Dear Sirs,

Our undersigned organizations wish to express our deep concern regarding the lack of compliance to date with the Annex on Forest Governance of the US Peru Trade Promotion Agreement (TPA). This Annex is an opportunity for the governments and civil societies of both countries to direct special attention to the important environmental, social and economic aspects that Peru's forests and their inhabitants offer. In this light, we would like to reiterate our support for the process of forest sector reform and call upon both countries to develop a plan and reasonable timeframe for the Peruvian government to meet its commitments under the TPA. We strongly believe that the United States should take action if this plan is not implemented within the agreed-upon period of time.

We understand that the rationale behind the Annex on Forest Governance was to allow both countries, through high-level political tools, to guarantee that the environmental and social conditions of Peru's forests would improve rather than deteriorate as a result of the trade agreement. The Annex thus lays out a series of standards that Peru must follow to strengthen its institutions, transparency, anti-corruption practices, and public – particularly indigenous – participation in forest management.

In this context, we recognize that Peru has made important advances in implementing the environmental commitments of the TPA, such as the creation of the Ministry of Environment, the strengthening of OSINFOR, and the reform of the Penal Code with respect to sanctions for environmental and forest crimes. However, the 18 month deadline established in the TPA Annex for complete implementation of the reforms defined within has now passed, and it is with grave concern that we see Peru still far from where it needs to be. Peru falls short in a number of areas including: CITES implementation for flora and fauna, yield coefficient studies for the most valuable and endangered timber species, the sector's information system, a competitive and transparent concession system, social participation, and enforcement over illegal timber trade, among others.

On July 31, 2010, both the US Trade Representative and the US Congress issued direct and strong messages calling attention to Peru's non-compliance with its commitments and urging implementation of measures to resolve the situation as quickly as possible. The Chairman of the relevant Congressional Committee reminded Peru and stakeholders that
non-compliance with environmental aspects of the TPA is just as serious as any other non-compliance in the trade agreement. Sanctions could bring negative consequences for trade between the two countries reaching far beyond the forest sector.

We are troubled by the lack of response from the Peruvian Government to the US statements; Peru’s Minister of Trade has declared only that the non-compliance is due to delays by Peru’s Congress in voting on the new Forest and Wildlife Law proposal that the administration delivered to its door in June. However, we wish to emphasize that the principal problems have been, and continue to be, lack of political will and insufficient resources allocated to implementing existing laws and procedures on the ground to improve forest governance. ¹

It is also important to note that indigenous groups and some NGOs have stated their opposition to the current draft Forest and Wildlife Law both because it leaves open the possibility of formal change in forest land use classification and because there has not been a full consultation process. Government institutions and civil society organizations from both countries have asked the Peruvian Congress not to rush this law's approval in order to undertake consultation in accordance with ILO Convention 169 concerning the rights of Indigenous and Tribal Peoples.

Ambassador Ron Kirk, the US Trade Representative, has announced that a high level official will visit Peru in coming days to meet with Peru's government and determine a path forward. We believe the following steps must be taken immediately:

1. The Peruvian government should make public a detailed analysis of the state of progress (in policy and in practice) of each commitment within the Annex, as well as the obligations of the environment chapter that became effective upon entry into force.
2. The US and Peruvian governments together should design an implementation plan for each point not yet achieved, with clear and public timeframes as well as indicators that can be monitored both by the authorities as well as by civil society;
3. The US and Peruvian governments together should define mid-term indicators so that the parties do not have to wait until the end of yet another period to verify compliance or lack thereof;
4. The Peruvian government should make public a clear plan for civil society consultation, including with indigenous communities, for the new Forest and Wildlife Law;
5. The US and Peru should immediately agree on a date to hold the next Forest Sector Sub-Committee meeting, should ensure there is a public session, and should provide adequate notice to civil society in both countries to enable meaningful participation to all who are interested;
6. The US government should define, in a clear and transparent fashion, what the repercussions of continued non-compliance will be.

We believe that if significant progress on the obligations under Annex 18.3.4 is not made within six months, the U.S. government should begin to utilize official dispute channels and other sanctions it has at its disposal under this agreement.

¹ For details and examples, please see the Peruvian Ombudsman's Report 151, July 2010.
http://www.defensoria.gob.pe/inform-defensoriales.php
As organizations working on issues related to Peru's forests and their inhabitants, we hope that this moment can be an opportunity to focus the attention and political will of both the public and private sector actors who benefit from this agreement and seek to avoid potential sanctions. This is the ideal moment to bring together capacities.

Respectfully,

Environmental Investigation Agency (EIA)
Asociación para la Conservación de la Cuenca Amazónica (ACCA)
BioForest Perú
Bosques Sociedad y Desarrollo (BSD)
Colectivo Forestal
Defenders of Wildlife
Derecho, Ambiente y Recursos Naturales (DAR)
Foro Ecológico
Friends of the Earth USA
Humane Society International (HSI)
Instituto Andino y Amazónico de Derecho Ambiental (IAADA)
Movimiento Ciudadano frente al Cambio Climático (MOCICC)
Natural Resources Defense Council (NRDC)
Oxfam America
ProPurús
Red Ambiental Loretana (RAL)
Red Peruana por una Globalización con Equidad (RedGe)
Sierra Club
Upper Amazon Conservancy (UAC)

Cc:
Everett Eissenstat, Assistant US Trade Representative for the Americas
Mark Linscott, Assistant US Trade Representative for Environment and Natural Resources
Kerri-Ann Jones, Assistant Secretary for Oceans, Environment, and Science
Senator Max Baucus, Chairman, Finance Committee, US Senate
Peter Michael McKinley, Ambassador of US to Peru
Javier Velásquez Quesquén, Presidente, Consejo de Ministros
Mercedes Araoz, Ministra de Economía y Finanzas
Antonio Brack Egg, Ministro de Medio Ambiente
Beatriz Merino, Defensora del Pueblo
César Zumaeta Flores, Presidente del Congreso
Washington Zeballos Gámez, Presidente, Comisión de Pueblos Andinos, Amazónicos y Afroperuanos, Ambiente y Ecología del Congreso
Aníbal Huerta Díaz, Presidente, Comisión Agraria del Congreso
Jorge Foinquinos Mera, Presidente, Comisión de Comercio Exterior y Turismo del Congreso
Miguel Rosas Silva, Director de la Dirección General Forestal y de Fauna Silvestre
Luis M. Valdivieso, embajador de Perú en EEUU