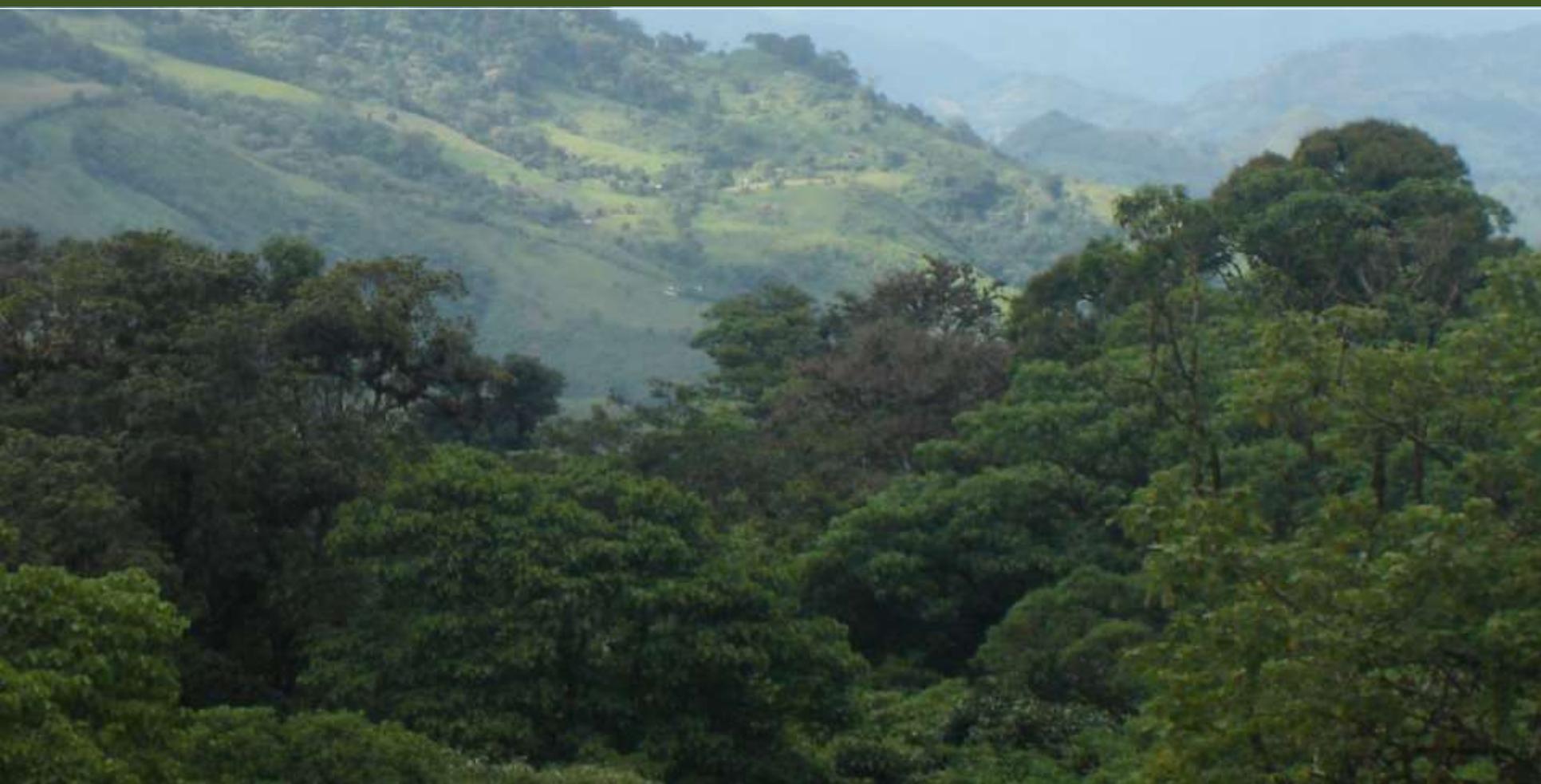


Lacey, EUTR and ILPA - enforcement



Asia Pacific Forestry Week: Clark, The Philippines

February 24, 2016





The Challenge in 2012:

- Multiple US Government Agencies, 28 European Member State 'Competent Authorities'
- CAs had varying skills (industry regulation, domestic forest management, environmental police)
- Limited financial and human resources
- Complex global supply chains
- Huge information gap
- Commercial competition – important to avoid a 'race to the bottom'



Participation and Principles:

- 6 monthly meetings
- US, EU (~18), Australian officials
- Focus on compliance tools and emerging supply chain risks
- Sectors: timber, furniture, pulp and paper
- Country specifics: legal frameworks, control systems, third party audits, independent monitoring data
- Expert speakers from industry, source countries and NGOs

EUTR: changing demand for legal timber?



