
<td></td>
<td>• Purchase/sale without an invoice</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Smuggling over the border (Brazil, Bolivia)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establishment of unauthorized sales centers (very serious)</td>
<td>• Unauthorized warehouses</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Source: Prepared by author based on field work and literature review.**
The most common forms of illegality, as indicated in the interviews, correspond to the timber production and transport phases:

- Unauthorized extraction (mainly from unauthorized areas);
- Use of documentation (mainly GTFs) issued by the competent authority to conceal unauthorized extraction (laundering).

Regarding the unauthorized extraction of timber, OSINFOR’s offenders registry indicates that from 2009 to 2018 OSINFOR identified 4,167 cases for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted. Of these cases, penalties were imposed for 3,668 under Law 27,308 (between 2009 and 2017), and for 499 under Law 29,763. This information is broken down in the following figure:

**FIGURE 4**
Offenses related to the unauthorized extraction of timber (2009-2018), by relevant regulation

As to offenses in connection with facilitating illegal activities, OSINFOR’s offenders database indicates that 3,013 cases were identified between 2009 and 2018 for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted. Of these cases, penalties were imposed for 2,553 under Law 27,308\(^{42}\) (between 2009 and 2017), and for 460 under Law 29,763.\(^{43}\) The following figure presents the data:

**FIGURE 5**
Offenses involving the facilitation of illegal timber-related activities (2009-2018), by relevant regulation

Two main timber laundering methods were identified:\(^{44}\)

- The first occurs after unauthorized extraction, during transport from the forest to processing facilities or warehouses, where the volumes contained in the GTFs are obtained from various sources (e.g., false information in the operating plans, access mechanisms not inspected by OSINFOR, etc.).
- The second occurs in primary processing plants, using yields, which, when lower, generate non-existent volumes of finished products. Then, based on these volumes, new GTFs are generated for transport to warehouses, secondary processing facilities, or export.

**Corruption**

The interviewees’ comments regarding corruption among forest and non-forest authorities at all levels warrant special mention. The most frequent examples are shown in the following table.
TABLE 4
Bad practices and corruption engaged in by forest and non-forest authorities in the forest production link, as indicated by interviewees

<table>
<thead>
<tr>
<th>AUTHORITY</th>
<th>BAD PRACTICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARFFS</td>
<td>Failure to meet deadlines for sending approved OPs to OSINFOR</td>
</tr>
<tr>
<td>ARFFS</td>
<td>Granting access permits or authorizations when government administrations are set to change</td>
</tr>
<tr>
<td>ARFFS</td>
<td>Granting access permits or authorizations without prior visual inspection</td>
</tr>
<tr>
<td>ARFFS</td>
<td>Selling information on forfeited concessions to illegal operators so they can log the available wood</td>
</tr>
<tr>
<td>ARFFS</td>
<td>Issuing GTFs based on the timber that remains available under forestry licenses without authorization or without the knowledge of the license holder</td>
</tr>
<tr>
<td>Police</td>
<td>Accepting bribes in exchange for letting timber pass and warning illegal operators prior to law enforcement raids</td>
</tr>
</tbody>
</table>

Source: Prepared by the author based on field work.

**Illegality in the different forest resource access mechanisms**

In terms of forest access mechanisms, it is important to note first that many of the interviewees, including officials from government agencies like SERFOR, OSINFOR, and the different ARFFS, stated that levels of legality in forest concessions have improved in recent years. Offenses in connection with this type of forestry license are on the decline, including with respect to the accuracy of the information presented in forest management and operating plans.

Many concessions that were granted years ago have been forfeited, leaving only the most established companies. This may help explain the decrease in offenses under this type of access mechanism.

By contrast, according to several interviewees, legality is growing with respect to other access mechanisms. An increased number of offenses is being seen in the case of forestry permits in native communities and local forests (granted under both the current and the previous forest laws) and private property permits. In addition, a great deal of illegal logging is being done in areas without assigned usage rights, which includes forfeited concessions.

To illustrate this, the following figure displays offenses by type of access mechanism, based on an analysis of the information provided by OSINFOR regarding cases for which penalties had been imposed either via a final ruling or with administrative remedies having been exhausted. The figure clearly shows that there have been fewer offenses in recent years associated with concessions than with other mechanisms such as permits on private lands (1,491 cases) and on native community lands (561 cases).

Interviewees mentioned that native communities are often deceived by small and medium-sized logging operations into committing illegal acts, such as logging in areas not included in the operating plan, using their GTFs, etc. However, several business people also said that communities sometimes are aware that these acts are illegal and still allow them, or partner with businesses to legally manage their forests and extract timber, but later, after the business has made its investment, fail to meet their contractual obligations.

Several interviewees also stated that of late, areas with a DEMAHM are being used for illegal logging. These are smaller areas with fewer management requirements. It was also mentioned that plantations are used to launder wood, although to a lesser extent, and that timber is being removed from protected natural areas such as regional conservation areas.

The following figure, based on the diagram in the section describing the study’s hypothesis, provides a snapshot of the main forms of illegality found along the timber value chain and the principal government agencies responsible. Yellow arrows indicate laundered wood, while red arrows represent clandestine wood.
Policy Recommendations

Most of the information obtained during interviews involved policy recommendations for reducing illegality in the timber value chain. Each recommendation is briefly described below.

1. Have clear ground rules established by SERFOR

It is the role of SERFOR, as the national authority, to establish clear ground rules for forestry. This includes defining illegality within the timber value chain and its scope.

In addition, it should clearly spell out traceability procedures and their scope. In fact, one of the most controversial points among interviewees, and in the literature as well, is the question of how far the traceability of wood products should go. To answer that question, SERFOR will need to evaluate the goal of traceability and determine how it can be achieved as cost-effectively as possible.

2. Improve the way rights to forest resources are granted

According to some stakeholders, planning for BPPs** should be the central approach. Each BPP would need to have an area manager or resident administrator and master plans that specify access routes and identify possible entry points for illegal activity, among other measures. This type of model has been tried in Peru and proved successful.

Also, BPPs should be conserved as they are. There are several factors threatening them, including the granting of deeds by the Ministry of Agriculture (MINAGRI) and expansion of native community territories. The appropriate steps should be taken to delineate BPP boundaries and prevent encroachment.

According to those interviewed, the amount of forestland in Peru without assigned usage rights is too large, and is one of the main sources of timber for illegal loggers. The government should implement forest zoning, assign rights, and provide what is needed so that concessionaires and other license holders do not abandon their areas.**

As for forfeited concessions, procedures should be established to award them to new licensees as quickly as possible, and thus prevent illegal loggers from entering these areas. In the opinion of the interviewees, the expedited procedures currently in place are not quick enough.

According to some, the restrictions on forest concession size set out in the current legislation should be assessed, since experiences such as those of Madre de Dios show that the minimum size for management plans to be most efficient and improve returns is 200,000 hectares.

Concessions of this size, which could be awarded through auctions, would encourage serious international companies with sufficient financial capacity to enter the market and help make the industry competitive.

Carrying out the necessary technical and economic assessments to determine the feasibility of these types of changes is recommended.

3. Do advance work in the office in order to reduce the field supervision workload

Some mentioned that the responsible agencies could do a great deal to detect illegality before heading out to the field, thereby narrowing the universe of areas to be evaluated and reducing their budget requirements.

The use of satellite imagery, prior document inspection, among other actions, can help save time and resources. To do this, however, officials will need to have the technical capabilities and equipment.

4. Prioritize oversight at origin

A major point for many of the people interviewed was that efforts should be focused on preventing illegality from occurring at the beginning of the timber value chain, i.e., from logging and transport up to the point where timber enters the primary processing facilities. If illegality is minimal in these links, then less supervision is needed in the subsequent links, thus increasing efficiency and saving resources.

Some feel it is essential for field visits to always take place before approval of any management plan, not after. Nevertheless, as OSINFOR has pointed out, the greatest number of irregularities are found through post-harvest supervision, because the illegal conduct will have occurred by that point. Others believe, however, that OSINFOR should emphasize pre-logging field visits, many even suggest that OSINFOR should be the ‘technical arm’ of the ARFFS, conducting its checks before the resolution approving each operating plan is issued, and then again during logging operations.
Others stress that it is important that supervision focus on everything through primary processing, to avoid timber laundering. They indicate that the ARFFS are not conducting the due inspections in this regard, which should be carried out regularly.

5 Pay special attention to certain types of rights-granting mechanisms

Many said that much of the illegal timber now comes via native community and private property forestry permits, land use change authorizations, forest clearance authorizations, reforestation concessions, local forests, and areas with a DEMA. Others noted that it is now rare for timber to be obtained illegally via licenses such as concessions, which are under the supervision of OSINFOR; instead, the problem is in areas where OSINFOR has less influence.

The amount of forestland in Peru without assigned usage rights is too large, and is one of the main sources of timber for illegal loggers. The government should implement forest zoning, assign rights, and provide what is needed so that concessionaires and other license holders do not abandon their areas.

Several therefore recommended strengthening OSINFOR by increasing its budget and technical capacity. Some also suggested evaluating the appropriateness of broadening its jurisdiction.

Other recommendations included providing capacity-building for less informed stakeholders, such as native communities, and involving forest regents to support them in managing their forests.

6 Evaluate alternative systems for small-scale loggers

Many mentioned the need to weigh options for enabling small-scale loggers, who generally contribute significantly to illegal timber flows, to formalize. This would first require a clear definition of what a small-scale logger is and of limits on operating levels and which species they can extract, among other considerations.

To better understand the problem, it is helpful to reflect on how these operators ran afoul of the law. This requires a look at the forest law preceding the one currently in force (Decree-law 21,147), which allowed contracts of fewer than 1,000 hectares, with no clear demarcation or coordinates. There came to be about 6,000 contracts of this kind, and they proved impossible to supervise. When the concessions system later went into effect, these small-scale loggers were left with no feasible options for continuing their activities within the law.

The system also caused a disconnect between forest and industry, with small-scale loggers accustomed to operating with minimal investment in the forest, and owners of processed plants being supplied without needing to have a concession or concern themselves with what was happening in the forest.

Any solution to the problem would need to include incentives for these small operators to formalize. Alternatives identified include reducing existing barriers (simplifying procedures, permits, reducing time and costs, etc.), creating systems such as forest management (by regional governments) for selling standing timber, or mechanisms for access to the floodplain forests from which these operators currently extract timber; providing technical assistance, promoting the development of business-minded cooperatives, etc.

Most interviewees, especially those outside Lima, believe that the ‘Local Forests’ created in the current law, intended as a forest access mechanism for small-scale loggers, have not worked. The main reason is that local governments do not intend to assume responsibility for managing a forest, especially not when benefits such as fees for harvest rights do not accrue to them directly. This system could be altered so that local governments receive the necessary technical support as well as some of the proceeds.

7 Evaluate the usefulness and effectiveness of checkpoints

Several interviewees mentioned that checkpoints are ineffective because of two fundamental problems: The process is at the discretion of the officials in charge of them, and this often works to the detriment of legal concession holders.

