



# **Legality schemes and the pulp and paper industry**

Europulp-Utipulp Seminar – 20 September 2012



# Contents

- 1 Legality policy in the EU
- 2 Legality policies around the world: a comparison
- 3 The EU Timber Regulation for dummies
- 4 Unclarities
- 5 Ah ... One more thing !

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# Legality policy in the EU: from soft to hard

## 2002: FLEGT Action Plan

- Support to timber producing countries
- Trade in timber (multilateral, bilateral agreements, legislative options)
- Public procurement
- Private sector initiatives (e.g. CEPI Code of conduct)
- Financing and investment
- Use of existing instruments (CITES, money laundering)
- Conflict timber

## 2005: VPAs (Cameroon, Ghana, Republic of Congo, Central African Republic, Liberia)

## 2010: EU Timber Regulation

- Main Regulation 995/2012
- Secondary legislation
  - Delegated Acts (Recognised Monitoring Organisations)
  - Implementing Acts (Due diligence)
- Guidance document

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# Comparison of legality policies

US Lacey Act	EU Timber Regulation	Australian Illegal logging prohibition Act
Applies to all operators	Applies to the « first placer »	Applies to importers and processors
No imposed system	Obligation to follow a due diligence system	Obligation to comply with a due diligence system
No body providing systems/procedures	Recognised Monitoring Organisations	No body providing systems/procedures
Unlawful to import, export, transport, sell, receive, acquire, purchase interstate or from foreign country plants in violation of State or foreign law	Illegally harvested= harvested in violation of the legislation in force in the country of harvest	Illegal timber= timber harvested in contravention of laws in force in the place of harvest
Declaration form No obligation of « due care » Up to the government to prove illegality.	Mandatory due diligence: <ul style="list-style-type: none"> <li>• Provide information</li> <li>• Risk assessment</li> <li>• Risk mitigation</li> </ul>	Mandatory due diligence: <ul style="list-style-type: none"> <li>Gather information</li> <li>Risk assessment</li> <li>Risk mitigation</li> <li>Custom declaration</li> <li>Statement of compliance</li> <li>Auditing</li> </ul>

# Comparison of legality policies

US Lacey Act	EU Timber Regulation	Australian Illegal logging prohibition Act
VPAs/CITES not considered	VPAs/CITES proof of compliance	VPAs/CITES not considered
Applies to « plants » and plants-derived products	Applies to timber and timber products	Applies to timber
Sanctions <ul style="list-style-type: none"> <li>• Forfeiture of goods and vessels</li> <li>• Fines</li> <li>• Jail time</li> </ul>	Sanctions <ul style="list-style-type: none"> <li>• Fines</li> <li>• Seizure of the timber</li> <li>• Suspension of autorisation to trade</li> </ul>	Sanctions <ul style="list-style-type: none"> <li>• Seizure, forfeiture</li> <li>• Fines</li> <li>• Jail time</li> </ul>
No preferential role for certification	Minor to no role for certification (risk assessment/mitigation)	No preferential role for certification

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*The fun and easy way® to  
comply with the legislation on timber legality*

# **EU timber Regulation**

## **FOR DUMMIES®**

**2nd Edition**

**A Reference  
for the  
Rest of Us!®**

*Minimize risks  
to breach the law  
and get penalties*



Is the **timber/ timber product** I harvest/ purchase/import/ship to the EU in the Annex?

YES

Is my timber covered by a FLEGT license or a CITES permit?

The EXCEPTIONS are amongst others:

- packaging used to support, protect and carry goods
- **printed products (HS49),**
- bamboo-based pulp
- waste and recovered wood and wood products (incl. recovered paper)
- wooden toys and sport articles
- pens, buttons
- **sanitary towels, pads and tampons, napkins, diapers (HS 9619 00)**
- medical and surgical furniture
- tools of base metals
- parts of electrical machinery and equipment
- tableware, kitchenware of wood ...

Full list of exceptions at [http://www.euflegt.efi.int/files/attachments/euflegt/summary\\_eu\\_timber\\_regulation\\_27012012.pdf](http://www.euflegt.efi.int/files/attachments/euflegt/summary_eu_timber_regulation_27012012.pdf)

- Joinery and carpentry
- Pulp and paper (except bamboo-based and recovered products)
  - Wooden furniture
  - Prefabricated buildings

Is my product covered by a **FLEGT license** or a **CITES permit**?

