



Defensoría del Pueblo

IMPACTS OF THE USA - PERU FREE TRADE AGREEMENT IN THE PERUVIAN FOREST SECTOR

Lucila Pautrat

Peruvian Ombudsman Public Office

THE PERUVIAN PUBLIC OMBUDSMAN OFFICE



- Created by the Peruvian Constitution of 1993
- An Autonomous Constitutional Organism of the State
- Constitutional mandate:
 - To protect constitutional and fundamental rights
 - To supervise the fulfilment of the government's obligations
 - To oversee the appropriate provision of public services

BACKGROUND OF THE FTA PERU - USA



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- **6 August 2002: "Law of Andean Commercial Promotion and Erradication of Drugs" (ATPDEA). Application: 4 Dic. 2001 – 31 Dic. 2006**
- **The Ways and Means Committee of the House of Representatives of the Government of the United States approved the overtime of the ATPDEA until the entrance in force of the FTA between Perú– USA.**
- **12 April 2006, the governments of Perú and the United States subscribed the Free Trade Agreement Peru-USA.**
- **24 June 2007 the governments of Perú and the United States subscribed the Protocol of Ammendment to the FTA Peru-USA, that contains the Annex 18.3.4: The Forestry Addenda**



ENVIRONMENTAL COMMITMENTS ASSUMED IN THE CONTEXT OF THE FTA PERU - USA



I. CHAPTER 18: ENVIRONMENT

The parties commit to:

- Increase the levels of environmental protection
- Avoid the weakening of the environmental legislation
- Improve the application of sanctions, transparency and access to the information
- Establish an Environmental Council and a National Consultant Committee for trade and environmental issues.
- To promote the civic participation
- To investigate the cases of breach of the environmental commitments
- To promote the conservation and sustainable use of the biological diversity, the protection of traditional knowledge of native communities
- To comply the International Agreements regarding environmental issues

ENVIRONMENTAL COMMITMENTS ASSUMED IN THE FRAMEWORK OF THE FTA PERU - USA



II. PROTOCOL OF THE AMMENDMENT – FOREST ADDENDA:

1. **Compliance of the National Environmental Legislation in the themes of:**

- Protection of wildlife fauna and flora
- Management of Forest Resources

2. **Compliance of the International Agreements** related to the protection of threatened species, specially those listed in the Convention on International Trade of Endangered Species – CITES.

Other international agreements:

- Conservation of Wetlands (Convención RAMSAR),
- Protocol of Protection against the destruction of the ozone layer
- Hunting of whales, ocean pollution, marine organisms, others.

3. Strengthening of the Forestry Sector:

- To improve the capacities of the forest authority to control the illegal logging.
- To increase the penalties for the infractions to the forest legislation
- To implement the Convention CITES
- To strengthen the Supervising Forest Agency - OSINFOR
- To warranty the legal procedure of the wood for the export of species listed within the Convention CITES
- To improve the native communities participation in the management decisions for the forest resources.

THE PERUVIAN FOREST SECTOR



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- **Absence of a National Forestry Policy**
- **The illegal logging violates the rights of communities and local settlers, generates forced work situations, slavery, exploitation, it affects the health and life conditions of the amazonian populations.**
- **It also violates the forest institutionality and the authority of the State**
- **The management of the Forest Resources constitutes one of the greatest worries for the International Community**