- They lend themselves to corruption of officials (bribes), as evidenced by the fact that a great deal of illegal wood makes it through the distribution channels to secondary processing plants in Lima despite the large number of checkpoints. Some felt that the checkpoints should be mobile, i.e., that they should become random, unannounced operations, carried out by well-structured, well-equipped teams with members from a mix of government agencies and with civil society observers.

The ARFFS representatives, however, indicated that their main measures to curb illegal activity include reinforcing existing checkpoints and setting up new ones in strategic locations. Other public entities also consider it important to keep and improve them, claiming that their presence alone is a crime deterrent.

In general, the relevant agencies should evaluate the performance, number, and location of checkpoints to make them more effective.

8 Develop technical guidelines and improve regulations

Several of the experts interviewed see regulatory gaps that should be closed in order to improve the conditions for logging. Some steps, such as setting limits on extraction volumes by forest and license type and developing volume tables, could help ensure that appropriate amounts of timber are approved by forest and license type and developed volume tables, could help ensure that appropriate amounts of timber are approved for each operating plan and thus avoid illegality. In addition, imposing limits on subsistence logging—provided for in the law—should be considered.

Similarly, studies on processing yields, by technology type, species, etc., could help reduce timber laundering opportunities and at the same time provide needed validation of legality for wood processed more efficiently. In addition, technical gaps still present in the rules need to be filled, since they are often exploited to solicit bribes at checkpoints (use of scientific names, volume calculation methods, etc.).

Another improvement would be to simplify rules and procedures, to bring down the cost of legality. Many business people and experts also said that penalties are too severe in some cases, and that a graduated scale should be considered, especially with regard to criminal penalties.

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The amount of forestland in Peru without assigned usage rights is too large, and is one of the main sources of timber for illegal loggers. The government should implement forest zoning, assign rights, and provide what is needed so that concessionaires and other license holders do not abandon their areas.
One measure that has already been taken is to introduce proportionality in administrative sanctions, which now include corrective measures designed to enforce fulfillment of an obligation, reverse whatever damage occurred, restore the affected resources, or prevent other potential collateral damage.\textsuperscript{46} This approach could also be applied to criminal penalties.

Based on the interviews, regulations also need to be better aligned. This would involve analyzing how the rules issued by different agencies are interrelated and establishing an order of precedence among the different jurisdictions.

9 Improve institutional coordination and strengthen forest sector agencies

Most interviewees felt that there is little coordination and collaboration among government agencies involved in the forest sector. Some even questioned the excessive autonomy of some ARFFS, which do not coordinate with or provide timely information to the national authorities (mainly SERFOR and OSINFOR).

Similarly, there should be greater coordination between the national government entities tasked with promotion, oversight, and monitoring of the timber industry. Some mentioned that PRODUCE, for example, has not carried out its functions in the forest sector.

Coordination also needs to happen during operations to detect illegal activities. Actors such as the different ARFFS, OSINFOR, National Police, Armed Forces, Attorney General’s Office, and SUNAT must coordinate if their operations are to be successful and have a deterrent effect on criminals.

A key tool that should be available shortly, according to several interviewees, is the SNIFFS Control Module, which has been under development for some time. This system is very important, since the areas that it does currently supervise have the lowest percentages of illegality. The SIGO system has become a kind of guarantee that formal companies can provide to their customers.

Finally, some felt it is very important that the government change its approach. Currently, the government is too restrictive and punitive, and this can encourage illegality. Instead, it should pivot to the role of promoter, focusing on forest-based wealth creation. This would mean making investments to enhance forest productivity, promoting and verifying silvicultural plans, providing training to remote communities, building the capacity to develop products for the marketplace, and improving access to financing.

10 Combat corruption and impunity

It was repeatedly mentioned that the key condition for illegal activities in the timber sector is collusion by a public official. The problem is further aggravated by the fact that illegal acts are not detected in time and that these officials are seldom punished so as to make an example of them.

A number of interviewees felt that the illegal logging crisis has unfortunately worsened with decentralization. Today, institutions are more fragile, and some said it is easier and cheaper to corrupt regional government officials. An alternative would be to return some responsibilities to SERFOR on a temporary basis.

Some indicated that in order to avoid corruption at the regional authority level, SERFOR should be in charge of hiring regional bureau or department officials, including those assigned to checkpoints, or at least approve those hires.

Penalties are essential to avoiding impunity. On those occasions when, for example, entities such as the Comptroller General’s Office have taken action to suspend officials, this has had a significant deterrent effect.

OSINFOR’s supervision of physical inspections carried out by the different ARFFS for management plan approval and, in some cases, involvement in those inspections, has also been effective in reducing corruption and improving efficiency, since it has forced them to verify operating plan contents through field visits, to meet deadlines, etc. This type of supervision should be stepped up.

Consideration should be given to the conditions under which ARFFS officials are working. According to many of the interviewees, if officials were well paid, well trained, and motivated by an attractive government career, corruption rates would decline.

11 Prevent harm to Peru’s reputation and promote the industry

The position of the business leaders and also of many of the forestry experts is that damage to the country’s image in international markets must be avoided. A damaged reputation could cause a reduction in the size of an industry that could be a major engine for the country’s development.

Wood exports are currently on a worrisome downward trend, while more and more wood is imported and fewer and fewer companies are investing in the sector because it has become very expensive to produce domestic wood.

Forestry needs to be revitalized in many parts of the Amazon, such as Loreto, for example, where the industry is being stifled by a lack of raw material due to the large number of forfeited concessions.

Greater support for formal enterprises is needed. The interviewees believe that if timber forestry were more profitable, rates of illegality would drop. This would entail evaluating how to lower the costs of legal forestry (requirements, red tape, etc.) and the opportunity costs of forest management (minimum cutting diameters, harvest intensity, buffer zones, cutting cycle, concession size, etc.).

It would also be vital to foster value-added and market creation, enhance legal certainty, grant ‘due diligence certificates’ that businesses can use to certify their timber to their buyers, and encourage and provide incentives for forestry under the different available mechanisms.

Lastly, the government must meet its contractual obligations when it grants a license, not just verify that the licensees meet theirs.

It is important to bear in mind that illegality directly harms formal operators because it distorts the market, so the government needs to provide protection and promotion mechanisms.

The following table summarizes the main actions identified in the interviews, indicating who might be responsible for taking them and the link in the chain they address.
### Interviewees’ policy recommendations for reducing illegality in the forest value chain

<table>
<thead>
<tr>
<th>TOPICS</th>
<th>MAIN RECOMMENDATIONS</th>
<th>RESPONSIBLE ENTITIES</th>
<th>LINK</th>
</tr>
</thead>
</table>
| Improving the way rights to forest resources are granted | • Master plans and local management of BPPs  
• Delineation of boundaries and conservation for BPP areas  
• Quickly reduce the areas without assigned rights, including forfeited concessions  
• Assess size limits for timber concessions based on technical/financial studies (maximum area) | SERFOR, ARFFS | Production, transport, processing, sale |
| Pay special attention to timber from areas with certain types of rights-granting mechanisms | • Strengthen OSINFOR by giving it a larger budget and building its technical capabilities  
• Assess the possibility of broadening OSINFOR’s authority to include other access mechanisms  
• Provide training to less-informed stakeholders, such as native communities | National Forest and Wildlife Management System (SINAFOR) | Production |
| Evaluate alternative systems for small-scale loggers | • Clearly define what a small-scale logger is  
• Reduce barriers: simplify procedures, permits, times  
• Create new systems, like forest management by regional governments for selling standing timber, or mechanisms to access floodplain forests; promote the establishment of business-minded cooperatives, etc.  
• Evaluate legislative amendments to make local forests attractive to local governments | SERFOR, ARFFS | Production |
| Do advance work in the office to reduce the field supervision workload | • Use of satellite images  
• Prior documentation inspection | ARFFS, OSINFOR | Production, transport |
| Prioritize oversight at origin | • Focus efforts on preventing illegality at the beginning of the value chain  
• Prioritize pre-harvest oversight, while keeping up post-harvest supervision  
• Emphasize oversight until primary processing | SERFOR, OSINFOR, ARFFS | Production, transport, processing |
| Evaluate the usefulness and effectiveness of checkpoints | • Evaluate the effectiveness of checkpoints  
• Assess the usefulness of mobile (operative) checkpoints  
• Evaluate numbers and locations of checkpoints | SERFOR, ARFFS | Transport |
| Have clear ground rules established by SERFOR | • Formal definition of illegal logging and its scope  
• Clear definition of traceability procedures and scope | SERFOR | Production, transport, processing, sale |

### Concepts: Definition and Classification of Illegality in the Timber Value Chain

<table>
<thead>
<tr>
<th>TOPICS</th>
<th>MAIN RECOMMENDATIONS</th>
<th>RESPONSIBLE ENTITIES</th>
<th>LINK</th>
</tr>
</thead>
</table>
| Develop technical guidelines and improve regulations | • Set limits on extraction volumes by type of forest and permit and develop volume tables  
• Determine limits for subsistence extraction  
• Conduct studies on yields in primary processing facilities based on type of technology, species, etc.  
• Determine standards for using scientific names, volume calculation methods, etc.  
• Simplify regulations and procedures to reduce the costs of legality  
• Assess the use of proportional administrative and criminal penalties  
• Better align regulations | SERFOR, OSINFOR, ARFFS | Production, transport, sale |
| Improve institutional coordination and strengthen forest sector agencies | • Improve coordination between the national government and the ARFFS, as well as the timely delivery of information  
• Improve coordination among national government authorities  
• Implement the SNIFFS Control Module  
• Improve the technical, logistical, and budget capabilities of the ARFFS and OSINFOR  
• Implement a prevention-based and gradual approach in OSINFOR’s management  
• Conduct the five-year assessments prescribed by law  
• Assess the possibility of broadening OSINFOR’s authority to include other access mechanisms and primary processing facilities  
• Change the government’s approach from being too restrictive and punitive to being one of promotion | SINAFOR | Production, transport, sale |
| Combat corruption and impunity | • Implement measures to detect illegal actions in a timely way  
• Fight impunity with timely punishment of corrupt officials  
• Assess the possibility of temporarily returning certain responsibilities to SERFOR  
• Evaluate a role for SERFOR in selecting regional government forest authority personnel  
• Increase OSINFOR’s oversight of the physical inspections conducted by the ARFFS for the approval of management plans  
• Improve work conditions for regional government officials: remuneration, training, and incentives | SINAFOR | |
| Prevent harm to Peru’s reputation and promote the industry | • Prevent harm to Peru’s image in international markets  
• Revive forestry activities in many parts of the Amazon  
• Provide greater support to formal enterprises  
• Evaluate measures to boost the profitability of forestry activities: reduce costs of legality and opportunity costs in forest management  
• Ensure that the government also meets its contractual obligations with private parties and assess protection mechanisms vis-à-vis illegality | SERFOR, PRODUCE, MINCETUR | |

Source: Prepared by the author based on interviews.
The results of the online survey on policy recommendations given to forestry experts were as follows:

1. Regarding the question about which link in the timber value chain should be the focus of efforts to fight illegality, 42% of the responses indicated that focus should be placed on the production phase, i.e., harvesting. In a tie for second place, 16% of responses pointed to primary processing and transport, and another 16% that efforts were needed in all links of the chain.

