

# Laying down the law in Peru

## Peru holds out great hope for its new forestry Act\*

**T**HE Forestry and Wildlife Law, which was promulgated by a military government in the 1970s as Decree Law No 21147, governed forest management in Peru for more than 25 years. In 2000, National Congress passed a new law, Act No 27308, after eight years of negotiation with the various forest-sector stakeholders, ushering in a new era in participatory forest management.

The significance of this new forest-policy instrument lies in the broad-based, inclusive process that gave rise to it. The new Act was the subject of debate in four public hearings and an international discussion, while its regulations were developed by 15 working groups comprising representatives of forest producers, government agencies, environmental non-governmental organisations, the academic and research sectors, agricultural organisations, industrialists, Amazon native communities and other relevant groups.

### Significance of the forest sector in Peru

Peru has 71.8 million hectares of natural forests, making it the eighth most forested country in the world; after Brazil it contains the largest tract of Amazonian forests.

The country's rural population relies heavily on forest resources and some communities, such as indigenous peoples in the Amazon, are totally dependent on forests for their livelihoods. Even though national statistics currently show that the forest sector makes a limited contribution to gross domestic product (just under 1%), these don't take into account all the goods provided by the country's forests, nor the substantial environmental services they provide.

It has been estimated through sectoral policy baseline projections that with the sustainable harvesting of 20 million hectares of permanent production forests (just over half of the production forests of the country), the contribution of the forest sector to the national economy could increase significantly in terms of: a) employment generation, with an estimated 171 000 new direct jobs; b) timber production, with an estimated production of 10 800 000 m<sup>3</sup> in roundwood or 4 320 000 m<sup>3</sup> in finished

products; and c) exports, with a target of US\$1.5 billion per annum within the next ten years.

Further, the promotion of a reforestation program to establish 100 000 hectares per year in the Highlands (Sierra) and Forest (Selva) regions could generate 80 000 new jobs for unskilled manpower. Thus, the enlightened development of the forest sector in Peru offers a range of possibilities for an integrated solution to the economic and social problems of the rural population.

### Outline of the new legislation

Act No 27308 and its regulations approved by Supreme Decree No 014-2001-AG contain proposals for change and modernisation in the following areas:

- participatory and decentralised approaches;
- recognition of forest-use diversity and users;
- search for sustainability: sustainable forest utilisation, conservation and rehabilitation;
- promotion as well as control; and
- focus on effective management.

In addition, sustainable forest use is fostered by requiring:

- forest management according to land-use capacity;
- access to resources through long-term concessions including rights and responsibilities for concession-holders, with possibilities for automatic renewal if and when sustainable management compliance is verified;
- compulsory forest management;
- decentralised follow-up and monitoring mechanisms;
- promotion of voluntary forest certification; and
- incorporation of new options for participation in conservation (conservation concessions) and other forest uses (ecotourism, non-timber products, environmental services), thus generating an interest in forest care.

Table 1 summarises the main changes to the forestry regime introduced by the new legislation.

## Afterglow

**Table 1:** Changes to the Peruvian forestry regime under Act No 27308

BEFORE	AFTER
Primary focus on timber production	Focus on a diversity of products and recognition of multiple forest uses and users
Disorganised timber harvesting through several dispersed, small-scale and short-term contracts with a lack of management plans	Sustainable forest harvesting based on long-term concessions under management plans within permanent production forests designated through a land-use management process
Centralised administration with limited stakeholder involvement	Administration responsibilities shared by various institutions and at different levels
Excessive intervention of the central authority	Increased participation and responsibility of the private sector in forest management and administration
A lack of certified production forests	Legal framework promoting forest certification
Limited economic and social impact	Improved conditions for achieving increased economic and social impacts
Conflicts over community lands and problems with overlapping	Respect for native and rural community rights and lands