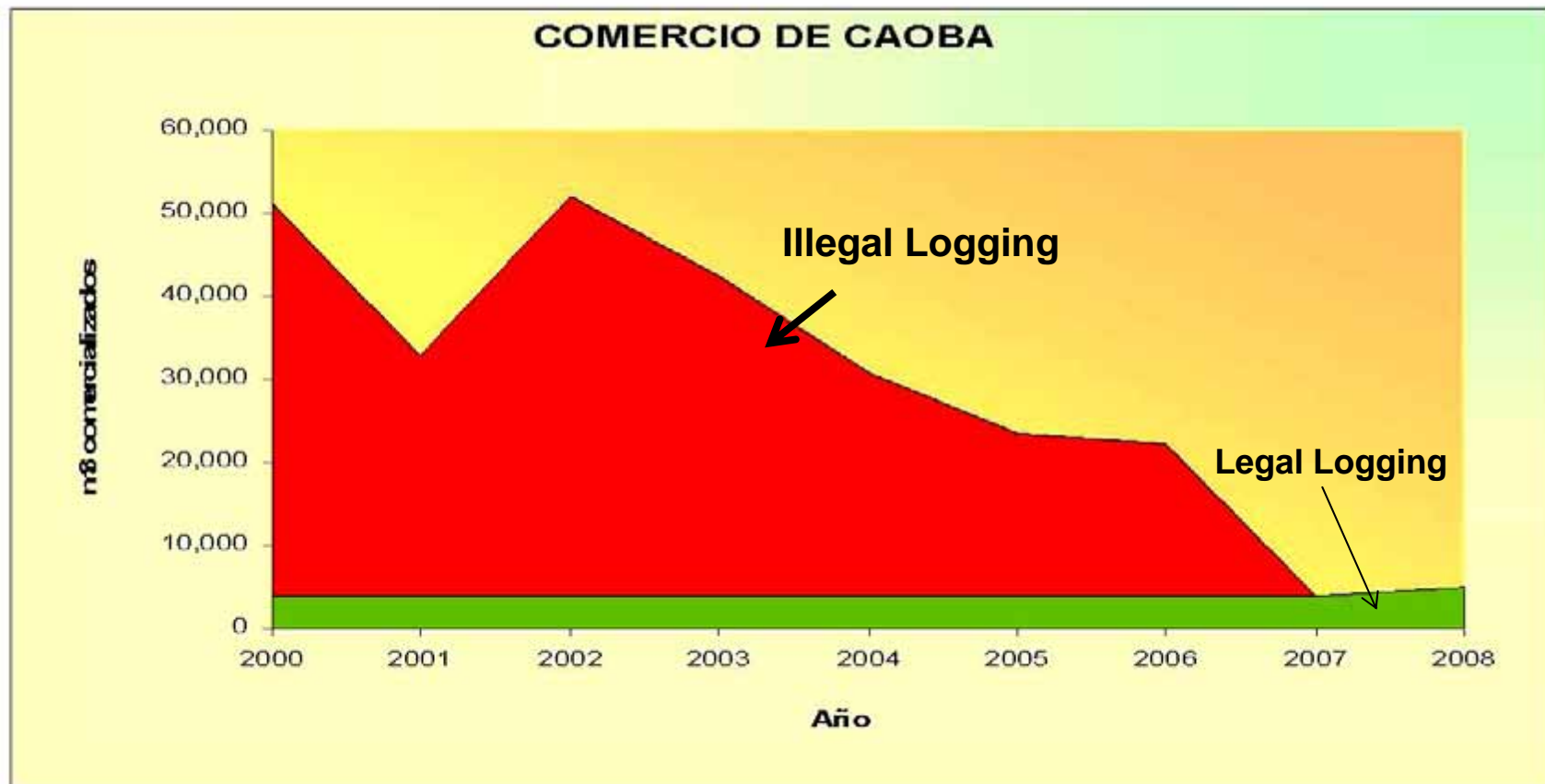


ILLEGAL LOGGING IN PERU:



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- **INRENA (2008):** In the last seven years more than 60% of the exported wood from Perú is illegal – Breach of CITES
- The EU has restricted the imports of woods from tropical forest,
- It causes economical losses. It also affects the forest resources

