



4. To that description, I would add that I have visited forest management sites for mahogany in the Brazilian states of Pará, Mato Grosso, and Acre; I have been present during field inspections of management sites by the Brazilian agency responsible for regulating forest resources in the Amazon (Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis, IBAMA); and I have interviewed numerous Brazilian loggers specializing in mahogany extraction with regard to trade practices and responses to forest management regulations. This experience is relevant because administrative and regulatory processes for forest management in Peru are broadly similar to those in Brazil.

## II. Analysis of Site Investigation Reports

5. I have reviewed the following documents:

- INRENA, *Managerial Resolution No. 008-2005-INRENA-OSINFOR* (August 23, 2005) (trans.);
- INRENA, *Managerial Resolution No. 019-2006-INRENA-OSINFOR* (March 29, 2006) (trans.);
- INRENA, *Managerial Resolution No. 023-2006-INRENA-OSINFOR* (April 20, 2006) (trans.);
- INRENA, *Managerial Resolution No. 030-2006-INRENA-OSINFOR* (May 15, 2006) (trans.); and
- INRENA, *Peru loses US\$44.5 million annually to illegal logging* (May 30, 2006) (trans.).

6. The four Managerial Resolution documents describe field visits to forest concession management areas by INRENA (Instituto Nacional de Recursos Naturales) technicians to verify the existence of logging infrastructure and mahogany trees claimed by concessionaires to be under active management. The documents follow similar trajectories: (1) field inspection reports identifying irregularities observed within forest management areas are cited; (2) the administrative history of the forest concession under inspection is reviewed; (3) specific irregularities observed during field inspections are summarized; (4) the regulatory

framework for assessing violations of the legal code and for determining penalties is outlined; and (5) the administrative response(s) is(are) presented.

7. Managerial Resolution No. 008-2005-INRENA-OSINFOR addresses the concession agreement between INRENA and the logging company (concessionaire) Industrial Maderera Ruiz, S.R.L. for a forest area covering 23,175 hectares in the Ucayali Permanent Production Forest. Similar to legal requirements in Brazil, forest concession agreements require annual approval by INRENA of Annual Work (or Operating) Plans for sub-areas called the Annual Cut Parcel (“ACP”) within the concession’s total area. For this concession in 2005, INRENA approved extraction of 34 mahogany trees representing 237.89 cubic meters of commercial volume within an ACP of 953.63 hectares. A field inspection conducted July 24 – 26, 2005 within the 2005 ACP found no evidence that mahogany trees existed within the ACP, nor any evidence that forest resources had been surveyed (inventoried) within or extracted from the ACP. Further, the report states that the ACP’s location near the city of Pucallpa, a major sawmill processing center in Ucayali, made it unlikely that mahogany was found in this ACP given the length of time that timber had been extracted in this region; and that this ACP’s flood-prone, poorly drained alluvial setting was unfavorable to mahogany’s growth. Since the logging company had “mobilized” (harvested, transported, and commercialized) 237 cubic meters of mahogany prior to inspection, this report concludes that the 2005 Annual Work Plan was falsified by the logging company, providing grounds for termination of the concession agreement.

8. Managerial Resolution No. 019-2006-INRENA-OSINFOR addresses the concession agreement between INRENA and the concessionaire Fernando Villacorta Rodriguez for a forest area covering 30,650 hectares in the Ucayali Permanent Production Forest. For this

concession in 2004, INRENA approved extraction of 222 mahogany trees representing 447 cubic meters of commercial volume within an ACP of 1500 hectares. A field inspection conducted October 13, 2005, found no evidence of logged or standing mahogany trees within the 2004 ACP. Inspectors further found no evidence of forest management infrastructure such as inventory trails, nor any signs of logging such as skid trails within the ACP. Since the concessionaire had “mobilized” 442.96 cubic meters of mahogany prior to inspection, this report concludes that the 2004 Annual Operating Plan was falsified by the concessionaire, and that mahogany mobilized by the concessionaire would have been extracted from forests outside the ACP, thus providing grounds for termination of the concession agreement.

9. Managerial Resolution No. 023-2006-INRENA-OSINFOR addresses the concession agreement between INRENA and the concessionaire Marlon Ibarra Riveiro for a forest area covering 43,996 hectares in the Loreto Permanent Production Forest. As I understand this report, for this concession in early 2005, INRENA approved extraction of an unspecified number of mahogany trees representing 864 cubic meters of commercial volume within an unspecified area. This 2005 approved volume was later (May 30, 2005) adjusted to 1465 cubic meters of mahogany from an ACP covering 2930.93 hectares. A field inspection conducted October 16 – 21, 2005 within the 2005 ACP found no evidence that 15 mahogany trees selected for verification existed within the management area, nor was any evidence of forest resource harvesting – forest inventory trails, skid trails, etc. – found within the boundaries of the ACP. Since the concessionaire had “mobilized” 1737.219 cubic meters of mahogany prior to inspection, this report concludes that the 2005 Annual Operating Plan was falsified by the concessionaire, providing grounds for termination of the concession agreement.