2. As to approaches to combating illegality, 85% of those surveyed indicated that an approach that prioritizes promotion and incentives should be used.

3. The policy recommendations relating mainly to the first approach (improving oversight, monitoring, and enforcement and toughening penalties) that received the most votes were:
   • Strengthen regional and national government oversight of permits, local forests, reforestation concessions, land use change authorizations, areas with a DEMA, and other types of forestry licenses and administrative acts (13%);
   • Improve the accuracy of annual management plans and strengthen the capacity of regional governments to conduct visual inspections prior to the approval of operating plans (11%);
   • Encourage inter-agency coordination in connection with oversight and control among SERFOR, OSINFOR, SUNAT, the FEMAs, MINAM’s Solicitor for Environmental Crimes, and the regional governments (11%);
   • Implement the SNIFFS Control Module (11%).

4. The policy recommendations relating mainly to the second approach (sector promotion and incentives) that received the most votes were:
   • Invest in building the capacity of native and rural communities and local governments to increase legal logging in their territories (10%);
   • Increase finance mechanisms, technical support, and cooperation so that small- and medium-scale operators can formalize their businesses and operations (9%);
   • Implement measures to promote a domestic market for legal timber (9%);
   • Introduce public procurement policies for legal timber from small-scale producers (9%).

Graphs showing complete survey results may be found in Appendix 6.
Definition and Classification of Illegality in the Timber Value Chain

Notes

33. Except for authorized land use change per the regulations.
34. It is important to note that 11 of the cases punished under Law 27,308 correspond to 2015, and therefore there is no way to know which of these concern only changes in use and not unauthorized forest clearance, bearing in mind that from July 15 to September 30, 2015 the offense included both scenarios.
35. Account of materials or chain of custody, which makes it possible to compare inflows vs. outflows from processing plants based on industry yields.
36. If yields were to diverge from those established by SERFOR, processing facilities would have to report this formally.
37. The “Control Module” is one of the modules being considered for SNIFFS. This is a nationwide information network created to efficiently provide natural or legal persons, whether public or private, involved in forest, wildlife, and related activities, with information for better decision making, as provided for in Article 21 of the Forest Management Regulation.
38. Verification by volume or stocks. In other words, it would consist of checking the volumes that enter and leave processing facilities against established yields.
39. Based on the Forest Management Regulation
40. Cloning refers to fraudulent copies of a GTF (information gleaned from interviews).
41. Ruleteo (carousel) refers to using the same permit several times, according to Project PD 421/06 (F) “Strengthening the production chain for timber from forest concessions and other forest products.” (http://www.cnf.org.pe/docs/PD42106.pdf, consulted on May 28, 2019)
42. For the offense of “facilitating the extraction, transport, processing, or sale of illegally extracted forest resources by means of a concession contract, management contract, permit, or timber harvest authorization.”
43. For the offense of “using documentation issued or approved by the competent forest authority to conceal the extraction, transport, processing, storage, or sale of forest resources or products extracted without authorization.”
44. It is important to note that for some interviewees these errors cannot be justified because the crews that perform inventories have too much experience to make them and the regulations already provide for a certain margin of error. This point, as previously noted, should also be considered when defining the concept of illegality.
45. Laundering may also occur at other links in the value chain that were not indicated as being the main ones.
46. A DEMA is a simplified short or medium-term planning tool, applicable for low-intensity harvesting with practices that do not significantly affect the resilience of the ecosystem or species under management. This is a low-level planning instrument, pursuant to Article 56 of the Forest Management Regulation.
47. Under Article 29 of the Forest and Wildlife Act, permanent production forests are a forest management unit whose purpose is to produce timber and other products on a continual basis. The government is supposed to promote their integrated management.
48. One interviewee recommended getting power (potentially from renewable sources) out to where the concessions are, so that processing plants can be set up in the forest. This would not only benefit businesses, but could also facilitate traceability.
49. Article 212 of the Forest Management Regulation.
50. Operating plan approval often takes more than six months, which is commercially unfavorable.
51. SINAFO is a functional system comprised of ministries and national, regional, and local government agencies with forest and wildlife management authority and responsibilities.
Concepts of illegal logging

1. Currently, Peruvian law provides no clear definition of illegality in the timber value chain, leading to multiple interpretations.

2. To arrive at a definition of illegality in the timber value chain, consistency between laws, equity in relation to stakeholders’ rights, and the fact that not all laws are equally relevant need to be taken into account. Whatever the definition, it must be clear, so that it is easily understood by forest operators and enforcement agencies alike, and must be acceptable to all stakeholders.

3. The definition of legal timber should include: compliance with rights to harvest timber within the limits established by law; compliance with requirements regarding forest management; payment of taxes and duties; respect for tenure rights or use rights to land and resources that may be affected; and compliance with export and trade procedure requirements.

4. Whichever concept of illegality is established must be developed so as to reconcile several points of dispute. The main points are the following:

   - A narrow definition limited to the forest versus a broad definition that encompasses the entire value chain.

     Some stakeholders prefer to include all activities—extraction, processing, transport, and commercialization—within a single, specific concept, such as ‘illegal logging’ (broad definition). Others prefer to separate extraction from operations further along in the value chain, generally placing those under the header of ‘illegal trade’ (narrow definition).

   - A definition that includes small-scale loggers versus a definition that excludes them and gives them special treatment.

     Small-scale loggers log as a means of subsistence and should therefore be dealt with using a social approach. However, the fact that global volume of timber resulting from small-scale logging is trending upward, making it more difficult to control and having negative consequences such as market distortion, must be taken into consideration.

     Hiding behind these small-scale loggers there are often organized, well-structured mafias that have been operating for years, protected by other players.

       - A definition that includes unauthorized land use change versus one that does not.

       Forest conversion accounts for a growing amount of timber and should therefore be evaluated in conceptualizing illegality. What needs to be specified is whether any unauthorized land use change will be included, or only those cases where the wood is sold.

       Land use changes, authorized or not, are what generate the greatest environmental impacts to ecosystems and to the global ecological balance overall (due to climate change). Selective harvesting, in contrast, does not produce these effects, although it does involve activities that may ultimately lead to conversion, e.g., the opening of poorly planned roads.

       - A definition that encompasses all possible offenses versus one that excludes minor infractions or those without criminal intent.

       This, with a view to considering a graduated scale for both administrative and criminal penalties and proportional treatment and classification of companies within the government’s alert systems.

       Many stakeholders consider infractions resulting from the complexities of management to be ‘informality.’

   - A definition that encompasses all possible offenses versus one that excludes minor infractions or those without criminal intent.

5. The definition of illegality in the value chain should be accompanied by a clarification of traceability procedures and their scope, such that the legal provenance of timber can be verified without undermining the industry’s profitability.

6. Given the complexity of the Peruvian forest sector, several rounds of consultation with the relevant stakeholders will probably be needed so that decisions can be reached by consensus.
7. The literature review turned up several ways of classifying illegal activities within the timber value chain, and included numerous examples for each category.

8. Some timber flows are laundered through various mechanisms in a given link in the value chain, while others are kept ‘clandestine’ until they reach the final consumer. GTFs are a key document in timber laundering operations.

9. One method of classifying forms of illegality is based on the links in the timber value chain as reflected in Peru’s national regulations.

10. The most frequent forms of illegality are found in the forest production and transport stages— unauthorized logging and the use of documentation issued by the competent authority to conceal it. This aligns with the analysis of OSINFOR’s database of offenders.

11. The most serious violation identified was extraction from unauthorized areas.

12. Two main timber laundering methods were identified: one occurs after unauthorized removal, using a GTF; the other occurs in primary processing facilities, involving yields and the subsequent issuance of a GTF.

13. The majority of interviewees stated that forest concessionaires have greatly improved their management in recent years, becoming good forest stewards.

14. The greatest number of infractions are associated with forestry permits for private property and native community lands. Large quantities of timber are also illegally removed from areas with a DEMA and from protected natural areas.

15. It was also indicated that a significant amount of illegal timber is taken from areas for which no usage rights are assigned, including forfeited concessions, of which there are many.

16. The forms of illegal activity that occur from secondary processing onward were mentioned very little by the interviewees, which probably indicates a need for more attention and study and the involvement of other entities such as PRODUCE and SUNAT.

17. Corruption was a recurring topic throughout the interviews, as well as in the literature. Many go so far as to claim that practically all offenses involve public officials.

18. According to the majority of the 20 forestry experts who responded to the online survey, efforts to combat illegality should focus on the forest production stage. In addition, priority should be given to the promotion and incentives approach, over the enforcement and penalties approach.
CONCEPTS | Definition and Classification of Illegality in the Timber Value Chain

1. Develop an appropriate definition for the country that can serve to frame sector legislation and technical guidelines and guide stakeholders. This definition should be more than a simple statement—it should settle the main points of dispute, around both the definition itself and the scope of wood traceability. Given the existing disagreements, this process should be participatory.

2. Take into account the frequency and severity of the different forms of illegality and the link in the value chain where they occur, so that measures can be better targeted. Additionally, evaluate options for applying a graduated scale for administrative and criminal penalties under current legislation.

3. Since forest concessions are yielding good results, assess options for strengthening them and partnering with concessionaires in the fight against illegal logging. For them, illegality in the timber value chain means unfair competition, so it is very much in their interest to help.

4. Consult with a larger number of stakeholders for purposes of determining which policy approach should take precedence (promotion and incentives or enforcement and penalties). This would not mean setting aside the other set of measures, but they might be given a lower priority.

5. Overall, interviewees identified the following as key policy recommendations:

   - Have clear ground rules established by SERFOR
   - Improve the way rights to forest resources are granted
   - Do advance work in the office to reduce the field supervision workload
   - Prioritize oversight at origin
   - Pay special attention to timber from certain types of rights-granting mechanisms
   - Evaluate alternative systems for small-scale loggers
   - Evaluate the usefulness and effectiveness of checkpoints
   - Develop technical guidelines and improve regulations
   - Improve institutional coordination and strengthen forest sector agencies
   - Combat corruption and impunity
   - Prevent harm to Peru’s reputation and promote the industry

6. The following table summarizes the policy recommendations found in the literature review as well as those gathered during field work. The table separates the recommendations by approach and identifies the link or links in the timber value chain to which each recommendation applies.