NO

Am I placing the timber/timber product for the first time on the EU market? - - -

CITES permits are authorisation to import/export animal/plant species listed in the Convention on International Trade of Endangered Species countries to products that are verified as legal.

YES

My timber/timber product is considered as compliant to the EU Timber Regulation

I can place on the market

Am I **placing** the  
timber/timber product  
**for the first time on  
the EU market?**

YES

I'm an OPERATOR

I must exercise a due  
diligence

NO

I'm a TRADER

Placing on the market = the supply, by any means,  
irrespective of the selling technique used, of timber and  
timber products for the first time on the internal market  
for distribution or use in the course of a commercial  
activity, whether in return for payment or free of charge.  
Importing for its own use is included.

Traders need to keep that  
information for at least 5  
years and provide it to  
competent authorities on  
request

I can supply the product

I must exercise a due diligence for each **supply**

What due diligence system do I use?

My own system

I must maintain and evaluate my DD system

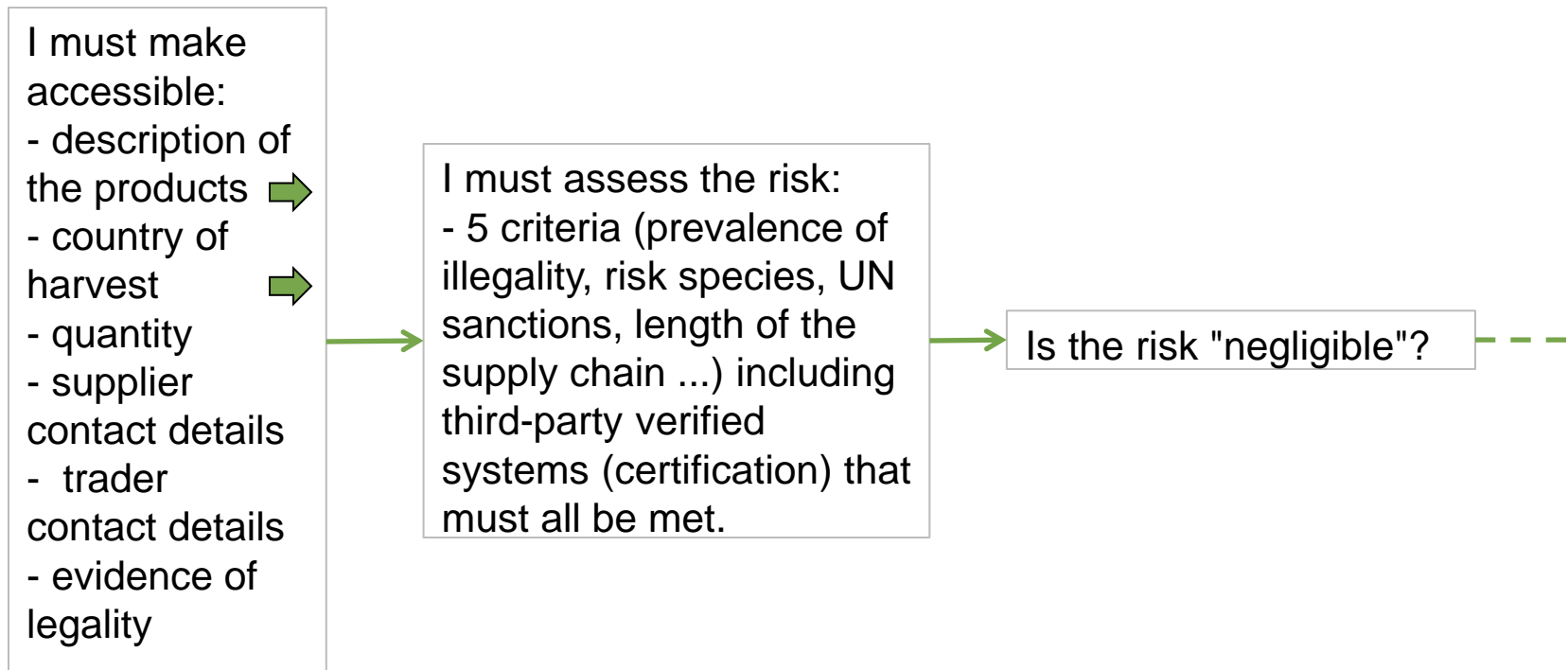
I must make accessible:

