

Inputs in relation to Human Rights Council resolution 53/6 on human rights and climate change

1. Please describe any relevant quantitative and qualitative data as well as mechanisms and tools to measure, monitor, report on, and evaluate the impacts of loss and damage, including from extreme weather and slow-onset events, on the full enjoyment of human rights. Please take into account, inter alia, the disproportionate effects on women and girls, children, youth, older persons, persons with disabilities, Indigenous Peoples, migrants, persons living in poverty and others in vulnerable situations.

In Peruvian context, there has been a failure to comply with the implementation of climate emergency regulations, as well as with air quality standards¹.

In January 2022, Supreme Decree No. 003-2022-MINAM was published, which declared the national climate emergency to be of national interest, where certain priority actions were established, with the deadline being in October 2022. However, most measures have not been complied with, except for a land classification regulation.

Thus, there are measures not complied with by the Peruvian State, these are:

- **For the Ministry of the Environment:** the update of the National Climate Change Strategy with a vision to 2050 is overdue. And, the design the process of reception, administration and distribution of benefits from various sources, national and/or international, that allows implementing the phases for the Reduction of Emissions derived from Deforestation and Forest Degradation (REDD+), and entrust PROFONANPE with the administration of the funds derived from this process.

-**For the High Level Commission on Climate Change:** the proposal of mitigation and adaptation measures that will allow the implementation of the Nationally Determined Contributions of a 40% reduction in greenhouse gas emissions and resilience to the adverse effects of climate change, respectively, in order to contribute to the reactivation of the economy, reduce socioeconomic gaps and poverty.

-**For the Ministry of Health:** the update of the Tentative Programming of Nationally Determined Contributions to Adaptation in Health with a territorial approach is overdue. Along with strengthening the competencies of the human resources of the national health system for the implementation of the aforementioned contributions. Also, it's pending the approval of the guidelines for the incorporation of risk management in a context of climate change in investments related to establishments in the health sector within the framework of the National Multiannual Programming and Investment Management System, subject to a favorable opinion from the Ministry of Economy and Finance.

¹ This information based on 53 Submitters allege that the Government of Peru is failing to effectively enforce air quality and climate emergency regulations. Available in: <https://www.saca-seem.org/en/reg-sol/calidad-del-aire-y-emergencia-climatica/>

- **For the Ministry of Production:** it must be to approve the guidelines for the incorporation of risk management in a context of climate change in the investment projects of artisanal fishing landings within the framework of the National System of Multiannual Programming and Investment Management, prior opinion favorable from the Ministry of Economy and Finance.

- **For the Ministry of Economy and Finance:** evaluate the appropriate instruments for determining the carbon price and, based on this, identify the actions required for its progressive application according to national circumstances. Support efforts to promote the acquisition of electric vehicles (zero emissions) through tax policies aimed at promoting the introduction of said clean technologies that have been proposed by automotive unions.

- **For the Ministry of Energy and Mines:** The use of non-conventional renewable energy resources in the electricity generation matrix is overdue, under competitive and efficient conditions, progressively increasing new requirements with non-conventional renewable energy, in accordance with the supply and availability. The other measure pending is the demand from the electricity market, with a projection of reaching 20% of its share by 2030 and others.

- **For the Ministry of Agrarian Development and Irrigation and the National Forestry and Wildlife Service (SERFOR)** with the main objective of strengthening forest governance and control of deforestation, reducing it by up to 30% by 2030, promoting sustainable agriculture that considers the adequate suitability of the soil, it must be these:

- Give the titles of territory for the native communities (indigenous people), as well as promote the use of georeferencing, among others.

- Establish actions for the development of the study of the Estimation of the Index and percentage of illegal logging and trade of wood in Peru, in coordination with the Supervision Agency for Forestry and Wildlife Resources, National Forestry and Wildlife Service and regional governments; aligned with the National Multi Sector Strategy against illegal 2021-2025, approved by Supreme Decree No. 013-2021-MIDAGRI, and others.