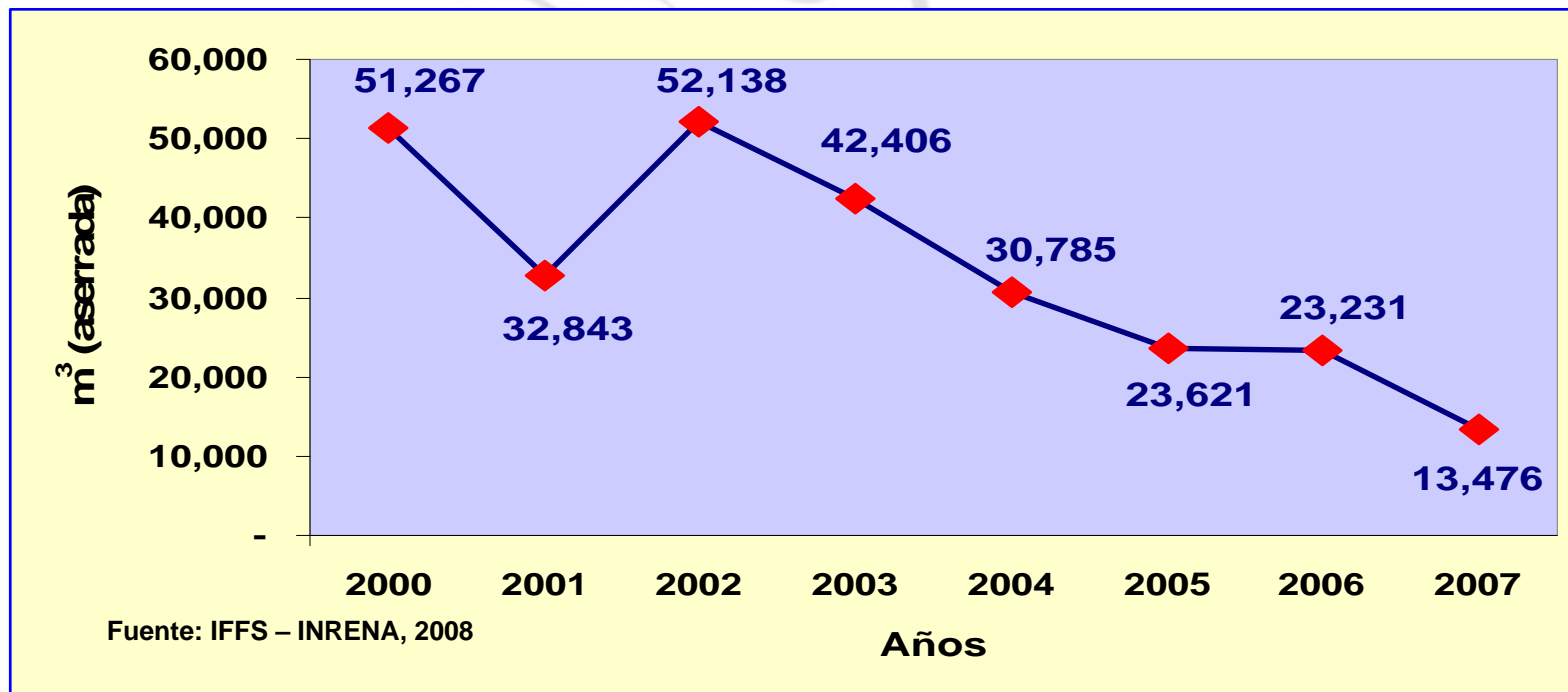


EXPORTS OF MAHOGANY (*Swietenia macrophylla*)