“There is “No Solid Evidence” that an EU Law has done anything to prevent the illegal timber trade, or has even been implemented”.

Source: The Guardian Newspaper, 10th Feb 2016.



EU Timber Regulation - EUTR:

- <3 years: relatively fast enforcement (EC Guidance, peer support among Member States)
- Increasingly positive relationship between progressive industry and regulators
- Active response from Certification schemes – improvement in audit quality, Fraud prevention, FSC Online Claims Platform and country risk profiles
- ‘Substantiated Concerns’ expectations becoming clearer



Due Diligence and Due Care

Different legal standing but...

- A company should know their supply chain back to concession source(s)
- A full document set is the beginning of the process not the end
- Explicit consideration of risks associated with corruption, forgery and fraud
- In country/specialist staff and expertise
- Reduction in supply base, shortening/integrating chains and increasing transparency

Due Diligence and Due Care



FOR IMMEDIATE RELEASE

Monday, February 1, 2016

Lumber Liquidators Inc. Sentenced for Illegal Importation of Hardwood and Related Environmental Crimes

*Virginia Hardwood Flooring Company to Pay \$13 Million, Largest Lacey Act
Penalty Ever*

Environmental Compliance Plan



“LL will exercise due care and due diligence through the research, review and validation of relevant information regarding merchandise sold in its stores and the individuals and organizations with which the Company conducts business.

There will be four general steps in the Company’s due care activities: risk assessment, vendor validation/evaluation, purchase order review and auditing... procedures to ensure the exercise of due care shall be memorialized.”



Defining acceptable risk assessment:

The level of risk can only be assessed on a case-by-case basis, as it depends on a number of factors. Although there is not a single accepted system for risk assessment, as a general rule the operator has to address the following questions:

- **Where was the timber harvested?**

Is illegal logging prevalent in the country, sub-region or concession from which the timber originates? Is the specific tree species involved particularly at risk of illegal logging? Are there sanctions imposed by the UN Security Council or the Council of the European Union on timber imports and exports?

- **Is the level of governance a concern?**

The level of governance might undermine the reliability of some documents showing compliance with applicable legislation. Therefore, the country's corruption level, business risk indices, and other governance indicators should be considered.