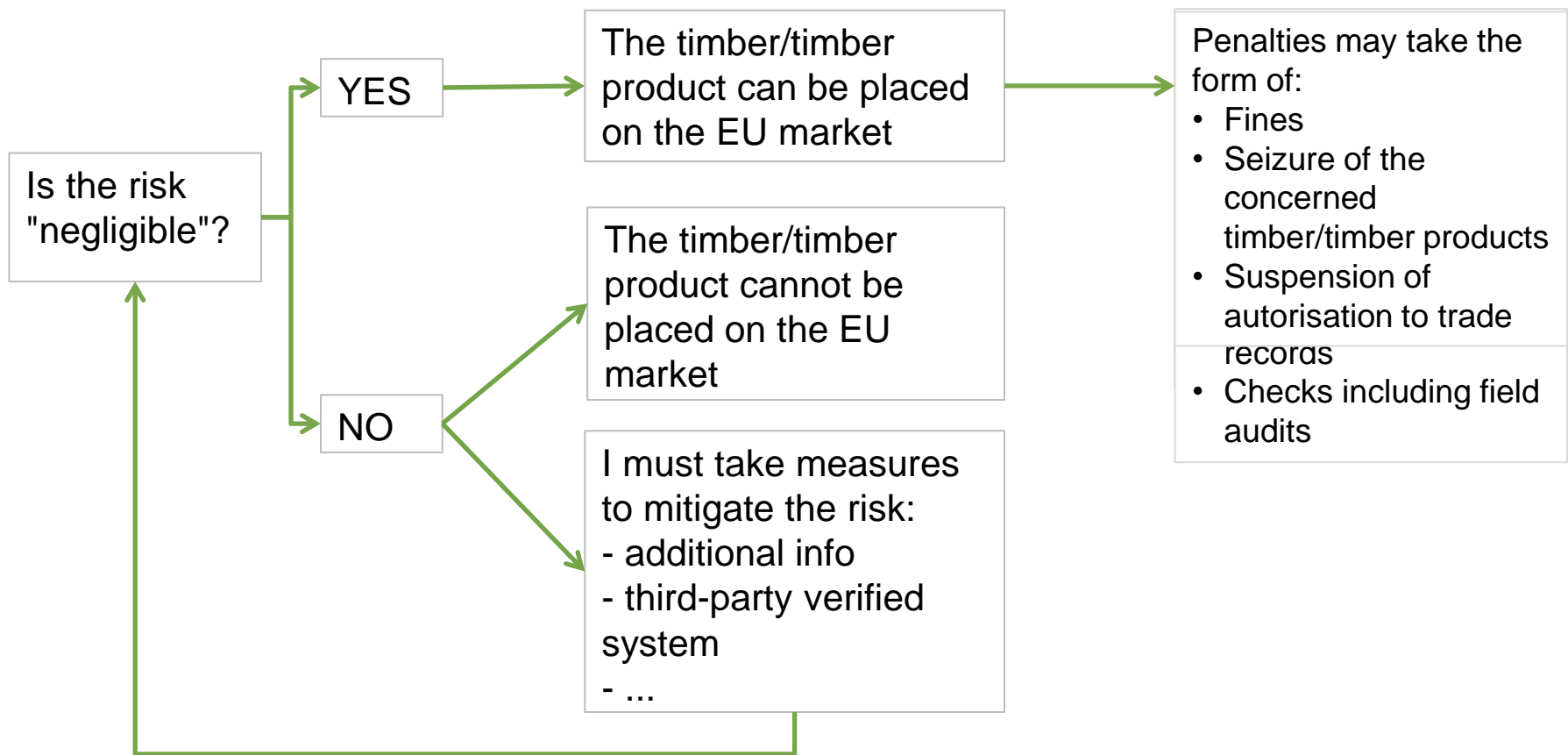
- description of the products
- country of harvest
- quantity
- supplier contact details
- trader contact details
- evidence of legality

The system of a recognised monitoring organisation

Supply=

- a specific type of timber/timber product
- from a particular supplier
- within a period of max 12 months
- from an unchanged country/harvest place and tree species





