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Compliance with international human rights obligations to prohibit slavery and forced labour

Anti-Slavery International has evidence that the Government of Peru is not in compliance with its international commitments to ensure that no one is held in slavery, servitude or required to perform forced labour. We have documented the use of forced labour in logging, domestic servitude, trafficking in women and children, as well as the use of very young children in mines (full details of which are in the report attached as an annex to this submission in a separate file).

One of Anti-Slavery International's primary concerns is related to forced labour in logging. The ILO estimate that 33,000 people are subject to forced labour in the Peruvian Amazon, with the main areas being Ucayali, Madre de Dios, Loreta, Pucallpa, Atalaya and Puerto Maldonado.¹ There are two main forms of forced labour in logging and both employ deception to entrap workers in a cycle of debt and servitude, that can be passed on from one generation to the next.

The ILO estimates that a third of all forced labour in logging in the Amazon takes place on logging camps. Approximately 75 per cent are *mestizos*² from cities in the highlands and on the coast, whilst 25 per cent are indigenous, recruited from the local areas. In some cases, local indigenous leaders are contracted to recruit men from their communities and in rare cases armed groups have been known to capture indigenous men and force them to work in the camps.³

A cycle of indebtedness is created by the payment of an advance and subsequent purchase of food and basic goods from the camp store. The goods are sold at inflated prices whilst the workers also pay accommodation and medical costs, as well as interest on their debt.

The camp bosses employ various methods to control the workers; from the use and threat of violence (camp guards are usually armed) to the retention of documents and wages. Compounded by the fact that the camps are in extremely isolated parts of the Amazon, escape is virtually impossible.

¹ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *El Trabajo Forzoso en la Extracción de la Madera en la Amazonía Peruana*, ILO, Geneva, March 2005, page ix.

² Mestizos are people of mixed indigenous and European descent.

³ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page xi.

Workers are often not paid until the end of the season, when they are told that their debts are greater than their earnings over the season and they will have to return next season to pay off the outstanding debt.

Timber company bosses also use middlemen to approach indigenous communities and offer them advances in the form of basic goods, public goods (such as building a school or playing field) or money. These advances form part of a contract whereby the community agrees to provide an amount of timber of a specified quality, although usually the contract does not detail the price of the timber.⁴

The middlemen charge excessively high prices for the goods whilst under-valuing the timber. When indigenous workers provide the agreed quantity of timber they are told that it is of inferior quality and that they must provide more timber in order to receive their money. At the same time, workers are accumulating debts with the middlemen by purchasing food and basic goods from them at three to five times the market price. The middlemen repeatedly postpone final payment on delivered timber whilst continuing to under-value it thereby increasing the debt.

Additionally, the communities' "contracts" often state that they are not allowed to sell their timber to, or work for, anyone else. Thus the communities become increasingly indebted to the middlemen, are underpaid for their timber and cannot seek work elsewhere. Middlemen can exploit this situation by demanding that the debt be repaid by providing free labour at logging camps. In this way the initial advance is a mechanism to create a pool of forced labourers.

The institutional framework for combating forced labour and the Government's response

The 1993 Constitution prohibits slavery, servitude and trafficking of human beings in all its forms (Article 2, no. 24). It also states that no one should be made to work without giving their consent and without reward, which should be fair and sufficient (Article 24). These constitutional norms, however, are not enshrined in legislation.⁵

There is very little in current legislation or the Penal Code that refers to slavery or forced labour. One labour regulation refers to the necessity of voluntary will when contracting labour⁶ and one article in the Penal Code refers to "crimes against the freedom to work".⁷ These measures are wholly inadequate for dealing with the practice of forced labour.

Interviews carried out by the ILO demonstrate that the authorities are aware of the problem. In Madre de Dios, an official of the Commission against Illegal Logging in the Ministry of Agriculture (*Comisión de Lucha contra la Tala Ilegal del Ministerio*

⁴ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 5.