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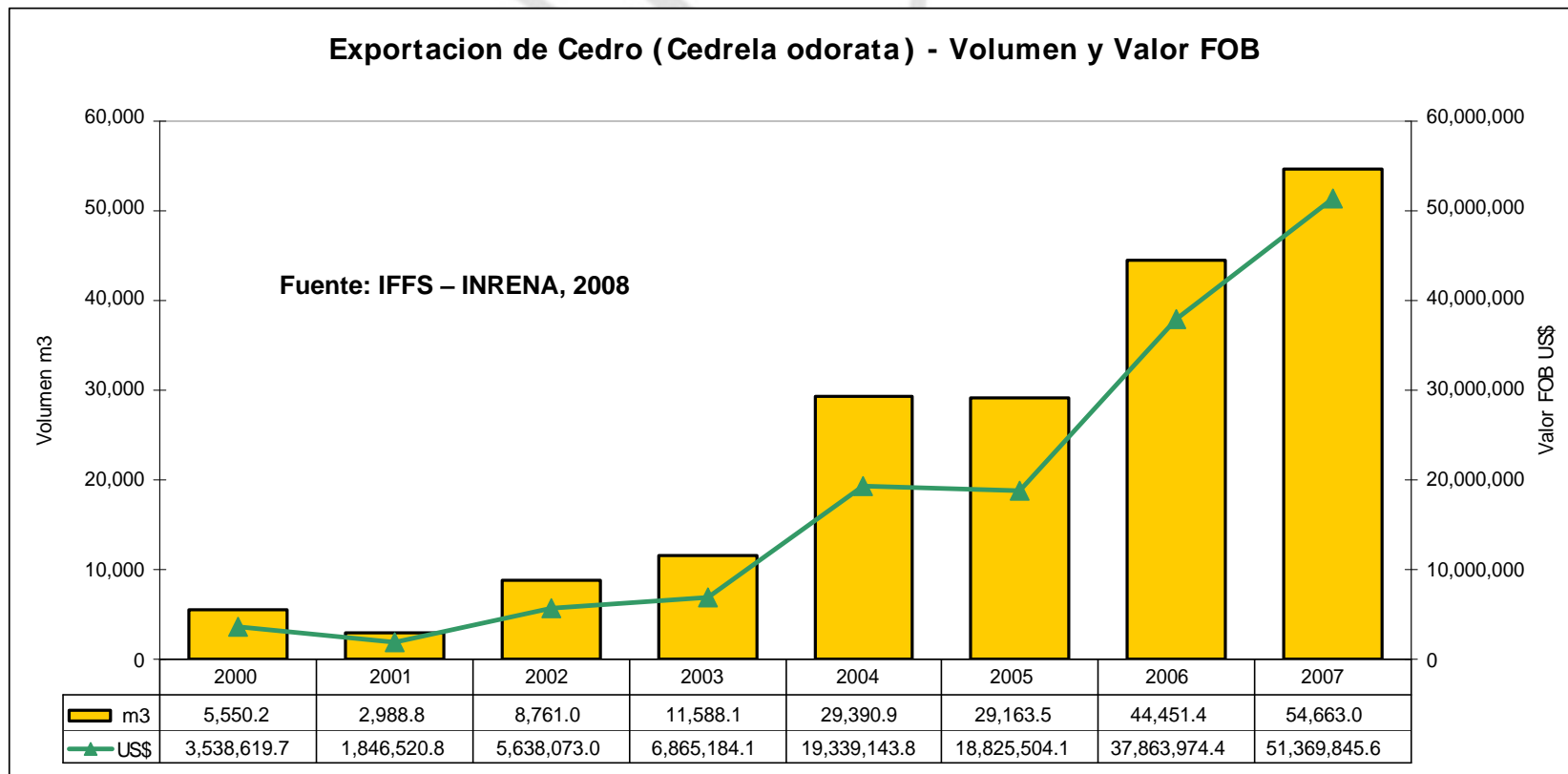
- INRENA (2008): 86% of the mahogany commercialized in the last 07 years was illegal, (237,761 m³, equivalent to US \$ 273, 432 millions).
- Mahogany: Decrease of the natural populations – Commercial extinction of the speices, however we are still exporting “legalized” wood.