# Disclaimer

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**This decision tree is intended to ease the understanding of the provisions of the Regulation laying down the obligations of operators who place timber and timber products on the market (995/2010) and of the relevant secondary legislation (Commission Delegated Regulation Nr. 363/2012 and Commission Implementing Regulation Nr. 607/2012). Only the original legal texts are valid. CEPI can by no means be liable for non-compliance resulting of the use of this decision tree.**

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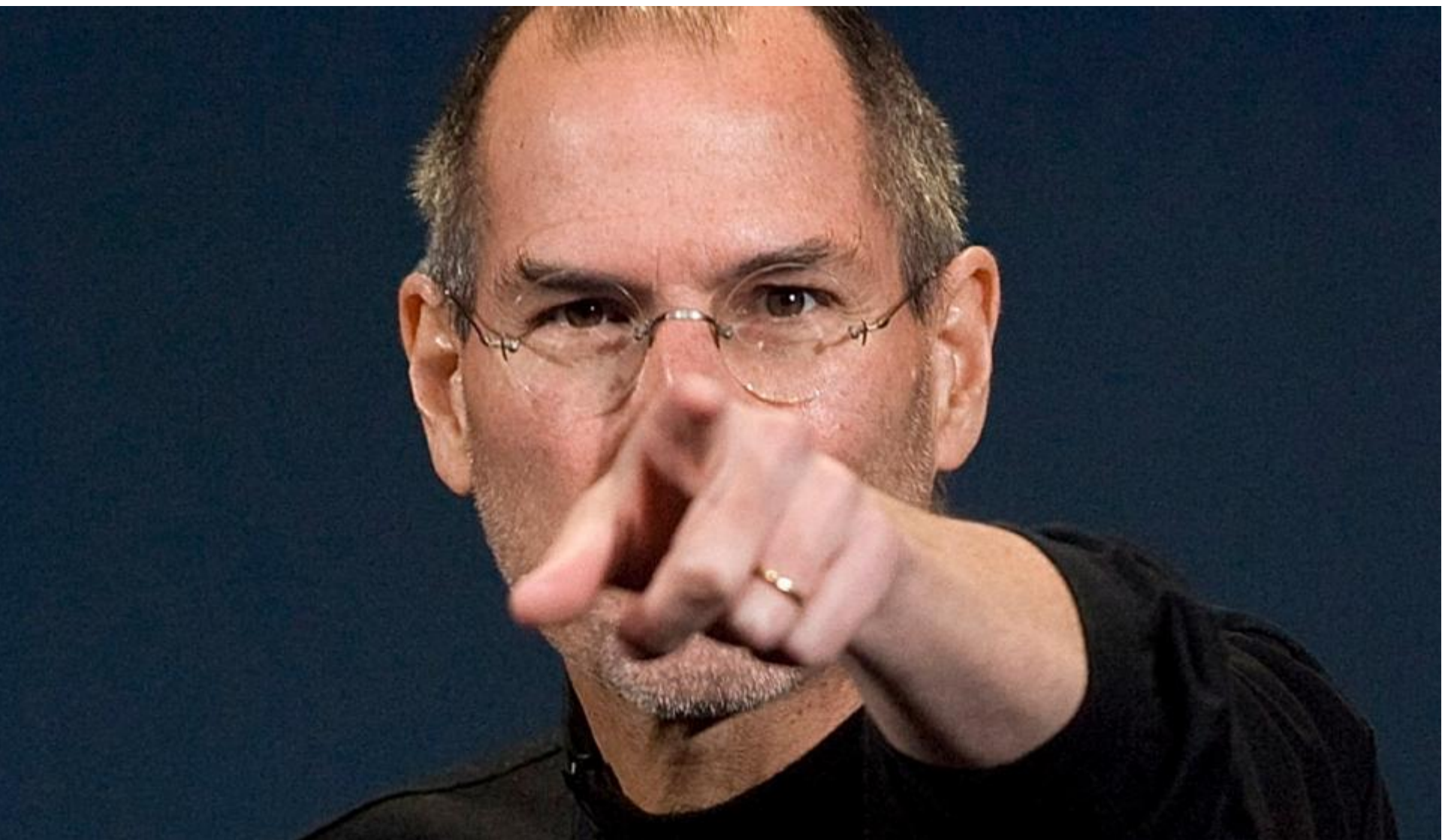
# Still to be clarified

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- **Placing on the market**
- **Role of third-party verified systems/certification**
- **Negligible risk**
- **Composite products**