⁵ Although Article 55 of the Constitution ratifies ILO Conventions 29 and 105 to form part of national legislation, the legal framework does not exist to typify forced labour as a criminal offence with sanctions or provide a means for reparations for forced labourers.

⁶ The same labour regulation also recognises the right to remuneration, although it states that this can be in money or in kind and does not specify the minimum that should be paid in cash.

⁷ This article refers to the use of threats and violence with the result of making someone provide free labour with absolute lack of any payment.

de Agricultura) has photographic evidence confirming the existence of illegal camps in the indigenous territories. A study in 2003⁸ found that in just one district in Madre de Dios, 92 per cent of the 261 camps in the area were on land of isolated indigenous communities. The ILO also spoke to a number of officials from the Ministry of Labour and the Anti-Logging Police who confirmed knowledge of the system of debt and high prices charged for food and basic goods⁹. However, most officials did not regard this practice as forced labour, rather a system of poor labour conditions.

The Government has recognised the existence of forced labour in the Amazon and accepted the ILO report's findings on methods of recruitment and entrapment, as well as the figure of 33,000 forced labourers in the Amazon.

In June 2005, the National Inter-Sectoral Commission for the Eradication of Forced Labour (*La Comisión Nacional Intersectorial para la Erradicación de Trabajo Forzado*)¹⁰ was established to tackle the issue. It is made up of the ministries of labour, agriculture, energy and mining, interior, justice, women and social development, and the national ombudsman.

A National Plan of Action for the Eradication of Forced Labour was published in November 2005. The Plan highlights the lack of knowledge and information available to the local population, as well as the role of local and regional authorities in recognising and preventing forced labour.

The Plan outlines the factors that lead to forced labour as being extreme poverty, very low population density in the Amazon, a lack of labour markets, a lack of credit, a lack of state presence, impunity, and a lack of knowledge regarding timber markets and prices. It also identifies indigenous populations as the most vulnerable and therefore requiring special attention from the Commission.

The key components in the Plan are legislative reform, institutional reform, building capacity of vulnerable groups, awareness raising, training of authorities, employers, workers groups, civil society and local populations, and further investigations into the other forms of forced labour.

Challenges and priorities for the Government

The Peruvian Government has been aware of the issue of forced labour for more than ten years and its acceptance of the ILO report on forced labour and the creation of the National Commission on Forced Labour and the National Plan of Action are promising steps forward in combating the problem. However, the Plan still awaits full implementation and this needs to be prioritised by the Government if it is to make progress in eradicating forced labour.

Legislative and Penal Code reform are critical elements of the Plan, and should be implemented immediately. The National Commission proposed the creation of a specific law focused on forced labour that will tackle the issue holistically, focusing

⁸ Schulte-Herbruggen Bjorn and Hefried Rossiter, *A Sociological Investigation into the Impact of Illegal Logging Activity in Las Piedras, Madre de Dios, Peru*, London, 2003.

⁹ Alvaro Bedoya Silvia-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 11.

¹⁰ From hereon referred to as the Commission.

on all the activities that are involved in forced labour, including entrapment and the creation of a cycle of debt. However, the Plan still talks in terms of assessing the viability of changes to the law. It is imperative that the Government puts together a timetable for changing legislation and the Penal Code. These reforms should include establishing a legal definition of forced labour and specific labour regulations to regulate the sectors and activities where forced labour is present. These laws must then be rigorously enforced.

The Commission does not have any permanent staff or funds dedicated to carry out the National Plan. Changing entrenched practices in remote parts of the country will require substantial resources over a significant period of time. The Government must provide funding for the National Plan through its national budget and make combating forced labour a national priority.

The Government has yet to consider the issues of rehabilitation and compensation for forced labourers, both of which are absent from the current National Plan. These elements are key to any plan that wishes to eliminate the practice permanently and prevent workers from becoming forced labourers again at a later date.

The Government may need technical assistance, as well as financial support, in order to implement the Plan, both from the ILO and from other UN agencies.