   This table shows only those recommendations that obtained the most votes in the online survey of forestry experts (full results may be found in Appendix 6).
TABLE 6
Policy recommendations for the main forms of illegality in the timber value chain, grouped by approach

<table>
<thead>
<tr>
<th>FOCUS AREAS</th>
<th>RESPONSIBLE ENTITY</th>
<th>LINK</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Promotion and incentives approach</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invest in building the capacity of native and rural communities and local governments to increase legal logging in their territories.</td>
<td>SERFOR, ARFFS, OSINFOR</td>
<td>Production</td>
</tr>
<tr>
<td>Have integrated planning of BPPs, reduce areas without usage rights, and evaluate the size of concessions.</td>
<td>SERFOR, ARFFS</td>
<td></td>
</tr>
<tr>
<td>Implement measures to promote a domestic market for legal timber.</td>
<td>SERFOR, ARFFS, PRODUCE</td>
<td>Commercialization</td>
</tr>
<tr>
<td>Introduce public procurement policies for legal timber from small-scale producers.</td>
<td>SERFOR, PRODUCE, MEF</td>
<td></td>
</tr>
<tr>
<td>Increase finance mechanisms, technical support, and cooperation so that small- and medium-scale operators can formalize their businesses and operations.</td>
<td>SERFOR, MEF</td>
<td>Production, transport, processing, commercialization</td>
</tr>
<tr>
<td>Generate baseline information for decision-making.</td>
<td>SERFOR, ARFFS</td>
<td></td>
</tr>
<tr>
<td><strong>Enforcement and penalties approach</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strengthen regional and national government oversight of permits, local forests, reforestation concessions, and use change authorizations, areas with DEMAs, and other types of forestry licenses and administrative acts.</td>
<td>SERFOR, OSINFOR, ARFFS</td>
<td>Production</td>
</tr>
<tr>
<td>Improve the accuracy of annual management plans and strengthen the capacity of regional governments to conduct visual inspections prior to approval of operating and other plans.</td>
<td>SERFOR, ARFFS</td>
<td></td>
</tr>
<tr>
<td>Prioritize oversight at origin.</td>
<td>SERFOR, OSINFOR, ARFFS</td>
<td></td>
</tr>
<tr>
<td>Assess the usefulness and effectiveness of checkpoints.</td>
<td>SERFOR, ARFFS</td>
<td>Transport</td>
</tr>
<tr>
<td>Implement the SNIFFS Control Module.</td>
<td>SERFOR</td>
<td>Production, transport, processing, commercialization</td>
</tr>
<tr>
<td>Encourage inter-agency coordination in connection with oversight and control among SERFOR, OSINFOR, SUNAT, the FEMAs, MINAM’s Solicitor for Environmental Crimes, the National Police, and regional governments.</td>
<td>National Forest and Wildlife Monitoring and Surveillance System (SNCVFFS)</td>
<td></td>
</tr>
</tbody>
</table>

Source: Prepared by the author based on the literature review and field work.
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APPENDICES

APPENDIX 1
EXAMPLES OF FORMS OF ILLEGALITY

TABLE 7
Forest-related crime

<table>
<thead>
<tr>
<th>OFFENSES RELATED TO TIMBER HARVESTING OPERATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Environmental offenses and unauthorized harvesting</td>
</tr>
<tr>
<td>• Harvesting protected species</td>
</tr>
<tr>
<td>• Harvesting over- or under-sized trees</td>
</tr>
<tr>
<td>• Logging in protected areas</td>
</tr>
<tr>
<td>• Logging outside of concession boundaries</td>
</tr>
<tr>
<td>• Logging in prohibited areas</td>
</tr>
<tr>
<td>• Logging without authorization</td>
</tr>
<tr>
<td>• General criminal property offenses (theft, embezzlement)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OFFENSES RELATED TO FACILITATION OF, ACCESS TO, AND PROFITING FROM ILLEGAL LOGGING</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Corruption: giving and receiving bribes and gratuities</td>
</tr>
<tr>
<td>• Theft and embezzlement of public property</td>
</tr>
<tr>
<td>• Crimes against the intangible right of citizens to honest services from employees</td>
</tr>
<tr>
<td>• Laws against criminal organizations</td>
</tr>
<tr>
<td>• Conspiracy</td>
</tr>
<tr>
<td>• Violent crimes (kidnapping, death threats, murder)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OFFENSES BY WHICH THE OFFENDER BENEFITS FROM THE POSSESSION OF ILLEGAL TIMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Smuggling</td>
</tr>
<tr>
<td>• Trafficking in stolen goods</td>
</tr>
<tr>
<td>• Receiving or concealing stolen goods</td>
</tr>
<tr>
<td>• Money laundering</td>
</tr>
</tbody>
</table>

### TABLE 9
Illegal activity in the forest value chain, by actor

<table>
<thead>
<tr>
<th>TYPOLOGY</th>
<th>PUBLIC OFFICIALS</th>
<th>FORMAL COMPANIES</th>
<th>SMALL-SCALE LOGGERS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Violations of public trust</strong></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forestlands allocated unlawfully to other uses</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issuing and implementing regulations conflicting with other regulations to legalize illegal timber products and activities</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issuing logging concessions, permits and authorizations in exchange for bribes and other private economic and political benefits</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Using bribes, threats, and violence to avoid prosecution/penalties or to obtain complacency</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Using funds from illegal forest activities for political purposes</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Violations of public, communal, or private ownership rights</strong></td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Illegal expropriation of indigenous, community, or private land and/or forests</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Illegal occupation of public forestlands, including slash and burn agriculture</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Illegal harvest on public lands (outside concession areas)</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Illegal harvest on indigenous lands</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td><strong>Violations of forest management regulations and other contractual agreements</strong></td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Logging without authorizations and/or required plans</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Logging in excess of permitted cut</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Logging unauthorized volumes, sizes, species (including protected ones)</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Logging in prohibited areas such as steep slopes, riverbanks, and water catchments</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Girdling or ring-barking to kill trees so that they can be legally logged</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Logging in protected areas</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Arson to force conversion to other land use</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

TABLE 10
Illegal practices in the forest value chain, by category

**ILLEGAL OCCUPATION OF FOREST LANDS**
- Invasion of public forested lands by either rural families, communities, or private corporations to convert them to agriculture or cattle ranching
- Practice of slash and burn agriculture in invaded lands
- Inducing landless peasants to illegally occupy forested areas to force governments to grant land ownership rights to them and then buying these lands from peasants

**ILLEGAL LOGGING**
- Logging protected species
- Duplication of felling licenses
- Girdling or ring-barking to kill trees so that they can be legally logged
- Contracting with local entrepreneurs to buy logs from protected species
- Logging in protected areas
- Logging outside concession boundaries
- Logging in prohibited areas such as steep slopes, riverbanks, and water catchments
- Removing under/oversized trees from public forests
- Extracting more timber than authorized
- Reporting high volumes extracted in forest concessions to mask the fact that part of the volume declared is extracted from non-authorized areas outside the concession boundaries
- Logging without authorization
- Obtaining logging concessions through bribes

**WOODLANDS ARSON**
- Setting woodlands on fire to convert them to commercial uses

**ILLEGAL TIMBER TRANSPORT, TRADE, AND TIMBER SMUGGLING**
- Transport of logs without authorization
- Transport of illegally harvested timber
- Smuggling timber
- Falsifying and/or reusing timber transportation documents
- Exporting and importing tree species banned under international law, such as CITES
- Exporting and importing timber in contravention of national bans

**TRANSFER PRICING AND OTHER ILLEGAL ACCOUNTING PRACTICES**
- Declaring lower export values and volumes
- Declaring higher purchase prices above the prevailing market prices for inputs such as equipment or services from related companies
- Manipulating debt cash flows to transfer money to a subsidiary or parent company
- Under-grading, under-valuing, under-measuring, and misclassification of species exported or for the local market

**ILLEGAL FOREST PROCESSING**
- Operating without a processing license
- Ignoring environmental, social, and labor laws and regulations
- Using illegally obtained wood in industrial processing


CONCEPTS | Definition and Classification of Illegality in the Timber Value Chain

**APPENDIX 2**
**ANALYSIS OF THE REGULATORY FRAMEWORK CONCERNING THE TIMBER VALUE CHAIN AND ANALYSIS OF OSINFOR’S OFFENDERS DATABASE**

In the international commitments undertaken by the Peruvian government and in the national regulatory framework developed to combat timber illegality, a distinction is made between illegal logging (extraction) and illegal trade in forest products, prompting the need for definitions that facilitate the application of current rules, especially those deriving from signed international agreements.

CITES, for instance, whose main objective is to protect the species of wild fauna and flora included in its appendices against over-exploitation through international trade, requires the Peruvian government to take appropriate measures (to penalize trade in and/or possession of such specimens, among others) to ensure compliance with its provisions and to prohibit trade in specimens in violation thereof. Hence, for example, to issue a CITES export permit, it is required to verify that the specimen was not obtained in contravention of the law. Accordingly, the manner in which a specimen is obtained (sourced) determines whether it can be sold internationally.

Annex 18.3.4 (on forest sector governance) of the United States - Peru TPA sets out a series of actions aimed at improving forest sector governance and promoting legal trade in timber products, which, on different fronts, address the problem of illegal logging and related trade.

As for domestic regulation, the National Forest and Wildlife Policy, a government policy aimed at guiding forest and wildlife management, specifies that a number of guidelines need to be taken into account in order for its objectives to be successfully met. Among these, Guideline 44 on preventive control and punishment of illegal logging and trade and trafficking of species of flora and fauna addresses illegal logging and trade as two different categories.

In addition to the above, it is important to bear in mind that commercial logging or timber use are prohibited in the value chain with regard to bans, protected natural areas, and forest products whose extraction is allowed only for non-commercial purposes (e.g., subsistence).

The product of illegal logging implies that the timber forest product (except for those from forest plantations of exotic species) has not been obtained legally, i.e., was obtained without following the established form, procedure, license, or permit, or the previously approved management document. The product therefore falls under the eminent domain of the State and may therefore not be part of the forest product chain; consequently, seizure thereof is called for regardless of whether the party has knowledge of its unlawful origin.

Accordingly, the duty of anyone who possesses, transports, processes, and/or sells a product or specimen to prove its legal origin, and the manner of proving it, are of particular interest.

In terms of criminal justice, as will be expanded upon later, the Public Prosecution Ministry has ordered the interdiction of forest timber products, whether in their natural state or after primary processing, that are linked to illegal logging and the activities described in Article 310-A (illegal trafficking of timber forest products) of the Penal Code, and whose legal provenance cannot be proven at the request of the competent authority.

To propose a definition of illegal logging and illegal trade in timber, one must first turn to the special legislation governing the forest sector (Law 29,763, its regulations, and supplementary rules) to understand the conditions or requirements for legal commercial harvesting or extraction, and then continue with the regulations applicable to the following stages in the value chain (transport, processing, and commercialization).

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In this connection, the legal origin of timber forest products must be proven using the traceability instruments established by SERFOR, which make it possible to:

a. Systematically associate a flow of information with a physical product flow, so that the legal origin of products can be identified and monitored at any given time.
b. Track (historically) the location and path of forest products and by-products, from their source (logging) through the forest production chain (transport, processing, and commercialization).

In line with the above, an expected outcome of Guideline 1 (Conservation, protection, maintenance, improvement, and sustainable use of the nation’s forest and wildlife heritage, as well as of forest plantations on private and communal lands, using an ecosystems approach) of Pillar 2 (Sustainability) of the National Forest and Wildlife Policy is the promotion of trade in sustainable use of the nation’s forest and wildlife heritage, as authorized or available. Because of this situation, a series of traceability tools have been developed for use throughout the forest production chain (e.g., tagging).