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# Certification in Europe

- **Two systems: FSC (1983) – PEFC (1999)**

- **Certified surfaces**

- **PEFC total: 245 124 000 ha**
  - **PEFC (CEPI-19): 69 290 000 ha**
- **FSC total: 149 850 000 ha**
  - **FSC (CEPI-19): 24 099 500 ha**



- **Number of CoC certificates**

- **PEFC total: 8797**
  - **PEFC (CEPI-19): 7178**
- **FSC total: 22466**
  - **FSC (CEPI-19): 10061**



# Certification in the European paper industries

- **99.9% of company owned/leased forests are certified**
- **92.2% of forests managed by European pulp and paper companies are certified**
- **61.6% of roundwood, chips and sawdust delivered at mills are certified**
- **71% of purchased market pulp are certified**
- **96.3% of market pulp capacities are certified**
  - 70.6% of market pulp sales are certified
- **69.5% of paper capacities are certified**
  - 55.3% of paper, tissue and board sales are certified
- **41.5% of paper capacities based on 100% recycled fibre are certified**
- **25.6% of paper, tissue and board is sold with CoC enabling labelling**



# End of the FSC exemption on sawmilling by-products

- **In principle, the information requirements (country of origin, species, etc.) stemming from the Controlled Wood Standard apply also for sawmilling by-products**
- **Sawmilling by-products are temporarily exempted by an advice note**
- **Exemption runs out by the end of 2012**
- **Sawmilling by-products represent 25% of the fresh fibre supply**
- **The information is difficult (if not impossible) to obtain from the sawmills):**
  - No physical segregation in the woodyard
  - Commercial confidentiality (fear of buyer going directly to the source)
  - Requirements go beyond the legal requirements

# End of the FSC exemption on sawmilling by-products

- **CEPI has prepared a proposal ahead of FSC's General Assembly to turn the temporary exemption permanent. The motion was not supported, but...**
- **FSC has created a working group to revise the controlled wood standard. The residue issue is part of the work, but it will most probably not be finished by the end of the year.**
- **CEPI supports the advocacy by AGR in Germany (Arbeitsgemeinschaft Rohholzverbraucher) towards FSC to find a solution for this efficient use of raw material.**

# Possible consequences in absence of a solution

- **Pulpmills manage imposing audits on wood origin with the sawmills**
- **Pulp mills fail in the audits or hand in there certificate beforehand**
  - they would have to put less certified product on the market
- **Pulpmills change their sourcing policy**
  - turn to certified sawmills only
  - turn increasingly to roundwood
  - **Massive change in the procurement market**