## Sharing and caring

**Table 2:** Institutional responsibilities for implementing Act No 27308

INSTITUTION / AGENCY	MAIN DUTIES
Ministry of Agriculture	<ul style="list-style-type: none"> <li>• Regulate and promote the sustainable use of forest resources</li> <li>• Approve Forest Heritage status and zoning</li> <li>• Establish production forests</li> <li>• Approve forest development plan</li> </ul>
INRENA	<ul style="list-style-type: none"> <li>• Forest and wildlife authority at the national level responsible for the management and administration of resources</li> </ul>
National Consultative Council for Forest Policy (CONAFOR)	<ul style="list-style-type: none"> <li>• Provide guidance in relation to policies and feedback on development plans and other sectoral issues</li> </ul>
OSINFOR	<ul style="list-style-type: none"> <li>• In charge of supervising forest concessions for timber production purposes</li> <li>• Supervise and monitor concession contracts, compliance with plans, etc</li> </ul>
Fondebosque (Forest Development Promotion Fund)	<ul style="list-style-type: none"> <li>• Financing through competitive mechanisms for management, reforestation and other forest activities</li> </ul>
Ad Hoc Commission	<ul style="list-style-type: none"> <li>• Tendering or auction of timber concessions in permanent production forests</li> </ul>
Management committees	<ul style="list-style-type: none"> <li>• Participate in forest monitoring and control activities</li> <li>• Promote the resolution of any conflicts that may arise</li> <li>• Safeguard the conservation and sustainable use of forests</li> </ul>

## Major issues

The main issues addressed by Act No 27308 and its regulations are described below.

### Forest heritage and management

The new legislation defines production forests, forests on protection lands, forests for future utilisation (plantations, secondary forests and forest rehabilitation areas), community forests and local forests. All of these land units, as well as state-owned lands with forestry as their primary use according to the land-use capacity classification, are part of the national forest heritage and may not be used for agricultural purposes or any other activities that may affect vegetation cover or the sustainable use and conservation of forest resources. Further, forest management units are zoned and management committees are created as a participatory mechanism for the involvement of landholders and local governments in forest management. The *figure* shows harvesting units in Zone 2 of the Permanent Production Forest of Ucayali, which covers a total area of 4 089 926 hectares.

### Access to resources

Access to forest resources is facilitated through concessions, permits and authorisations.

**Concessions** are located in public areas designated for: the harvesting of timber (and other products as appropriate) in permanent production forests; the harvesting of products other than timber in production or protection forests (excluding vegetation cutting); and ecotourism and conservation purposes, mostly in protection forests. Under the new law there are two basic types of logging concession: i) 10 000–40 000-hectare concessions based on public auctions; and ii) 5000–10 000-hectare concessions based on a public bidding system; both are offered for renewable periods of 40 years. The law also allows for a transition system for the sale of wood by small-scale loggers who have not qualified for the new concessions.

**Permits** are issued for the harvesting of timber and non-timber products on private or community lands and in forest plantations and secondary forests. Only non-timber products may be harvested in forest reserves. Permits are also issued for research purposes.

**Authorisations** are issued for harvesting purposes in the dry forests of the coastal region, in non-timber product vegetation associations, and in local forests (forests up to 500 hectares in size for management by local

governments or other recognised local organisations for renewable periods of 20 years), or for the extraction of samples for research and/or cultural dissemination purposes.

### Harvesting conditions

The general conditions for the harvesting of resources are:

- consistency with land-use management plans;
- management plans developed and approved by the relevant authority;
- payment of harvesting rights;
- submission of timely, reliable reports and audits; and
- use of resources for authorised purposes.

### Wildlife

The sustainable harvesting of wildlife for commercial purposes should take place in animal-breeding farms and wildlife management areas, and non-commercial harvesting may be carried out by zoos, rescue centres (for the reproduction of endangered species) and temporary custody centres. Several different types of hunting practice are also defined and allowed where certain conditions are met: subsistence hunting, sanitary hunting, commercial hunting, scientific hunting and sport hunting (licences are required for the last three). The new legislation also includes provisions for the identification and protection of endangered species and habitats.

### Incentives

The law contains provisions aimed at encouraging sustainable forest management among concession-holders. It stipulates a 25% reduction in the payment of harvesting rights for: a) forest certification; and b) the implementation of integrated projects for resource harvesting and the processing (in plants located in the region of the concession) and manufacture of value-added products.