- **For the Regional Governments, in coordination with the Ministry of Agrarian Development and Irrigation and others competent authorities:** it's important to establish prioritization criteria for work with the Agrarian Agencies or those that take their place in the Regional Governments, in the Peruvian Amazon with the objective of regularizing the delivery of possession certificates, in accordance with current forestry legislation. And, it's pending to implement institutional, legal arrangements and technical guidelines that allow efficiently, implementing natural infrastructure projects, planting and harvesting water, mainly in the headwaters of hydrographic basins vulnerable to climate change.

- **For the Ministry of Transportation and Communications:** the update of the National Vehicle Regulations to promote the entry of electric, hybrid and green hydrogen-powered vehicles is overdue, also the design of the mechanism of electromobility.

Regarding air quality, Peru has three types of regulations: air quality standards, maximum permissible limits of atmospheric emissions, and air quality monitoring. In Presidential Resolution No. 088-99-CONAM PCD, it is observed that the approval of the permissible limits

of boilers and turbines is still pending, although more than 23 years have passed, their regulation is still pending.

On the opposite, in specific air quality issues for sulfur dioxide, the health protection standard has been lowered. This, to the extent that Supreme Decree No. 003-2017-MINAM reduced the sulfur dioxide standard for 24 hours of exposure to 2050 ug/m³. The purpose of this relaxation in standards was to auction the most polluting smelters in the world from the La Oroya metallurgical complex. However, the auction failed and the complex became the property of the workers while remaining one of the most polluted places in the world, according to Live Science <https://www.livescience.com/30353-most-polluted-places-earth.html>

On the other hand, Supreme Decree No. 020-2021 of July 24, 2021, as part of the Environmental Quality Standards Plan (ECA) and Maximum Permissible Limits (LMP) for the period 2021-2023, the Ministry of the Environment established the sulfur dioxide standard update, but not yet approved. It should be noted that this regulation must be based on the precautionary principle and taking into account the 2013-2014 national air quality report of the same Ministry of the Environment², which indicates that in most cities in Peru, the value of 80 ug/m³ is not exceeded.

In addition to that, this Supreme Decree established the approval of the standard for particulate matter less than 1 micron (PM₁), which is essential for the preparation of greenhouse gas emissions inventories, given the double effect that this pollutant has both in the aspect risk to health and climate change; but it is still pending, despite the fact that the deadline expired in December 2023.

3. Please identify and share examples of promising practices and critical challenges in the promotion, protection, and fulfillment of the full enjoyment of human rights in the context of loss and damage, including examples that highlight multilateral cooperation and approaches, at global and regional levels, including equity-based approaches and solutions.

- We have a deep concern from last January 14th, 2024 over the publication and approval by insistence of the proposal to amend the Forestry and Wildlife Law, promoted by Congress through Bills No. 649, No. 894 and No. 2315 called "Law that modifies Law 29763, Forestry and Wildlife Law and approves complementary provisions aimed at promoting Forestry Zoning" in the Congress of the Republic of Peru, which goes against Peru's commitments in the fight against climate change, international treaties on environmental issues, trade and human rights.
- The approved bill includes a final complementary provision in the Forestry Law that would modify the rules for land use change by creating "exclusion areas for agricultural purposes" which would be exempted from land classification by major use capacity, as well as from the requirements for land use change (which are required by Article 38 of the Forestry Law). This would become a mechanism of impunity for the installation of agricultural or agroindustrial activities without previously evaluating whether an area has the capacity to be used as forest or agricultural land, benefiting actors that have previously failed to comply with the requirements of the Forestry Law, weakening forest

² Available in: <https://www.minam.gob.pe/wp-content/uploads/2016/07/Informe-Nacional-de-Quality-del-Aire-2013-2014.pdf>

protection and environmental management, promoting legal deforestation, and encouraging new and greater deforestation in the future.