One mechanism for access to forest resources is a forestry license, which, pursuant to the Forest and Wildlife Act and the Forest Management Regulation, is an administrative act by which the government grants private parties access for sustainable harvesting of forest and wildlife resources, based on the ecosystem services that result from their management. The applicable type of license depends on ownership of the land (public or private) and the resource to be harvested (forest or non-forest plant communities).

The various mechanisms, licenses, rights, or procedures provided for in the forest and wildlife regulations to enable commercial use of forest timber products can be grouped into different categories. Forestry licenses are granted for sustaining

able harvesting based on a management plan (e.g., concessions, permits, use contracts, and local forests). Administrative acts allowing forest clearance do not have sustainable harvesting as their main purpose, but do enable the forest products obtained to be sold domestically (e.g., authorizations for land-use change on private property and forest clearance authorizations). Forest plantations may be established on private and native community lands without the need for an official act (harvest permit), but they do need to be registered with the National Forest Plantation Registry, among other reasons, to facilitate government efforts to administer and monitor forest resources.

The type of management plan applicable to each license is pre-determined by the regulations. There may be only one option, or, depending on the level of planning (permitted cut, size of managed area, etc.), a variety of options.

In all cases, except for DEMAs, the management plan needs to be developed, signed, and implemented by a forest regent who holds a current license and is registered in the National Register of Forest and Wildlife Regents. The role of forest regents is to ensure that resources are sustainably managed, and they are responsible for the content of the management plan and for the actions taken to implement it.

The regulations call for mandatory prior visual inspection by the corresponding ARFSS and, in certain cases, by SERFOR, in order for a management plan to be approved. Without prejudice to the ability of the former to conduct optional visual inspections to check, among other things, the identification and identification of trees in the field as well as the measurement data on seed trees and harvestable trees.

Inspections follow the Protocol for Timber Forest Resource Assessment, which spells out the technical criteria for evaluating individual trees in the formulation, approval, inspection, verification, monitoring, and enforcement of forest management plans. The protocol provides allowable ranges of error and levels of acceptance for the sample used in the evaluation. It should be noted that OSINFOR is authorized to oversee these physical inspections.

One could propose that illegal logging involves "prohibited or unauthorized extraction, or authorization that is not carried out in accordance with the stipulated conditions and for which legal origin cannot be proven."

Transport of forest products is classified either as primary (from the forest to the processing facility) or secondary (from the processing facility to the sales center or from there to other points). A GTF is required in order to transport forest specimens, products, or by-products in their natural state (no processing) or after primary processing (leaving a primary facility to become inputs for a secondary processing facility).

In the case of exotic species from registered plantations, a waybill can replace the GTF, provided that it has a description on its face that includes species information that identifies it as exotic, as well as the registration number of the plantation.

Accordingly, the driver and the individual or legal entity authorized by the competent authority to provide transportation service are required to verify the existence of the GTF (which should be kept on hand from loading to the final destination) and make certain that the forest products and the primary processing facility (where loading takes place) match what was recorded on the GTF.

Forest processing involves mechanical, chemical, and/or biological treatment or modification of forest products, and can be classified as either primary or secondary processing.

To operate, primary processing facilities have to be duly authorized by the corresponding ARFSS, while secondary processing facilities are under the jurisdiction of PRODUCE, which is responsible for their registration as well as for approving the respective procedures and requirements.

The operation of collection, storage, and sales centers for unprocessed or primary processed products is authorized by the corresponding ARFSS. The first two types of centers serve to store products for purposes of direct sale or transport to a new destination for later sale, while the third is where products are commercially sold.

It should be noted that owners of primary processing facilities and collection, storage, and sales centers are obligated to accept and/or process only products proven to be legally sourced; keep documents supporting the information reflected in the operations logbook; provide receipts and expenditures for a period of four years; provide the competent authority with any information and documentation requested; facilitate the conduct of inspection and control measures; and comply with the provisions regarding proof of legal origin.

Regarding international trade of forest products, the export of logs (unless they come from plantations) and products obtained in violation of forest regulations is prohibited.

Under CITES, export permits apply only to the following timber forest species: mahogany (Swietenia macrophylla King) Spanish cedar (Cedrela odorata). To that end, as noted earlier, the Management Authority (SERFOR) is required to have verified that the specimen was not obtained in contravention of current legislation, among other requirements.

As for the export of non-CITES species, there is no requirement as yet to apply for an export permit, because the details of how the law will apply have not been worked out yet.

Given the above, in terms of the relevant regulations and what has been analyzed with respect to illegal logging, illegal trade in timber involves the transport, processing, or sale (domestic or foreign) of products in their natural state or primary processed products, as the case may be, for which legal origin cannot be proven.

In terms of criminal justice, the intention is to criminally punish illegal activities throughout the timber value chain where the object of the crime is an illegally sourced timber product or specimen.

The Penal Code, under Title XIII (Environmental Crimes), Chapter II (Crimes against natural resources), establishes penalties for crimes against forests or forest formations (Article 310), specifically for anyone who, in whole or in part, destroys, burns, damages, or logs natural or plantation forests or other forest formations without a permit, license, authorization, or concession granted by the competent authority.

It also establishes penalties for anyone who acquires, collects, stores, processes, transports, conceals, guards, sells, loads, unloads, imports, exports, or re-exports forest products or timber specimens whose origin they know or could presume to be illicit (Article 310-A), as well as for anyone who obstructs, impedes, or hinders an investigation, verification, inspection, or audit in connection with the extraction, transport, processing, sale, export, re-export, or import of specimens (Article 310-B).

Regarding the crime under Article 310-A, the Public Prosecution Ministry may order interdiction actions in order to seize, by means of enforcement actions in rem, the objects of the crime and/or the means of the crime. This also applies to the activities listed under the aforementioned criminal offense, or illegally-sourced timber forest products or specimens.

Interdiction actions may be regular or special. Regular actions are ordered by the Public Prosecution Ministry ex officio or at
the request of a competent forest monitoring agency. Special actions, because they require more coordination, logistics, and planning and are therefore complex, are arranged by the National FEMAN Coordinating Office in coordination with the relevant public entities.

In this connection, the Public Prosecution Ministry approved the Protocol for Intervention via Special Interdiction Actions against Illegal Logging. This protocol defines illegal logging as the act of cutting and/or extracting, in whole or in part, natural or plantation forest species without a permit, license, authorization, concession, or other right granted by a competent authority in accordance with the regulations governing the matter, or with one that is not valid. The protocol also defines illegal activities as the act of acquiring, collecting, storing, processing, transporting, concealing, guarding, selling, loading, unloading, importing, exporting, or re-exporting timber forest products or specimens whose origin is known or could be presumed to be illicit.

Additionally, the Forest and Wildlife Act establishes a system of enforcement, oversight, and monitoring wherein enforcement and disciplinary powers are vested in OSINFOR for purposes of ensuring compliance with obligations related to forestry licenses; in SERFOR and the different ARFFs for compliance with obligations derived from administrative acts under their purview, other than forestry licenses; and in the ARFFs for monitoring forest and wildlife resources within their territorial jurisdiction.

OSINFOR may conduct supervision of timber harvest management plans at three points in time: before logging, during logging, and post-harvest. Notwithstanding the foregoing, OSINFOR is also authorized to review the physical inspections conducted by the ARFFs to approve management plans. For its part, as the apex agency for the SINAFOR, leads the National Forest and Wildlife Monitoring and Surveillance System (SNCVIF), a space for interagency coordination in forest and wildlife control and surveillance that includes OSINFOR, the Public Prosecution Ministry, the Peruvian National Police, SUNAT, the Armed Forces, the Coast Guard (DICAPI), the regional governments, and the Environmental Assessment and Enforcement (COSFA). Under this framework, Regional Forest and Wildlife Monitoring and Surveillance Working Groups are being created in order to replicate this coordination effort at the regional level.

It is also important to mention the national strategic check-points for which the ARFFs are responsible. The criteria for establishing them and determining whose shipments or goods are subject to mandatory checks are pending approval. Meanwhile, SERFOR has issued provisions to improve verification of forest products transported under a GTF at the checkpoints located across Peru, highlighting the importance of these interconnected checkpoints.

Against this backdrop, an analysis of the OSINFOR document "Administrative Offenses Recorded in the Last 10 Years" (violations for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted) found the following, inter alios:

a. During the period under review (2009-2018), there were 3,659 cases of forest violations for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted. The most common involved private property forestry permits.

b. Of the 3,659 cases, 3,110 fell under Law 27,308 and its regulations, while 545 fell under Law 29,763 and its regulations (Forest Management Regulation: 429, Regulation for Forest and Wildlife Management in Native and Rural Communities: 156, and Forest Plantation and Agroforestry System Management Regulation: none). It should be noted that in 36 of these cases, penalties were imposed under both regulatory frameworks concurrently, so the respective sanction resolutions need to be analyzed in order to determine what occurred. These 36 cases were punished under both laws.

c. Of the 3,659 cases, 3,110 fell under Law 27,308 and its regulations, while 545 fell under Law 29,763 and its regulations (Forest Management Regulation: 429, Regulation for Forest and Wildlife Management in Native and Rural Communities: 156, and Forest Plantation and Agroforestry System Management Regulation: none). It should be noted that in 36 of these cases, penalties were imposed under both regulatory frameworks concurrently, so the respective sanction resolutions need to be analyzed in order to determine what occurred. These 36 cases were punished under both laws.

d. Of the 3,659 cases, 3,110 fell under Law 27,308 and its regulations, while 545 fell under Law 29,763 and its regulations (Forest Management Regulation: 429, Regulation for Forest and Wildlife Management in Native and Rural Communities: 156, and Forest Plantation and Agroforestry System Management Regulation: none). It should be noted that in 36 of these cases, penalties were imposed under both regulatory frameworks concurrently, so the respective sanction resolutions need to be analyzed in order to determine what occurred. These 36 cases were punished under both laws.