EXPORTS OF CEDAR (*Cedrela odorata*)



- INRENA estimates that 70% of exported cedar in the last 07 years comes from illegal origin (125, 724 m³, equivalent to US \$ 113´151, 600 millions)
- The illegal extraction of cedar has increase more than 600 % of the historical record of export



IMPACTS OF ILLEGAL LOGGING



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SOCIAL:

- Violation of the rights of indigenous communities
- Health problems and poverty
- Forced work
- Exploitation



ENVIRONMENTAL:

- Deforestation
- Susceptibility to land use change
- Biodiversity loss
- Soil and water contamination
- Invasion into the National Protected Areas



ECONOMICS:

- Tax evasion
- “Laundering” of the money
- Traffic of wood
- Natural resources loss



WEAKENING OF THE FOREST INSTITUTIONALITY



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- **Inadequate hierarchical level**
- **Forest Technical administrations are not functionally decentralized.**
- **High susceptibility to corruption**
- **Lack of independent inspections in the Forest Concessions.**
- **Absence of an Integral System of Forest Information**
- **Violation of the Technical Norms (Efficiency coefficient in timber primary and secondary industry for export - Cedar and Mahogany)**

INDEPENDENT FOREST FISCALIZATION:

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Law 27308, Art. 6°: Creates the Oversight Agency for Forest Resources - OSINFOR, belongs to the Presidency of the Cabinet. OSINFOR has functional, technical and administrative autonomy.

Funcions:

- Supervising and controlling the contracts of forest concessions
- Applying the sanctions that correspond according to the Regulation

DS N° 036-2004-AG resolved the joint fusion of OSINFOR with INRENA.

- OSINFOR lost its autonomy as a supervising agency.



- **2004 - 2007: INRENA has developed 140 ocular inspections in forest concessions. Only 34 % (51 / 150) complied the regulations and were able to export.**
- **48.91% of the mahogany potential declared was from false information (13,143.50 m³ of wood did not exist in the authorized areas).**
- **2008: The Forest Agency (Intendencia Forestal y de Fauna Silvestre – INRENA) controlled the export of 8,806.15 m³ of wood which had a controversial origin, valued in US \$ 15´ 851,070.00 FOB.**
- **February 2008: Violations of Technical Regulations may permit export illegal cedar and mahogany until 2009.**

NUMBER OF INSPECTIONS TO VERIFY MAHOGANY

For the quota of Export 2007

PROCEDENCIA	SITUACION	ATFFS	COATCI	DACFFS	OSINFOR	Total
COMUNIDAD NATIVA	APTO	4		3		7
	CUENCA	7		1		8
	EN EVALUACIÓN	2		1		3
	OBSERVADO	2	1	32		35
	RETIRADO	1				1
Sub - Total		16	1	37		54
CONCESION FORESTAL	APTO	44		3	7	44
	CUENCA	1				1
	EN EVALUACIÓN	5		5	3	13
	OBSERVADO	5	3	10	5	23
	RETIRADO	5				5
Sub - Total		60	3	18	15	96
Total general		76	4	55	15	150

Fuente: IFFS – INRENA, 2008



- **INRENA implemented normative adjustments to avoid the legalization of illegal wood through:**
 - Obligatory inspections of the forest potential,
 - Regulation of other modalities of forest extraction
 - Adjustments to the COEFFICIENTS OF EFFICIENCY during harvesting and industry, for mahogany and cedar export.
- Applications of Technical regulations decreased, at least, in 50% "legalized" cedar and mahogany for export.