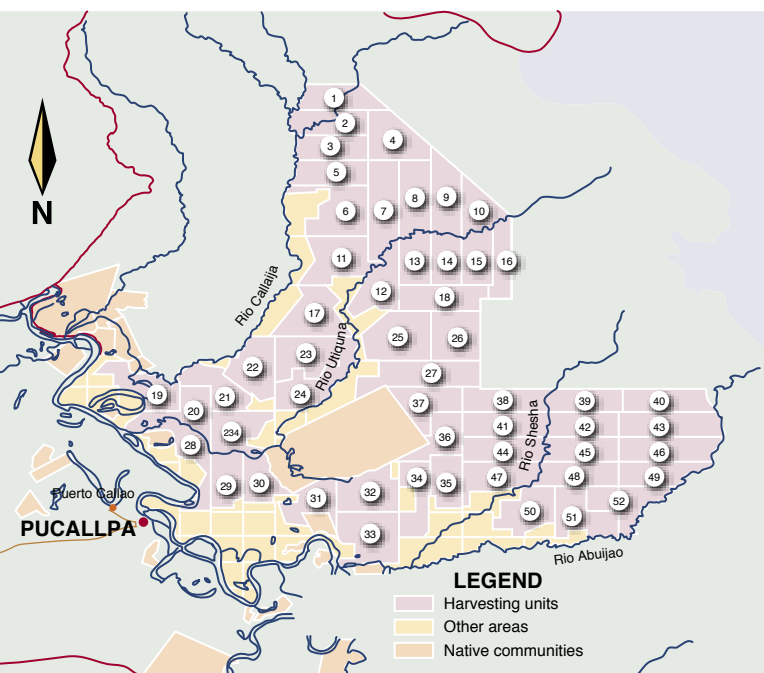
### Monitoring and control

The law provides for the monitoring and control of concessions, authorisations and permits based on:

- compliance with the general management plan and yearly operational plan;
- the concession-holder's report submitted as a statutory declaration;

## Ama-zone

Harvesting units in Zone 2 of the Permanent Production Forest of Ucayali



- monitoring by third parties;
- voluntary forest certification;
- the distribution of roles between the National Institute for Natural Resources (INRENA) and the (yet to be created) forest concessions supervisory body (OSINFOR);
- the participation of stakeholders through management committees; and
- transparency in information processes.

## Forest plans

The law specifically stipulates the responsibility of developing compulsory forest-sector management tools, including: a national forest development plan, currently being formulated with the participation of all forest-sector stakeholders; a national plan for deforestation prevention and control; a national reforestation plan; and a forest fire and pest prevention and control plan, including the establishment of a national forest fire prevention system.

## Institutional framework

The new forest legislation identifies the institutions responsible for ensuring compliance and implementation, defining and allocating specific functions for each of them (Table 2).

## International forest policies

The new Act is framed within the policy guidelines of major international treaties, agreements and conventions to which Peru is a signatory party, including the International Tropical Timber Agreement (ITTA), the main United Nations environmental conventions, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and the Amazon Cooperation Treaty. In

particular, the new law is consistent with the main guidelines related to forest management developed by ITTO within the framework of the ITTA.

## International support

Peru's new Forestry and Wildlife Law is the result of professional and institutional efforts from government and non-government sectors over a long period in a fully participatory process. These efforts have received invaluable financial and technical support from international organisations and agencies such as ITTO, the Food and Agriculture Organization, the Centre for International Forestry Research, bilateral organisations, and the World Wide Fund for Nature.

Of special significance was the fundamental support received by the Peruvian government from ITTO, which, through ITTO PROJECT PD 42/96 (F): 'Support for the development of a Forestry and Wildlife Law', provided financial support to cover major costs related to the drafting of the legislation and its regulations and subsequent dissemination. The project was completed late last year, but other ongoing support (eg ITTO PROJECT PD 23/00 REV.4 (F) and ITTO PROJECT PD 178/02 REV.1 (F)) will continue to build capacity for sustainable forest management in the Peruvian Amazon.

## Further work

The effective implementation and use of this new legal instrument by government, industry and civil society will require further training and dissemination. It is important that it is promoted beyond the technical circles of the public forest administration to prevent it from becoming just another enigma for users. Further, the fulfilment of commitments by nascent institutions such as OSINFOR and Fondebosque, as well as pending actions regarding the development of the major forest-sector management tools noted above, will require new technical and financial resources, some of which will need to be provided by the international community.

Following the designation of permanent production forests, the forest administration is proceeding with the forest concession process as a priority, based on the experience gained in the departments of Madre de Dios and Ucayali, through the Ad Hoc Commission set up for this purpose. Similarly, a change of attitude among industrialists and private investors is being promoted to enable them to access reforestation benefits as an economic production activity within the framework of the new legislation. To this end, it will be necessary to incorporate economic, financial and tax incentives into the new law so as to encourage investments in plantations. Considering the immense biodiversity potential of the country, it will also be necessary to promote and encourage the multiple use of forests. In this context, the benefits of forest conservation and management in carbon sequestration and in the maintenance of essential environmental services should be taken into account.

These major efforts, and the strong participation of the government in fora and events related to the international forestry agenda, are the early outcomes of this new legislation. The ultimate objective is to achieve sustainable development in the near future.

*\*This article was written by staff of the INRENA-implemented ITTO PROJECT PD 42/96 (F) and translated from the Spanish by Claudia Adan. The project was funded by the governments of Japan and the USA.*