Due Diligence and Due Care



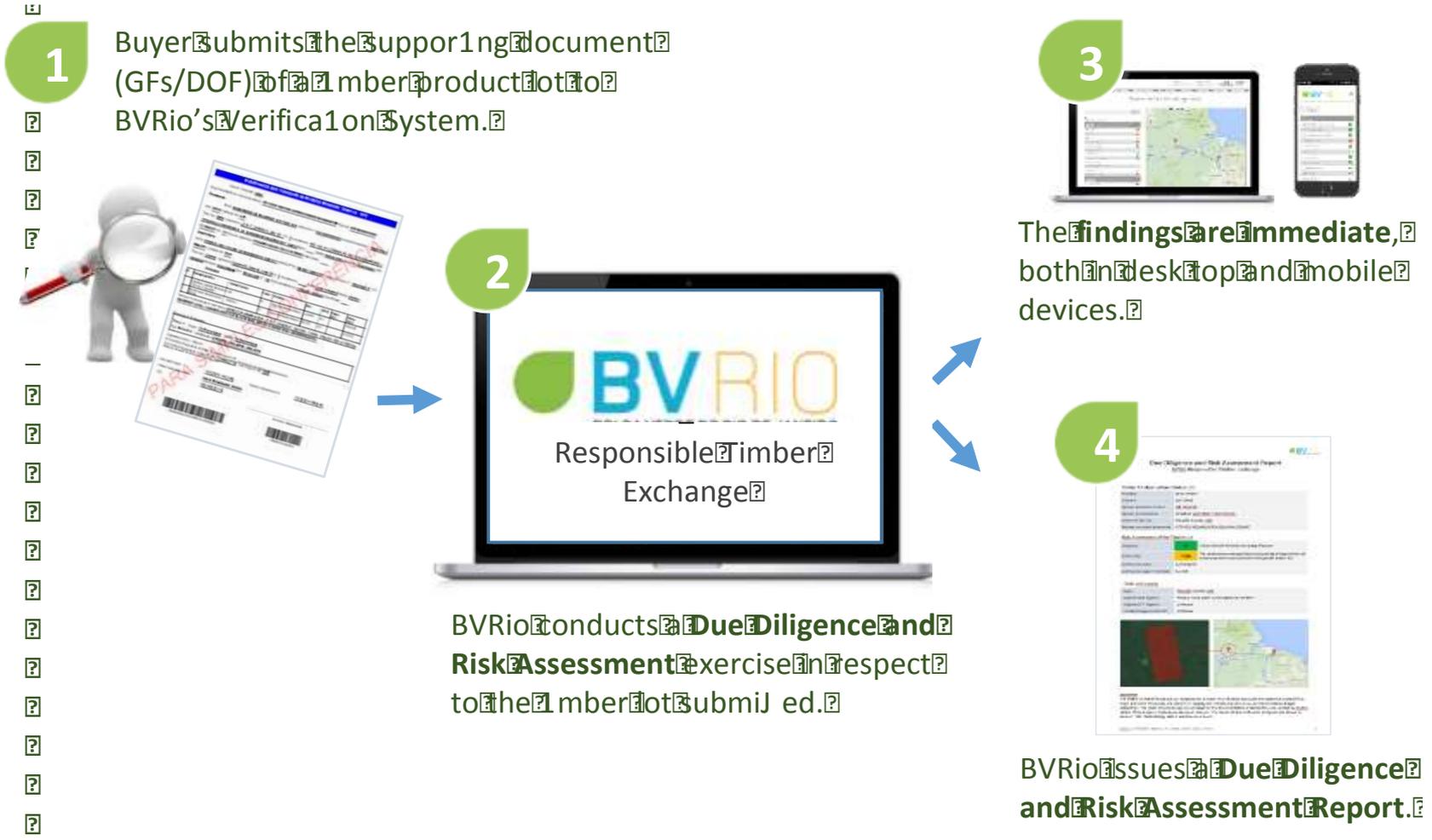
- **Are all documents showing compliance with applicable legislation made available by the supplier, and are they verifiable?**
If all relevant documents are readily available, it is more likely that the product's supply chain is well established. The operator can be confident that the documents are genuine and reliable.
- **Are there indications of a company in the supply chain being involved in practices related to illegal logging?**
There is a higher risk that timber purchased from a company that has been involved in practices related to illegal logging will have been illegally harvested.
- **Is the supply chain complex?⁵**
The more complex the supply chain, the harder it may be to trace the origins of a product's timber back to the logging source. Failure to obtain the necessary information at any point in the supply chain may increase the possibility of illegally harvested timber entering the chain.

Source: http://ec.europa.eu/environment/forests/timber_regulation.htm



What should you 'reasonably' know as a
buyer rather than producer?

Innovations in legal sourcing



NMRO plywood project



 National Measurement Office



**EUTR:
Plywood imported
from China**

Series P500 & Manual 50000
Project prepared for DDPA
February 2015

 National Measurement Office



Component 1: Requesting demonstration of DDS

- NMRO asked 16 Operators to demonstrate due diligence system for their Chinese plywood
- Only ONE COMPANY was found to be EUTR compliant
- 14 companies submitted due diligence systems that were insufficient (according to EUTR Article 6)
 - Primary failure: company could not explain how it reached a conclusion of negligible risk (typically done through a combination of document gathering, risk assessment and mitigation)

Component 2: Using forensic testing

- NMO purchased products from UK companies and subjected 13 specimens to microscopic analysis
- 9 out of 13 products did not match the species declaration supplied

ONLY ONE company was found to be compliant with the EUTR as a result of testing and the submission of their due diligence system