Árbol
en pie

100 m³ (r)



Madera en
troza

71%

71 m³ (r)



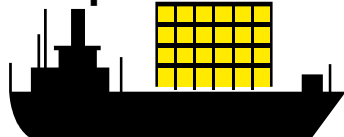
Madera
aserrada

52%

37 m³ (s)



Madera para
exportación



70%

26 m³ (s)

RJ N° 002-2008-INRENA
Coefficient of Efficiency for
Swietenia macrophylla

RJ N° 017-2008-INRENA
Coefficient of Efficiency for
Cedrela odorata

RJ N° 032-2008-INRENA
Delay the application of the
Coefficients of Efficiency for
Cedar and Manhogany until
2009



COLEGIO DE INGENIEROS DEL PERÚ

CONSEJO DEPARTAMENTAL DE LIMA

PRONUNCIAMIENTO Por un manejo forestal sostenible

El Consejo Departamental de Lima del Colegio de Ingenieros del Perú, a través del Capítulo de Ingeniería Forestal, manifiesta a la opinión pública su preocupación por el debilitamiento progresivo de la institucionalidad forestal como consecuencia de la resistencia de algunos sectores de avanzar hacia un manejo forestal sostenible por lo cual proponemos al Poder Ejecutivo lo siguiente:

1. Elevar el sector forestal a un nivel de viceministerio del nuevo Ministerio de Medio Ambiente, en el marco de la reforma de la institución ambiental.
2. Asegurar la independencia y autonomía técnica y administrativa del OSINFOR respecto del INRENA, de manera que asegure una fiscalización forestal objetiva.
3. Implementar la Estrategia Nacional de Lucha contra la tala ilegal (D.S. N° 014-2004-AG) y su modificatoria (D.S. N° 011-2003-AG) y Lucha Contra el Tráfico Ilegal de Maderas (D.S. N° 006-2003-AG) y el Plan de Acción de la Caoba.
4. Garantizar el cumplimiento de la legislación forestal, y específicamente de las Resoluciones Jefaturales N° 002-2008-INRENA y N° 017-2008-INRENA, las cuales son enfáticas en la protección del cumplimiento de los coeficientes de rendimientos para la determinación del volumen de exportación de la madera de la caoba y cedro. Asimismo derogar la RJ N° 032-2008-INRENA.
5. Derogar el D.S. N° 004-2008-AG y garantizar el respeto de las tierras forestales y bosques ribereños, como parte de los Recursos Forestales que constituyen Patrimonio de la Nación.

Lima, 10 de febrero del 2008.

A G E N D A



- INRENA begun administrative procedures to the Forest Concessionaires, public servers, consultants and any civilian involved that let and contributed to the illegal use of forest resources.
- The Forest Administration (IFFS - INRENA) has implemented the prohibition for harvesting mahogany from the Tamaya, Yavarí, Putumayo and Purús Basins, established in the Seventh Complementary Disposition of the Forestry Law, 27308. INRENA conducted 11 inspections to Forest Concessions in the Yavarí Basin (Loreto). According to INRENA (2008): the declared information was proven to be false. The authorized volumes of Cedar and Mahogany were used to “clean” wood of illegal origin from national as well as transnational traffic.
- 09 verifications in concessions for timber and non timber products, in order to prove the existence of cedar and mahogany. The results showed that there is not such declared potential.