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f. During the 2009-2018 period, there were no violations with a final ruling in which administrative remedies having been exhausted related to the tagging of stumps and logs, operations logbooks, submission of false information, or damage to the environment and biodiversity.

g. As regards the operations logbook for forestry licenses, it is important to note that this result is explained by the fact that use of the form approved for this purpose is not yet mandatory.

h. The case of false information in management plans document, or specific actions, as the above is not consistent with the results of OSINFOR's field visits. According to a study cited earlier, from 2009 to 2014 alone OSINFOR found that timber violations could not be justified for 64% of the forest species harvested, indicating over-reporting (reporting of timber extracted from non-existent trees). OSINFOR should gather more information to determine how these violations were dealt with legally and the current status of cases where field visits detected false information in management plans.

i. Violations involving unauthorized land use change for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted are most common in private property forestry permits. In geographical terms, Ucayali stands out with 8 cases, followed by Loreto with 6, and Amazonas with 3.

j. As regards violations involving breach of forestry license conditions for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted, the type of breach in each case is uncertain, since the study did not include a review of the sanction resolutions. For this reason, the data on the frequency of this offense can only provide a frame of reference, since it was not possible to verify whether or not the breach contributed to illegal logging. For a more accurate picture, a future study could analyze each case to determine the exact conduct with which offenders were charged.

k. Unauthorized forest clearance violations for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted are most frequent in native community forestry permits (in terms of permit type) and in Madre de Dios (geographically), especially in the province of Tambopata. It should be noted that in Madre de Dios, violations involving unauthorized land use change are most common in forest concessions (afforestation and/or reforestation).

l. Unauthorized forest clearance violations for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted are most frequent in native community forestry permits (in terms of permit type) and in Madre de Dios (geographically), especially in the province of Tambopata. It should be noted that in Madre de Dios, violations involving unauthorized land use change are most common in forest concessions (afforestation and/or reforestation).

m. As for the obstruction of authority, there were only 17 reported violations for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted, 16 of them associated with native community forestry permits. In geographical terms, Ucayali stands out with 8 cases, followed by Loreto with 6, and Amazonas with 3.

n. As regards violations involving breach of forestry license conditions for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted, the type of breach in each case is uncertain, since the study did not include a review of the sanction resolutions. For this reason, the data on the frequency of this offense can only provide a frame of reference, since it was not possible to verify whether or not the breach contributed to illegal logging. For a more accurate picture, a future study could analyze each case to determine the exact conduct with which offenders were charged.

o. Turning to license forfeiture, there were no reported cases in which guilty parties involved either of helping third parties extract timber species (facilitation of illegal activities), submitting false information, or inflicting severe damage that gravely endangers the environment and biodiversity. In view of the absence of enforcement actions on the grounds of submitting false information, obtaining additional information in that regard is recommended.

p. There were 25 cases of forfeiture due to land use change and 26 due to unauthorized logging for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted, 16 of them associated with native community forestry permits. In geographical terms, Ucayali stands out with 8 cases, followed by Loreto with 6, and Amazonas with 3.
trative remedies having been exhausted. Of these, 26 fell under Law 27,308 (20 for land use change and 6 for unauthorized logging) and the rest fell under Law 29,763. Of the total, 26 cases involved licenses in Madre de Dios, 22 in Loreto, Ucayali 2, and 1 in Pasco.

q. Looking at forfeiture cases in relation to the year the violation was detected, the largest number occurred in 2017 (13 cases, most involving unauthorized extraction of forest resources) and 2012 (11 cases, with many cases of unauthorized land use change). The years with the lowest number of detected cases were 2015 (1 case), 2010 (2 cases), and 2017 (2 cases).

r. Looking at the type of harvest permit, forfeiture cases mostly frequently involved afforestation and/or reforestation concessions (22 cases under Law 27,308) and native community forestry permits (15 cases under Law 29,763).

s. Of the total number of violations and forfeiture cases for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted, most occurred in the regions of Madre de Dios, Loreto, and Ucayali. Accordingly, special attention must be paid to violations detected in those regions, in order to take steps to deter them.

t. Again looking at the total number of violation and forfeiture cases for which penalties were imposed either via a final ruling or with administrative remedies having been exhausted, many are associated with private property forestry permits, native community forestry permits, and, in Madre de Dios, Brazil nut concessions. Efforts therefore need to be made to work with the users involved in these types of harvest permits, so that illicit activities can be prevented.
**APPENDIX 3**

**POLICY RECOMMENDATIONS FOUND IN THE LITERATURE**

**TABLE 11**

Main policy recommendations found in the literature, link in the value chain, and approach

<table>
<thead>
<tr>
<th>RECOMMENDATION</th>
<th>LINK</th>
<th>APPROACH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invest in building the capacity of indigenous communities, campesino communities, and local governments to conduct or oversee legal logging in their territories (EIA)</td>
<td>Forest production</td>
<td>Commercialization</td>
</tr>
<tr>
<td>Clarify and enforce laws related to land-use planning and management (Chatham House)</td>
<td>Forest production, processing</td>
<td>Promotion and incentives</td>
</tr>
<tr>
<td>Implement measures to promote a domestic market for legal timber in each producer country (Chatham House)</td>
<td>Commercialization</td>
<td></td>
</tr>
<tr>
<td>Introduce public procurement policies for legal timber from small-scale producers (Chatham House)</td>
<td>Forest production, processing</td>
<td></td>
</tr>
<tr>
<td>Adopt policies that will support and encourage non-governmental organizations’ (NGOs) efforts to raise awareness (Pereira et al.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incorporate small-scale producers and processors into the formal sector by reducing barriers to entry and facilitating legal compliance (Chatham House, IUFRO)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Promote voluntary forest certification (Contreras-Hermosilla)</td>
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</tr>
<tr>
<td>Establish long-term, supportive partnerships between traders and retailers, on the one hand, and small-scale producers and processors, on the other (Chatham House)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develop bilateral cooperation agreements that focus specifically on the small-scale sector (Chatham House)</td>
<td>Forest production, processing, commercialization</td>
<td></td>
</tr>
<tr>
<td>Increase finance mechanisms and technical support to make it possible for small and medium actors to formalize their businesses and operations (EIA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gear efforts toward reducing profits in illegal logging, significantly increasing the risks for criminals, and restricting sources of investment for these activities (UNEP/INTERPOL, Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure consistent legislation across the various sectors involved (Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure realistic policies and simple rules (Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase salaries of public forest administration staff (Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Generate baseline information (Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Politically recognize the different dimensions of illegal forest activities, and that illegal logging is not merely a forest-related problem (IUFRO)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reduce the discretionary power of public forest administration staff (Contreras-Hermosilla)</td>
<td>Forest production, transport, commercialization</td>
<td></td>
</tr>
</tbody>
</table>

**CONCEPTS** | Definition and Classification of Illegality in the Timber Value Chain

**RECOMMENDATION** | **LINK** | **APPROACH**
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Implement the SNFFS Control Module (EIA, Chatham House)</td>
<td>Forest production</td>
<td>Forest production</td>
</tr>
<tr>
<td>Improve the accuracy of annual management plans, including by strengthening the capacity of regional governments to conduct visual inspections prior to approval of annual operating plans, and ensuring that forest regents are promptly removed from the national registry of regents for wrong-doing (EIA)</td>
<td></td>
<td>Forest production</td>
</tr>
<tr>
<td>Strengthen regional and national government oversight of local forests, land use change authorizations, and other types of logging permits and administrative acts (EIA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conduct both prior inspections and follow-up visits to a strategic sample of logging contracts, to reduce opportunity for fraud (EIA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide adequate funding to OSINFOR to increase the number of field inspectors and field visits (EIA)</td>
<td></td>
<td>Processing</td>
</tr>
<tr>
<td>Ensure that initiatives to tackle illegal logging—including legality assurance systems—cover timber from the illegal clearance of forest for other land uses (Chatham House)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Focus investigations, operations, and enforcement on those individuals and companies that finance illegal logging, not only small and informal operators (EIA, UNEP/INTERPOL)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invest in improvements to sawmill / primary processing center procedures as well as oversight and verification of their operations logbooks (EIA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourage national tax fraud investigations, with a particular focus on plantation and mills laundering, under- or over-reporting of volumes, and over- or under-invoicing (UNEP/INTERPOL)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implement risk-based measures for prevention and timely detection of illegally harvested timber, including inspections by OSINFOR prior to commercialization for export (EIA, Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourage inter-institutional coordination and information sharing among SERFOR, OSINFOR, SUNAT, the Office of the Attorney General, MINAM’s Solicitor for Environmental Crimes, and regional governments. (EIA, Pereira et al., Contreras-Hermosilla, IUFRO)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grant greater powers to the FEMAs and evaluate creating the figure of superior prosecutors specialized in environmental issues (EIA, Pereira et al., Ideele)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develop an integrated criminal justice strategy that adopts and implements clear and comprehensive policies (Pereira et al.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adopt measures that will lead entities subject to anti-money laundering rules (for example, banks and financial institutions) to exercise due diligence for high-risk customers in the forestry sector (Pereira et al.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integrate criminal justice as part of development assistance programs to combat illegal logging (Pereira et al., Chatham House)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establish anti-corruption agencies with sufficient resources and powers in producer countries (Chatham House)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enable monitoring of the forest sector by civil society, including creating an institutional framework to respond to the findings (Chatham House, Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stiffen the penalties for those who commit illegal acts (Contreras-Hermosilla)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Prepared by the author based on the literature review.
APPENDIX 4
INTERVIEWED EXPERTS