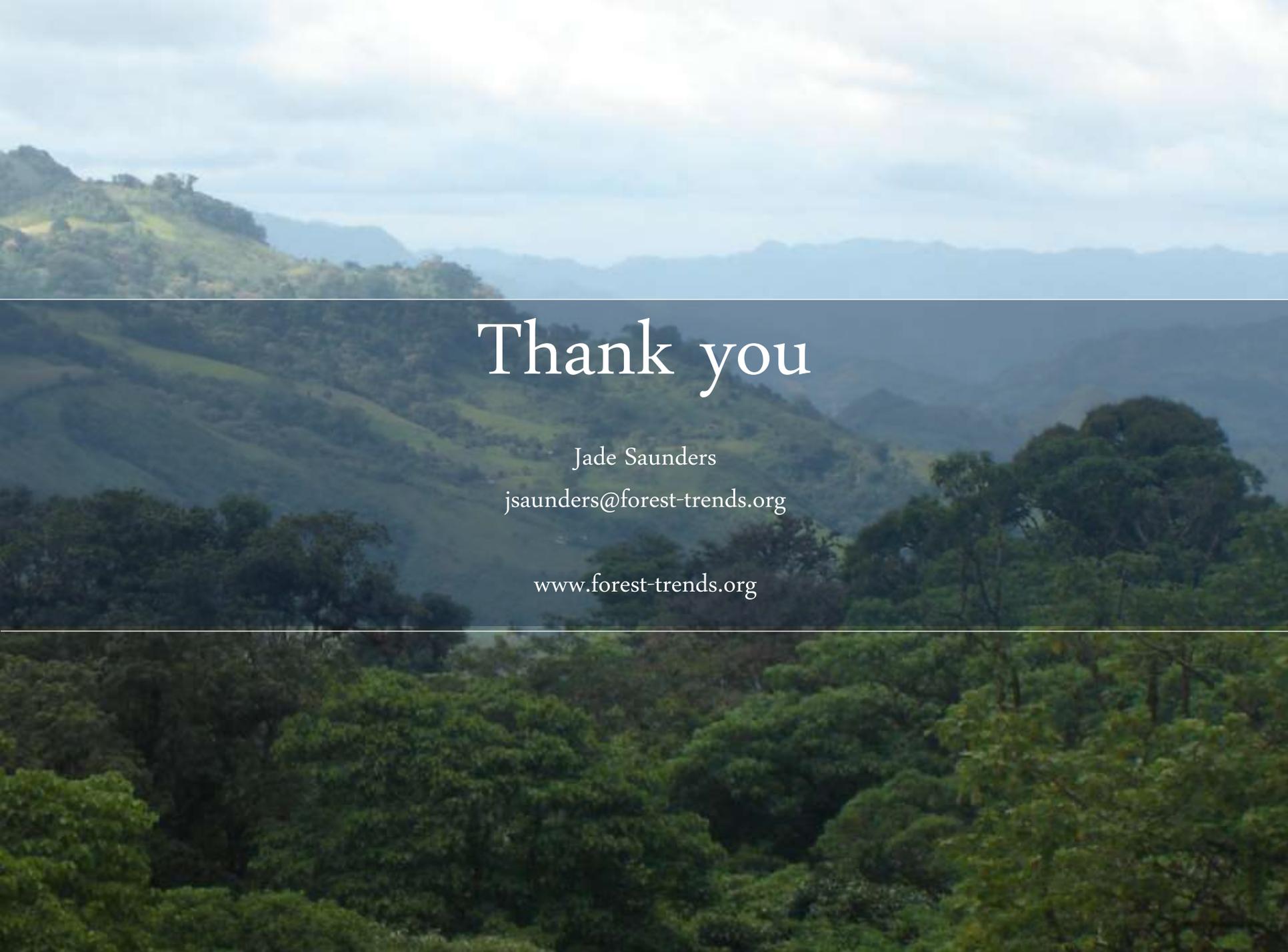
- ***The NMO continues to investigate the remaining cases***

9 out of 13 products did not match the species declaration
supplied





- The end of the 'soft start' in Australia
- EU Member States moving from 'compliance support' phase to sanctions
- EU Member States moving primary emphasis on domestic enforcement to scrutiny of importers
- Tackling the challenges of more processed products
- Due Diligence/Car norms increasingly embedded in other regulatory compliance frameworks – formaldehyde, safety/hygiene requirements etc
- Expansion of similar laws and norms in Asia
- VPA FLEGT licensing – EUTR 'green lane'

A scenic landscape of rolling green hills and a dense forest under a cloudy sky. The foreground is filled with lush green trees, while the background shows layers of hills fading into the distance under a bright, overcast sky.

Thank you

Jade Saunders

jsaunders@forest-trends.org

www.forest-trends.org