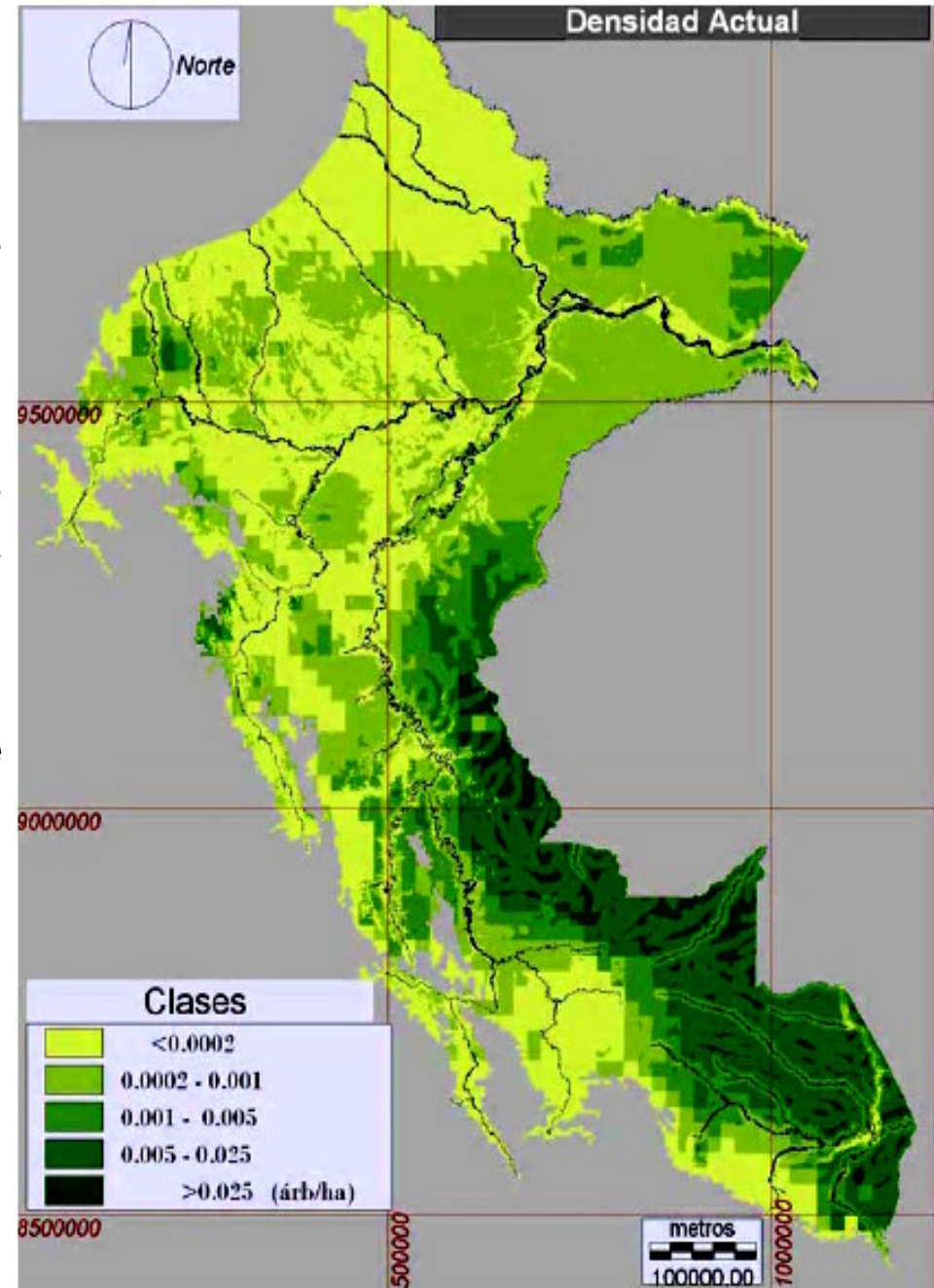
IMPLEMENTATION OF THE APPENDIX II CITES FOR THE EXPORT OF MAHOGANY



- 15 Nov. 2003 - XII Conference of the Parties CITES (Chile): approved to include mahogany to the **Appendix II of CITES**.
- At the present, the CONVENTION CITES has not been complied
- The Lists of Threatened species are not updated.
- There is a small numbers of studies about the Conservation Status of natural populations of endangered species: *Dipterix* spp., *Chorisia* spp., *Cedrela* spp., *Virola* spp., others.
- The Forest administration lacks an Anti-corruption Strategy
- The executive role of the Multisectorial Commission for the fight against the Illegal Logging has weakened.

Conservation Status of *Swietenia macrophylla* in Perú

- Durante los últimos 20 años las poblaciones de Caoba en el Perú han **disminuido dramáticamente**
- **No se cuenta con información** detallada de inventarios que permitan estudios poblacionales y ecológicos de la especie
- Se estima que la población actual de Caoba es menos de **305,000 Individuos**, de los cuales más del 50% podrían ser individuos de tamaño comercial
- La Autoridad Científica CITES en Perú considera que la Caoba está en proceso de **extinción comercial**.