TABLE 12
List of experts interviewed for the study

<table>
<thead>
<tr>
<th>No.</th>
<th>FIRST NAME</th>
<th>POSITION</th>
<th>INSTITUTION</th>
<th>SECTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Leopoldo Rosca (Serafin Filomeno, Billy Palomino, José Castañeda, Miguel Ángel Laurente)</td>
<td>General Director of Forest and Wildlife Policy and Competitiveness</td>
<td>SERFOR</td>
<td>Public</td>
</tr>
<tr>
<td>2</td>
<td>Ana Luisa Calderón</td>
<td>Director for Monitoring of Forest and Wildlife Resource Management</td>
<td>SERFOR</td>
<td>Public</td>
</tr>
<tr>
<td>3</td>
<td>Igor Mejía (Roberto Meza)</td>
<td>Director of Forest and Wildlife Enforcement</td>
<td>OSINFOR</td>
<td>Public</td>
</tr>
<tr>
<td>4</td>
<td>Jessica Moscoso</td>
<td>Director</td>
<td>CITEmadera</td>
<td>Public</td>
</tr>
<tr>
<td>5</td>
<td>Richer Gonzales</td>
<td>Manager of the Illegal Logging Office</td>
<td>Regional government of Ucayali</td>
<td>Public</td>
</tr>
<tr>
<td>6</td>
<td>Robert Nolorbe</td>
<td>Deputy Director for Enforcement and Monitoring</td>
<td>Regional government of Ucayali</td>
<td>Public</td>
</tr>
<tr>
<td>7</td>
<td>Albino Aliaga</td>
<td>Head, Ucayali Field Office</td>
<td>OSINFOR</td>
<td>Public</td>
</tr>
<tr>
<td>8</td>
<td>Mario López</td>
<td>Specialist in Economics Studies</td>
<td>Central Reserve Bank of Peru, Iquitos branch</td>
<td>Public</td>
</tr>
<tr>
<td>9</td>
<td>Rubi Peña</td>
<td>Deputy Regional Manager of Forestry and Wildlife Monitoring</td>
<td>Regional government of Loreto</td>
<td>Public</td>
</tr>
<tr>
<td>10</td>
<td>Paul Aróstegui</td>
<td>Head, Loreto Liaison Office</td>
<td>SERFOR</td>
<td>Public</td>
</tr>
<tr>
<td>11</td>
<td>Kenyo Teran</td>
<td>Regional Forest and Wildlife Manager</td>
<td>Regional government of Loreto</td>
<td>Public</td>
</tr>
<tr>
<td>12</td>
<td>Tony Mori</td>
<td>Manager, Regional Environmental Authority</td>
<td>Regional government of Loreto</td>
<td>Public</td>
</tr>
<tr>
<td>13</td>
<td>José Luis Cerón</td>
<td>Head, Loreto Field Office</td>
<td>OSINFOR</td>
<td>Public</td>
</tr>
<tr>
<td>14</td>
<td>Marlené Márquez</td>
<td>Provincial Prosecutor</td>
<td>Maynas FEMA</td>
<td>Public</td>
</tr>
<tr>
<td>15</td>
<td>Sergio León (Nelson Melendez)</td>
<td>Official</td>
<td>CITEmadera Puerto Malдонado</td>
<td>Public</td>
</tr>
<tr>
<td>16</td>
<td>Benjamín Valencia</td>
<td>Head, Puerto Maldonado Field Office</td>
<td>OSINFOR</td>
<td>Public</td>
</tr>
<tr>
<td>17</td>
<td>Gerson Sánchez</td>
<td>Manager, Oversight and Monitoring</td>
<td>Regional government of Madre de Dios</td>
<td>Public</td>
</tr>
<tr>
<td>18</td>
<td>Hernán Cruz (Jorge Peralta)</td>
<td>Official</td>
<td>Madre de Dios Customs Office</td>
<td>Public</td>
</tr>
<tr>
<td>19</td>
<td>Enrique Toledo</td>
<td>Managing Director</td>
<td>Reforesta Peru</td>
<td>Private</td>
</tr>
<tr>
<td>20</td>
<td>Pina Gervassi (Alba Solís, Nishme Kahatti)</td>
<td>Regional director</td>
<td>Forest Stewardship Council</td>
<td>Private</td>
</tr>
<tr>
<td>21</td>
<td>Mauro Ríos</td>
<td>Forestry expert</td>
<td></td>
<td>Private</td>
</tr>
<tr>
<td>22</td>
<td>Elmer Medina</td>
<td>Forestry expert</td>
<td></td>
<td>Private</td>
</tr>
<tr>
<td>23</td>
<td>Erik Fischer (Mirtha Figueroa)</td>
<td>Vice Chair / Chairman, Committee on Forestry</td>
<td>Association of Exporters (ADEX)</td>
<td>Private</td>
</tr>
<tr>
<td>24</td>
<td>Roberto Kometter</td>
<td>Forestry expert</td>
<td></td>
<td>Private</td>
</tr>
<tr>
<td>25</td>
<td>Oliver Díaz</td>
<td>President</td>
<td>Association of Forestry Regents of Ucayali (ASOREFL)</td>
<td>Private</td>
</tr>
<tr>
<td>26</td>
<td>Teddy Arbe</td>
<td>Manager</td>
<td>Consorcio Maderero Arbe</td>
<td>Private</td>
</tr>
<tr>
<td>27</td>
<td>Jhoana Canales</td>
<td>Regent</td>
<td>Consorcio Maderero SAC</td>
<td>Private</td>
</tr>
<tr>
<td>28</td>
<td>Celso Pezo</td>
<td>Concessionaire</td>
<td>Association of Forestry Regents of Loreto</td>
<td>Private</td>
</tr>
<tr>
<td>29</td>
<td>Betsabeth Cortegano</td>
<td>President</td>
<td>President, Forest Engineering Chapter</td>
<td>Private</td>
</tr>
<tr>
<td>30</td>
<td>Rodrigo Quiñones</td>
<td>President</td>
<td>Association of Forest Concessionaires of Loreto (ACOFREL)</td>
<td>Private</td>
</tr>
<tr>
<td>31</td>
<td>Nelson Kroll</td>
<td>Regional Manager</td>
<td>MADERACRE</td>
<td>Private</td>
</tr>
<tr>
<td>32</td>
<td>Gustavo Suárez de Freitas</td>
<td>National Program Coordinator</td>
<td>Earth Innovation Institute</td>
<td>Private</td>
</tr>
<tr>
<td>33</td>
<td>Wilfredo Ojeda</td>
<td>Senior professor</td>
<td>La Molina National Agrarian University - School of Forestry</td>
<td>Private</td>
</tr>
<tr>
<td>34</td>
<td>Julio Urrunaga</td>
<td>Director</td>
<td>Peru Program EIA</td>
<td>Private</td>
</tr>
<tr>
<td>35</td>
<td>Lucía Pautrat</td>
<td>Director</td>
<td>Kené – Institute of Forest and Environmental Studies</td>
<td>Private</td>
</tr>
</tbody>
</table>

Source: Prepared by author based on field work, 2019.
APPENDIX 5
SURVEY MONKEY SURVEY ON POLICY RECOMMENDATIONS

The questions on forest policy recommendations and answer choices sent to the forestry experts are detailed below:

a. Which link in the timber value chain should be the focus of efforts to reduce illegality? (Check two at most)
   - Production
   - Transport
   - Primary processing
   - Commercialization
   - Secondary processing
   - Export
   - All links equally

b. Which approach should be prioritized in combating illegality in the timber value chain?
   - An approach that prioritizes improved oversight, monitoring, and enforcement and tougher penalties.
   - An approach that prioritizes sector promotion and preventive measures.

Please indicate the five policy recommendations that you would consider most effective (Group 1).
- Provide adequate funding to OSINFOR to increase the number of field inspectors and field visits.
- Focus investigations, operations, and enforcement on those individuals and companies that finance illegal logging, not only small and informal operators.
- Ensure that initiatives to tackle illegal logging—including legality assurance systems—cover timber from the illegal clearance of forest for other land uses.
- Do advance work in the office to reduce the field supervision workload.
- Prioritize oversight at origin (especially forest production).
- Improve monitoring and verification of processing facility operations logbooks.
- Evaluate the usefulness and effectiveness of checkpoints.
- Implement the National Forest and Wildlife Information System (SNIFFS) Control Module.
- Implement risk-based measures for prevention and timely detection of illegally harvested timber, including inspections by OSINFOR prior to commercialization for export.
- Encourage inter-institutional coordination for oversight and monitoring among SERFOR, OSINFOR, SUNAT, Office of the Attorney General, MINAM’s Solicitor for Environmental Crimes, and regional governments.
- Grant greater powers to the Special Prosecutors for Environmental Matters (FEMAs) and evaluate creating the figure of superior prosecutors specialized in environmental issues.
- Adopt measures that will lead entities subject to anti-money laundering rules (e.g., banks and financial institutions) to exercise due diligence for high-risk customers in the forest sector.
- Focus efforts at origin (especially forest production).
- Provide anti-corruption agencies with sufficient resources and powers.
- Enable monitoring of the forest sector by civil society, including creating an institutional framework to respond to the findings.
- Stiffen the penalties for those who commit illegal acts.
- Other (please specify).

c. Which approach should be prioritized in combatting illegal logging in their territories?
   - Introduce public procurement policies for legal timber and implements procurement rules for legal timber.
   - Ensure consistent legislation across the various sectors involved, realistic policies and simple regulations, as well as technical guidelines to fill existing gaps.
   - Generate baseline information for decision-making.
   - Politically recognize the different dimensions of illegal forest activities, and that illegal logging is not merely a forest-related problem.
   - Have clear ground rules established by SERFOR (definitions, traceability).
   - Generate baseline information for decision-making.
   - Improve institutional coordination and information-sharing, strengthen forest sector institutions, and increase the salaries of public forest administration staff.
   - Combat corruption and impunity.
   - Prevent harm to Peru’s reputation and promote the industry.
   - Other (please specify).

d. Please indicate the five policy recommendations that you would consider most effective (Group 2).
   - Establish long-term, supportive partnerships between small-scale producers and processors.
   - Promote voluntary forest certification.
   - Increase finance mechanisms and technical support to make it possible for small and medium actors to formalize their businesses and operations.
   - Gear efforts toward reducing profits in illegal logging, increasing the risks for criminals, and restricting sources of investment for these activities.
   - Ensure consistent legislation across the various sectors involved, realistic policies and simple regulations, as well as technical guidelines to fill existing gaps.
   - Generate baseline information for decision-making.
   - Politically recognize the different dimensions of illegal forest activities, and that illegal logging is not merely a forest-related problem.
   - Have clear ground rules established by SERFOR (definitions, traceability).
   - Improve institutional coordination and information-sharing, strengthen forest sector institutions, and increase the salaries of public forest administration staff.
   - Combat corruption and impunity.
   - Prevent harm to Peru’s reputation and promote the industry.
   - Other (please specify).

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- Establish anti-corruption agencies with sufficient resources and powers.
- Enable monitoring of the forest sector by civil society, including creating an institutional framework to respond to the findings.
- Stiffen the penalties for those who commit illegal acts.
- Other (please specify).
**APPENDIX 6**

**RESULTS OF THE SURVEY MONKEY SURVEY ON POLICY RECOMMENDATIONS**

The following graphs display the results of each survey question on policy recommendations.

**QUESTION 1:**
Which link in the timber value chain should be the focus of efforts to reduce illegality?

![Graph showing the results of the survey question on policy recommendations.]

<table>
<thead>
<tr>
<th>Link</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Production</td>
<td>41</td>
</tr>
<tr>
<td>Transport</td>
<td>16</td>
</tr>
<tr>
<td>Primary processing</td>
<td>16</td>
</tr>
<tr>
<td>Commercialization</td>
<td>6</td>
</tr>
<tr>
<td>Secondary processing</td>
<td>3</td>
</tr>
<tr>
<td>Export</td>
<td>3</td>
</tr>
<tr>
<td>All links equally</td>
<td>16</td>
</tr>
</tbody>
</table>

**QUESTION 2:**
What approach should be prioritized in combatting illegality in the timber value chain?

![Graph showing the results of the survey question on policy recommendations.]