10. Managerial Resolution No. 030-2006-INRENA-OSINFOR addresses the concession agreement between INRENA and the concessionaire Héctor Soto García for a forest area covering 17,185 hectares in the Ucayali Permanent Production Forest. For this concession in 2005, INRENA approved extraction of 44 mahogany trees representing 429.07 cubic meters of commercial volume within an ACP of 800 hectares. A field inspection conducted November 1 – 3, 2005 found one of 16 mahogany trees selected for verification “with no evidence to support the existence of the rest of the selected trees” within the 2005 ACP. Inspectors further found no evidence of forest management infrastructure, such as inventory trails, nor any signs of logging, such as skid trails, within the ACP. Since the concessionaire had “mobilized” 424.695 cubic meters of mahogany prior to inspection, this report concludes that the 2005 Annual Operating Plan was falsified by the concessionaire, and that mahogany mobilized by the concessionaire would have been extracted from forests outside the ACP, thus providing grounds for termination of the concession agreement.

11. The INRENA document “Peru loses US\$44.5 million annually to illegal logging”, released May 30, 2006, estimates that 221,000 cubic meters of timber is illegally harvested from Peruvian Amazon forests each year. Of this total, an estimated 5.64% (or c. 12,464 cubic meters) is mahogany. The report further states that of 62 concessions and 9 forest production permits (granted to native communities) inspected by INRENA technicians, 37 concessions and 6 forest production permits had been found in violation of forest and wildlife legislation. However, no details are offered as to what percentage of these violations involved mahogany.

12. In addition, I have briefly reviewed original Spanish-language INRENA-OSINFOR Managerial Resolutions from 2005 (11 total: Nos. 001, 002, 003, 004, 011, 018, 045, 046, 047, 048, 050) and 2006 (14 total: Nos. 001, 007, 021, 026, 027, 028, 034, 037, 039, 040,

043, 044, 046, 048), which can be found at <http://www.osinforperu.net/indexE.htm> (listed under “Resoluciones”) and [http://www.inrena.gob.pe/osinfor/osinfor\\_activ.htm](http://www.inrena.gob.pe/osinfor/osinfor_activ.htm). Twenty of these documents are similar to those reviewed above insofar as they describe field inspections verifying that information supplied by concessionaires for the purposes of obtaining authorization to extract mahogany has been falsified, resulting in mahogany’s illegal harvest, transport, and commercialization. Five of these documents address other types of infractions, including illegal use of official transport permits for mahogany.

13. To summarize, these reports address logging activities in 2004 and 2005. Twenty-four of the twenty-nine documents report fraudulent claims for mahogany and account for approximately 7650 cubic meters of mahogany that was illegally “mobilized” during these two years. Annual Operating Plans within inspected ACPs were found to be fraudulent in the following ways: (1) mahogany trees were reported to occur within areas where they did not occur, and in some cases where they could not occur (due to forest type, flooding, etc.); (2) on rare occasions, mahogany trees reported to occur within ACPs turned out to be previously logged stumps, or smaller than reported diameters, or too small to have been logged in the first place; and (3) more generally, in most cases, ACPs were not under active forest management. Both (1) and (2) offered concessionaires means to substitute (launder) mahogany illegally logged outside ACPs.

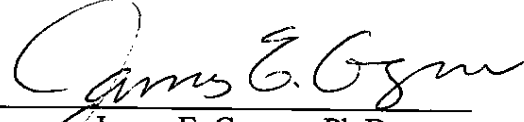
14. Based on my review of these documents, I have reached the following conclusions about which I will testify if called upon to do so at trial:

15. The concession agreement between INRENA and concessionaire binds the latter to execute forest management practices as proposed in Annual Work (or Operating) Plans submitted to, vetted, and approved by INRENA in accordance with federal forest legislation.

INRENA approval stipulates that timber “mobilized” by concessionaires must originate from specified Annual Cut Parcels according to inventoried volumes. If, upon inspection, trees claimed to occur within ACPs are found not to exist, then timber reported as originating from said ACPs has been illegally substituted. The INRENA inspections during 2005 and 2006 documented repeated cases of illegal substitution for mahogany by concessionaires. Assuming that this illegally substituted mahogany was traded internationally, which is consistent with the findings of the CITES Secretariat (among other things), then significant quantities of Peruvian mahogany traded internationally since 2004 were illegally logged and therefore in contravention of CITES Article IV, paragraph 2(b).

I declare under penalty of perjury that the above statements are true to the best of my knowledge.

Date: October 20, 2006  
Leverett, Massachusetts

  
James E. Grogan, Ph.D.