- This legislative initiative, which has been promoted for two years, was returned to the Congress of the Republic of Peru in 2022 since it was observed by different instances such as the Ombudsman's Office, the Ministry of Agriculture, the Ministry of Environment, as well as the National Forestry and Wildlife Service (SERFOR, for its acronym in Spanish); likewise, embassies as well as different indigenous and civil society organizations have been expressing their high concern, which was expressed to the Delegation of the European Union in Peru in March 2023, proposing that within the framework of the Trade Agreement with our country, an analysis be prepared containing the different bills of this type, warning that what would be generated would be the destruction of our forests, non-compliance in the fight against climate change and the life and rights of indigenous peoples.
- It is worth mentioning that this concern was brought to the National Commission on Climate Change, a space designated to follow up on the implementation of the Trade Agreement with the European Union in environmental matters. However, due to pressure from some state sectors and the private sector, a position paper was not approved before Congress, despite having received initial support.
- In March 2023, the Congress of the Republic shelved the autograph, but given the request for reconsideration, on December 14, 2023, without further deliberation, and without taking into account the negative impact it will have on the indigenous peoples, the Amazon and the forests throughout the country existing on the coast and mountains, again ignoring the need for prior legislative consultation, this law was approved. On the same day, regulations were approved to appoint the last member of the Constitutional Tribunal, seriously questioned, to weaken the figure of effective collaboration that weakens the fight against criminal organizations and a law that weakens the internal democracy of political parties. This is an anti-democratic Congress, which strengthens the control of State institutions and legislates in favor of economic interests.
- It is worth mentioning that on December 13, the president of the National Confederation of Private Business Institutions (CONFIEP, for its acronym in Spanish) sent a letter to the Congress of the Republic urging the discussion and analysis in the plenary on the insistence of the Bills 649, 894 and 2315, arguing that "these projects not only guarantee legal certainty to farmers already established, but also seek a necessary harmonization with international regulations, such as the recent European regulation of zero deforestation import". Arguments that were warned at the meeting of civil society in the framework of the Subcommittee on Trade and Sustainable Development, which took place in Quito last October, would be used.
- This same argument has been used by the Congress of the Republic of Peru, referring to the urgency of these changes in view of the entry into force of the European Union standard, "which limits the import of cacao and coffee products that are produced in soils that have been deforested until December 31, 2020, to comply with this standard a product such as coffee and cocoa should be accredited"
- The congressmen who support the recently approved law take advantage of the legitimate concerns of small farmers who export to the European Union to justify the need for this law. But they hide the fact that it facilitates the titling of illegally deforested lands, validating a crime. It also runs the risk of encouraging conflict with native communities. The Inter-Ethnic Association for the Development of the Peruvian Jungle

(AIDSESEP), is the national indigenous organization in Perú, which has already warned that they will not allow third parties to enter their territories if they intend to destroy their forests under the protection of this law.

- We are concerned about the fact that the European Union Regulation 2023/1115 on deforestation-free products (EUDR) is being used as an excuse for the reduction of environmental standards, distorting the spirit of said Regulation and putting the country as a whole at risk of leakage of products associated with deforestation. Also, under Article 30 of the aforementioned directive on "cooperation with third countries", we express our concern about this situation of regulatory change and our willingness as civil society organizations to participate in cooperative actions for the construction of a roadmap that allows proper compliance with the EUDR and address the root causes that lead to deforestation and forest degradation, such as this change in the Peruvian Forestry Law.
- Finally, it should be noted that this law approved by the Peruvian congress weakens the international commitments and agreements signed by Peru, such as the Peru - European Union Trade Agreement, clearly going against Article 277 on the Upholding Levels of Protection, where it establishes that "No Party shall encourage trade or investment by reducing the levels of protection afforded in its environmental and labor laws. Accordingly, no Party shall waive or otherwise derogate from its environmental and labor laws in a manner that reduces the protection afforded in those laws, to encourage trade or investment.", which demonstrates a clear breach of the Trade Agreement.
- We are concerned about actions such as these, behind the backs of the population, which in the past have generated protests that we still remember with pain for the loss of lives that it meant, such as the Baguazo in 2009, under the false pretext of adapting Peruvian legislation to the requirements of the Free Trade Agreement (FTA) between Peru and the USA.