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## Congress of the United States House of Representatives

June 5, 2015

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The Honorable Michael Froman  
United States Trade Representative  
600 Seventeenth Street  
Washington, DC 20506

Dear Ambassador Froman:

Since performance speaks so much louder than promises, I have sought to determine the willingness of USTR to fulfill its law enforcement duties and specifically whether USTR has sought effective enforcement of the Peru Trade Promotion Agreement Annex on Forest Sector Governance. Yesterday, the Environmental Investigation Agency (EIA) issued a report that concluded, "While the U.S.-Peru FTA included laudable and innovative new provisions to address environmental impacts in trade agreements, the complete failure to enforce these obligations fundamentally undermines the effectiveness of these measures."

One measure of your ineffectiveness is that illegal logging, destruction of rain forests, and export of endangered tree species remains rampant in Peru. As noted by EIA, "[i]llegal logging in Peru and the associated trade remains a serious and unabated problem." Another is the manner in which USTR has failed to ensure a comprehensive five year audit under the Annex in Paragraph 6(a). After nonresponses to repeated requests both from me and Ways and Means Trade Subcommittee staff that you provide the audit report mandated by the Annex in Paragraph 6(a), I put that request in a letter on May 6. You answered with a May 14 email to my office during the middle of your TPP briefing. That email included 130 pages in Spanish, which appears to be paperwork associated with some inspections and verifications of concessions. These are documents that could be useful to an auditor to address some parts of an audit but they are certainly not an audit report. Since May 14, repeated requests for an explanation of why no audit report was included with these documents have again produced nonresponses.

Finally, I had an opportunity to voice my concerns to you personally this Wednesday, June 3, at your briefing. You asserted unambiguously that you had provided the formal audit report, when you quite clearly have not. Your claim at the same briefing that you had replied to my followup inquiry "this morning" was also inaccurate.

Last year, USTR initially seemed unfamiliar with the auditing process. Next, it claimed Peru lacked the resources to audit and that no audit could be provided until an audit manual was developed. This year you contend that auditing was completed before the audit manual was issued. While USTR has not provided a copy of that manual, released in April, I have obtained it elsewhere. This very manual, which USTR claimed was a prerequisite to performance of an audit makes clear that what you provided is not an audit report.

To date you have not provided the required audit report, as made clear by the summary below, because they are still not completed, more than a year after they were due.

- (1) Please provide me with the audit report for the audits that have been completed pursuant to Paragraph 6(a) of the Annex.
- (2) If these five year audits were not completed, contrary to your assertion in Wednesday's briefing, then please let me know the status of the audits for each of the producers and exporters – what phase the audits are in, when they will be completed, and when the audit report will be ready.
- (3) I am ready to review the audit report immediately, as I reiterated in person at our briefing Wednesday.

As the summary below of efforts to obtain these documents makes clear, USTR should either indicate that there is no audit report or provide the report:

The Annex requires the audits to be performed every five years. On January 24, 2014, you received a letter from Mr. Levin noting that the audits were imminently overdue, with February 1, 2014 being the fifth anniversary of entry into force. You responded on March 24, 2014, noting that you were “committing to work with Peru to ensure that it carries out the five-year audits called for in Paragraph 6(a) of the Forest Annex.” You noted that you had raised the issue with your Peruvian counterpart, and your staff explained that your counterpart's reaction was to thank you for the “gentle reminder.” Your staff had previously explained, on November 22, 2013, that the audits had not yet been performed because the manual providing guidance as to how to conduct those audits had not yet been finalized.

Staff conversations about Peru, which expanded last summer to include concerns that Peru has rolled back its environmental laws in a manner contrary to its obligations under the Agreement, continued through 2014. According to USTR, the audit continued to remain unperformed pending finalization of the audit manual.

Nevertheless, in January of this year USTR staff indicated that the audits had been completed. The audit manual that your staff indicated was a prerequisite for the conduct of the audits was issued in April 2015 – that is, more than two months after your staff indicated the audits had already been completed.

What you emailed on May 14 appears to be verifications of individual transactions, consistent with Paragraph 3(g) of the Annex. These are not the same as an audit under Paragraph 6(a). What you sent is consistent with documents the authorities would gather in merely Phase I of the audit, as set out in the audit manual.

These audits are a critical tool to identify and redress ongoing illegal logging in Peru and provide an important measure of how future environmental obligations will be enforced in Peru and elsewhere. Please provide the material long requested, or simply indicate that the audit report does not exist.

Sincerely,

A handwritten signature in blue ink that reads "Lloyd Doggett". The signature is written in a cursive, flowing style with a large initial "L" and "D".

Lloyd Doggett