# Thank you!

**CEPI aisbl / Confederation of European  
paper Industries**

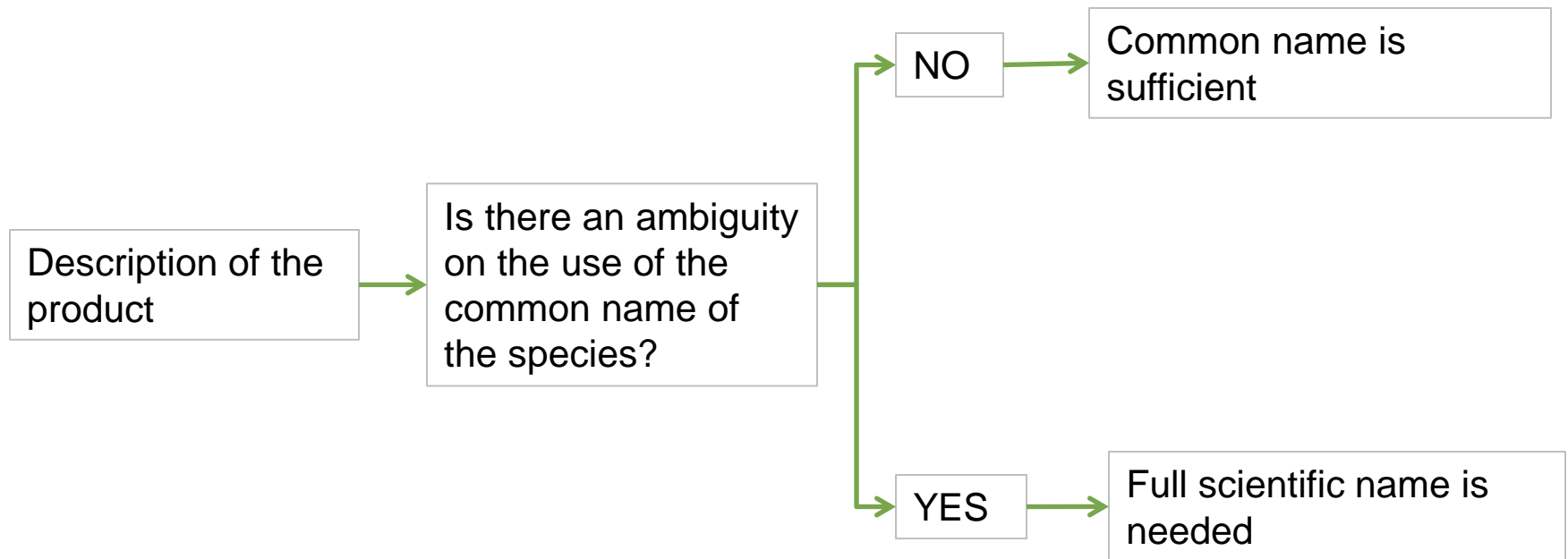
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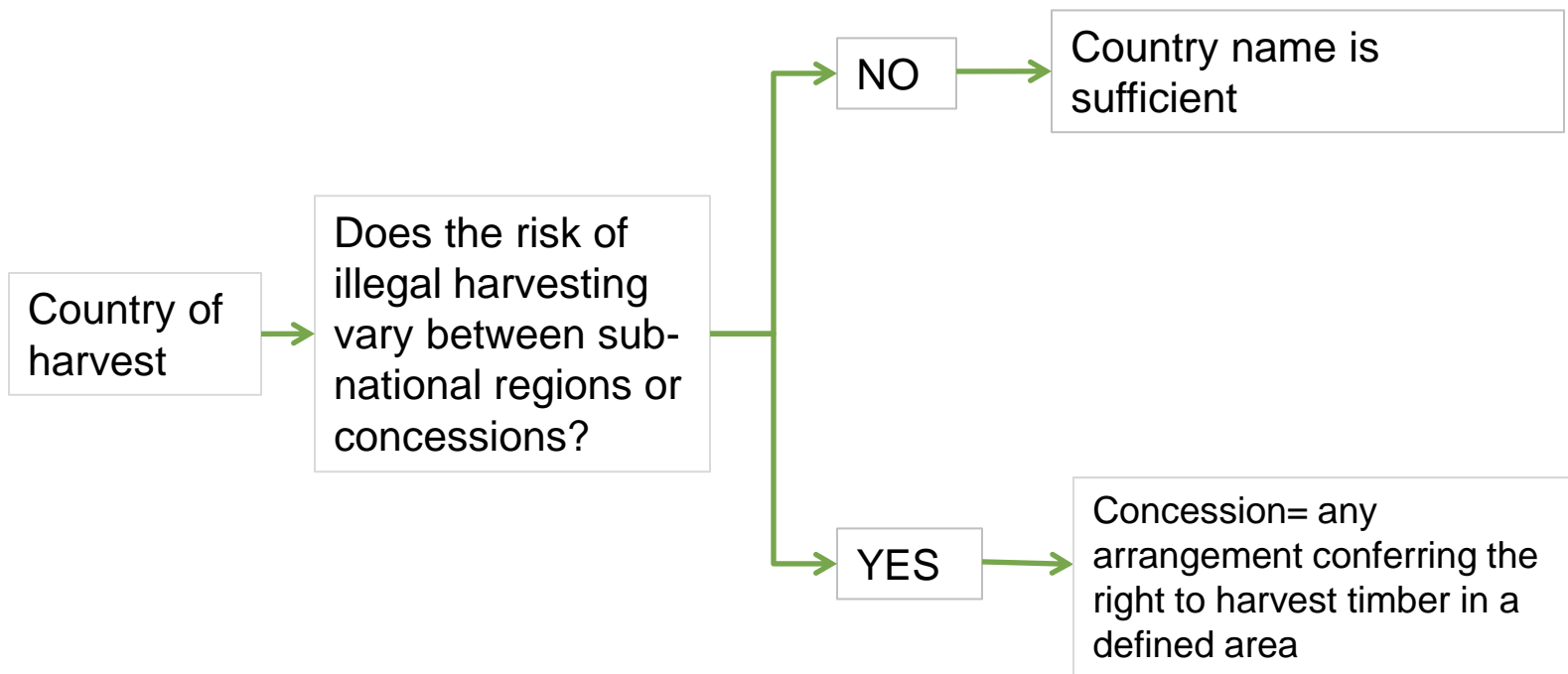
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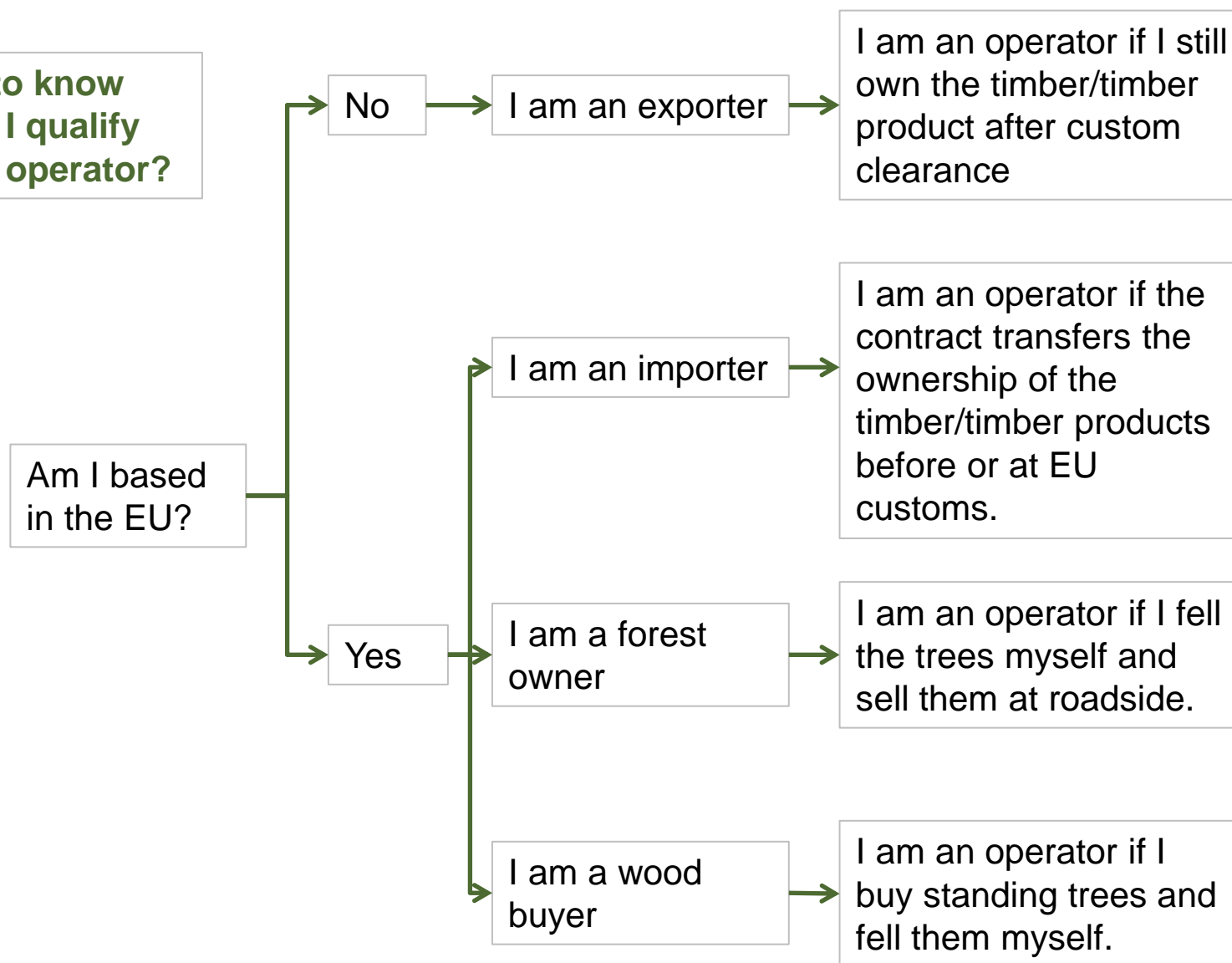
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## How to know when I qualify as an operator?



In all cases, intermediaries like shipping agents, forest contractors, etc. aren't operators since they have a mandate but no ownership.