Fuente: Vargas y Lombardi 2006

IMPACTS OF OTHERS FTA



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- The Peruvian Government is promoting other FTA: Canada, Australia, China, EU.
- A National Forest Policy could harmonize the different compromises assumed in several International Agreements.

ECONOMÍA 19

DOMINGO 10/2/2008
LA REPÚBLICA

EN EL MARCO DE LA POLÍTICA DE APERTURA COMERCIAL

Perú inicia conversaciones con Australia para suscribir un TLC

... para concretar

• Próximos acuerdos serán con México, China, Corea y EFTA.

autoridades de Australia con miras a entablar negociaciones para suscribir un Tratado de Libre Comercio

EL DATO

INTERCAMBIO

ADECUÁNDONOS A LO PACTADO CON ESTADOS UNIDOS

Primeras medidas para el TLC estarían listas en tres meses

parte son medidas que son necesarias para reducir el efecto del terremoto, facilitar más inversiones, reducir el sistema ambiental y por el sector productivo agrícola habló ayer a CPN Radio.

Agregó que el hecho de que el Perú esté en negociaciones comerciales con Canadá, Tailandia, México y la Unión Europea es una muestra de que está reconocido como un buen socio comercial, así como un buen inversionista.

Indicó que para el 2009 se logrará un TLC entre la Comunidad Andina y la Unión Europea. Explicó que ya se ha avanzado en el diálogo político, a nivel comercial y en negociaciones de cooperación

En noviembre habría TLC entre Perú y China

SE INICIÓ RONDA DE NEGOCIACIONES

La meta de ambos equipos negociadores es su suscripción en cumbre APEC 2008

LA CIFRA

48,5%

Entre enero y noviembre del 2007 el intercambio peruano-

En noviembre el Perú firmaría el

acuerdos de implementación y afrontar el acuerdo, dice ministra de Comercio Exterior

La titular de Comercio Exterior y Turismo, Mercedes Aráoz, dijo que en tres meses se podría tener listo el primer paquete de medidas de implementación y para hacer frente al tratado de libre comercio (TLC) con Estados Unidos.

"Tenemos una parte bastante avanzada y conversada con el Gobierno de EE.UU., pero otra

ACUERDO Para el

PRO AMBIENTE. Aráoz dijo que un ministerio del medio ambiente convertiría al Perú en clave para la lucha global contra el cambio climático.



- ACTION PLAN -

- I. REFORM OF THE ENVIRONMENTAL INSTITUTIONALITY:**
 - 1 To develop and recommend guidelines and criteria for:**
 - The Reform process of the Environmental Institutionalality**
 - To implement a Forestry ViceMinistry**
 - 2 To promote the creation of the Environmental Attorney's Office.
To promote a culture of transparency in the public management**
 - 3 Supervise and to give opinion on the norms of adjustment to the implementation of the USA-Peru FTA**



- ACTION PLAN -

II. COMPLIANCE OF THE FORESTRY ADDENDA:

- 1 Supervise the Anti-corruption Strategy in the Forest Section**
- 2 Supervise the compliance of the agreements in the Forest Addenda**

III. STRENGTHENING OF OMBUDSMAN OFFICE TO SUPERVISE THE FOREST REGULATIONS

- 1 Strengthening the capacities of the Ombudsman Offices in the country to supervise the forest regulations**
- 2. Strengthening the capacities of the Ombudsman Offices affected by deforestation and controversial extraction of natural resources**



GRACIAS!



Lucila Pautrat

E-mail: lpautrat@defensoria.gob.pe

Phone: + 51 – 1 – 311 0300 (3057)



FOTOS: INRENA, 2005















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