- An approach that prioritizes improved oversight, monitoring, and enforcement and tougher penalties: 85
- An approach that prioritizes sector promotion and preventive measures: 15

**QUESTION 3:**
Please indicate the five policy recommendations that you would consider most effective (Group 1).

<table>
<thead>
<tr>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strengthen government oversight</td>
</tr>
<tr>
<td>Improve accuracy of management plans</td>
</tr>
<tr>
<td>Encourage interagency coordination</td>
</tr>
<tr>
<td>Implement SNIFFS Control Module</td>
</tr>
<tr>
<td>Evaluate effectiveness of checkpoints</td>
</tr>
<tr>
<td>Prioritize oversight and origin</td>
</tr>
<tr>
<td>Improve operations logbook verification</td>
</tr>
<tr>
<td>Civil society forest sector monitoring</td>
</tr>
<tr>
<td>Ensure prompt removal of regents</td>
</tr>
<tr>
<td>Fund OSINFOR to increase inspection</td>
</tr>
<tr>
<td>Tackle illegal land clearance</td>
</tr>
<tr>
<td>Risk-based prevention/detection measures</td>
</tr>
<tr>
<td>Focus enforcement on financiers</td>
</tr>
<tr>
<td>Advance work to reduce fieldwork load</td>
</tr>
<tr>
<td>Stiffen penalties</td>
</tr>
<tr>
<td>Measures to encourage due diligence</td>
</tr>
<tr>
<td>Grant greater powers to FEMAs</td>
</tr>
<tr>
<td>Establish anti-corruption agencies</td>
</tr>
</tbody>
</table>

**CONCEPTS | Definition and Classification of Illegality in the Timber Value Chain**

**QUESTION 3:**
Please indicate the five policy recommendations that you would consider most effective (Group 1).

- Strengthen government oversight: 13
- Improve accuracy of management plans: 11
- Encourage interagency coordination: 11
- Implement SNIFFS Control Module: 11
- Evaluate effectiveness of checkpoints: 9
- Prioritize oversight and origin: 8
- Improve operations logbook verification: 5
- Civil society forest sector monitoring: 5
- Ensure prompt removal of regents: 5
- Fund OSINFOR to increase inspection: 4
- Tackle illegal land clearance: 4
- Risk-based prevention/detection measures: 4
- Focus enforcement on financiers: 2
- Advance work to reduce fieldwork load: 2
- Stiffen penalties: 2
- Measures to encourage due diligence: 2
- Grant greater powers to FEMAs: 1
- Establish anti-corruption agencies: 0

Other responses:
- Create a highly trained supervision corps equipped with everything needed for surprise field visits that carry severe penalties.
- Increase knowledge about the goods and services offered by forests and share it with society.
- The largest amount of illegal timber comes out of UNLICENSED forests OUTSIDE BPPs, confirm that alternative as well.
- Provide incentives to formalize; no to penalties and yes to prevention.
- Work on changing people’s mindset, especially the new generations. Ensure that 30 years from now, today’s children will understand proper resource use, that formalization is the right path, that corruption is not the way. Until we change this, we will keep piling on more rules and penalties and people will figure out how to dodge them.
- According to the International Labor Organization and the World Trade Organization, entrepreneurship and risk-taking are reduced when informality is high, partly as a result of poorly designed tax systems and poor regulation; in other words, to reduce informality and promote investment by responsible companies, an evaluation is needed as to whether there are activities in the sector influenced by over-regulation.
QUESTION 4:

Please indicate the five policy recommendations that you would consider most effective (Group 2).

- Capacity building for legal logging
- Domestic market for legal timber
- Procurement of small-scale timber
- Support for business formalization
- Comprehensive BPP planning
- Generate baseline information
- Increase coordination/salaries
- Clear rules established by SERFOR
- Prevent harm to reputation
- Alternative access for small loggers
- Reduce profits/up risk for illegality
- Consistent, realistic, simple policies
- Reduce barriers, ease compliance
- Combat corruption and impunity
- Promote voluntary certification
- Lower management opportunity costs
- Encourage NGO awareness raising
- Reduce discretionary powers
- Producer-processor partnerships
- Enforce clear planning/mgmt laws

Other responses:

- Heighten awareness among users and the community as a whole about the value of forests for current and future generations.

Notes

52. Summary based on the forestry legislation background report prepared by the SPDA in July 2019 for the study, “Estimating and Improving Timber Legality in Peru.”
53. Adopted by Decree-law 21,000.
54. CITES Article VIII (Measures to be Taken by the Parties), point 1.
56. National Forest and Wildlife Policy Guidelines: The State has made it a strategic priority to have a National Forest and Wildlife Policy. It recognizes that the successful fulfillment of the objectives thereof must, necessarily, factor in the following guidelines: (...) Preventive control and punishment of illegal logging and trade and trafficking of species of flora and fauna must focus on actors traditionally excluded from access to forest and wildlife resources, who have for that reason found themselves on the edge of informality and illegality. With them in mind, accessible sustainable harvesting methods, traceability mechanisms to identify and penalize illegally sourced forest products, and monitoring and surveillance systems involving organized users need to be developed. (...)"
58. Legislative Decree 1220. Legislative decree establishing measures to combat illegal logging.
59. Article 2(d) of Supreme Decree 010-2016-MINAGRI, approving regulatory standards for the implementation of Legislative Decree 1220 (Legislative decree establishing measures to combat illegal logging).
60. Forest Management Regulation, Forest Plantation and Agroforestry System Management Regulation, and Regulation for Forest and Wildlife Management in Native and Rural Communities.
61. Article 176 of Law 29,763.
62. Article 4 of the Organic Law on Sustainable Harvesting of Natural Resources.
63. Article I of Law 29,763.
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64. Articles 19 of the Organic Law on Sustainable Harvesting of Natural Resources.
65. Article 121 of Law 29,763.
66. Articles 4 and 19 of the Organic Law on Sustainable Harvesting of Natural Resources and Article II, point 8, of Law 29,763.
67. Article 126 of Law 29,763.
68. Article II, point 10, and Articles 121 and 128 of Law 29,763.
69. Article 127 of Law 29,763; Article 5, paragraph 5.63 and Article 67 of the Forest Management Regulation; and Article 5, paragraph 5.42 and Article 102 of the Regulation for Forest and Wildlife Management in Native and Rural Communities.
70. Article 16 of the Forest Management Regulation, Article 46 of the Forest Plantation and Agroforestry System Management Regulation, and Article 103 of the Regulation for Forest and Wildlife Management in Native and Rural Communities.
71. Article 61 of the “Guidelines for Registration of Plantations in the National Forest Plantation Registry” and its appendices, approved via Executive Board Resolution 165-2015-SERFOR-DE.
72. For example, timber forest concessions require a general forest management plan and operating plan; plantation concessions require an intermediate forest management plan, etc.
73. For example, non-timber forest concessions that also harvest timber determine whether a DEMA or intermediate forest management plan is required based on the annual permitted cuts set out in Article 3 of Executive Board Resolution 052-2018-MINAGRI-SERFOR-DE.
74. For example, harvesting of timber forest products in local forests, as provided in the first final supplementary provision of the “Guidelines for the establishment of Local Forests and conditions for their management,” adopted via Executive Board Resolution 116-2010-SERFOR-DE.
75. A timber forest products regent or forest plantations regent, as appropriate, pursuant to paragraph 6.2.1.1 of the "Guidelines for obtaining and renewal of the license to practice regency," adopted via Executive Board Resolution 029-2016-SERFOR-DE.
76. Listed and explained in the "Guidelines for the execution of visual inspections prior to approval of forest management plans for timber harvesting," adopted via Executive Board Resolution 190-2016-SERFOR-DE.
77. Trees in good phytosanitary condition, of the proper quality and size to provide commercial timber products and whose diameter at breast height is equal to or greater than the minimum cutting diameter for the species, as defined in the Protocol for Timber Forest Resources Assessment, adopted via Executive Board Resolution 261-2017-SERFOR-DE.
78. Adopted via Executive Board Resolution 261-2017-SERFOR-DE.
79. Articles 7 and 8 of the Regulations of Legislative Decree 1085, Forest and Wildlife Resources Oversight Agency Organization Act, approved via Supreme Decree 024-2010-PCM.
80. Article 5, paragraph 5.62 of the Forest Management Regulation; Article 5, paragraph 5.22 of the Forest Plantation and Agroforestry System Management Regulation; and Article 5, paragraph 5.40 of the Regulation for Forest and Wildlife Management in Native and Rural Communities.
81. Article 16 of the “Provisions to promote the formalization and improvement of forest and wildlife sector activities,” approved via Supreme Decree 011-2016-MINAGRI.
82. Article 5, paragraphs 5.8, 5.58, 5.59, and 5.60 of the Forest Management Regulations and Article 5, paragraphs 5.36, 5.37, and 5.38 of the Regulation for Forest and Wildlife Management in Native and Rural Communities.
83. Article 5, paragraph 5.16 of the Forest Management Regulation and Article 5, paragraph 5.12 of the Regulation for Forest and Wildlife Management in Native and Rural Communities.
84. Article 5, paragraph 5.7 of the Forest Management Regulation.
85. Article 110 of the Forest Management Regulation and Article 110 of the Regulation for Forest and Wildlife Management in Native and Rural Communities.
86. Articles 122 and 123 of Law 29,763.
87. Article 178 and paragraphs 31 and 32 of Appendix 2 of the Forest Management Regulation.
88. Approved via Legislative Decree 635.
89. Legislative Decree 1220, which establishes measures to combat illegal logging, and Supreme Decree 010-2016-MINAGRI, which approves the regulations for the implementation of Legislative Decree 1220.
90. Adopted via Attorney General’s Office Resolution 1787-2016-MP-FN.
91. Article 14 of Regulation SGC-M1-REG-001-V.01. Regulation for Forest and Wildlife Resources Oversight, approved via Presidential Resolution 124-2018-DSINFOR.
92. Articles 7 and 8 of the Regulations of Legislative Decree 1085, Forest and Wildlife Resources Oversight Agency Organization Act, approved via Supreme Decree 024-2010-PCM.
93. Provided for under Article 5 of Legislative Decree 1319, Legislative decree establishing measures to promote trade in forest products and wildlife of legal origin.
94. “Provisions for the control of forest products and recording of Forest Transport Permits,” adopted via Executive Board Resolution 198-2017-SERFOR-DE.

95. In Official Letter 206-2019-OSINFOR/OI 2.5 RAIP, dated June 18, 2019, OSINFOR explains that the resolutions contained in this document “are those which ordered a penalty and/or forfeiture of the license and are final, with the exception of a few cases that were challenged and ruled on by the Forest and Wildlife Court (TFFS). In sum, these are cases whose status is final or for which administrative remedies were exhausted.”

96. Supreme Decree 004-2019-JUS. Supreme decree approving the Single Amended Text of Law 27,444 - Law on General Administrative Procedure:
Article 222. Final acts
Once the deadline has lapsed for filing an administrative remedy, the right to do so is forfeited and the decision becomes final.

97. Supreme Decree 004-2019-JUS. Supreme decree approving the Single Amended Text of Law 27,444 - Law on General Administrative Procedure:
Article 228. Exhaustion of administrative remedies
228.1 Administrative acts for which administrative remedies have been exhausted may be challenged before the Judiciary via the administrative proceedings referred to in Article 148 of the Constitution.
228.2 Acts for which administrative remedies have been exhausted are:
a) An act in respect of which a challenge through administrative channels before a hierarchically superior authority or body is not legally admissible, or when there is administrative silence signifying tacit rejection, unless the interested party opts to file an appeal for reconsideration, in which case a resolution or administrative silence in response to that appeal shall indicate exhaustion of administrative remedies; or
b) An act or administrative silence in connection with the filing of an appeal in cases where the act of a hierarchically subordinate authority or body is challenged; or
c) An act or administrative silence in connection with the filing of a petition for review, only in those cases specified in Article 218; or
d) An act that, ex officio, declares other administrative acts to be null and void or revokes them, in those cases specified in Articles 213 and 214; or
e) Administrative acts of Administrative Councils or Courts governed by special laws.

98. This figure does not include the 45 cases excluded for methodological reasons, as specified in paragraph 8.4.1.
CONCEPTS

Definition and Classification of Illegality in the Timber Value Chain