TRADE-BASED MONEY LAUNDERING OVERVIEW

Presented to the

Commission of Inquiry into Money Laundering in British Columbia

April 1, 2020

Delivered by

Royal Canadian Mounted Police

Financial Transactions and Reports Analysis Centre

Canada Border Services Agency

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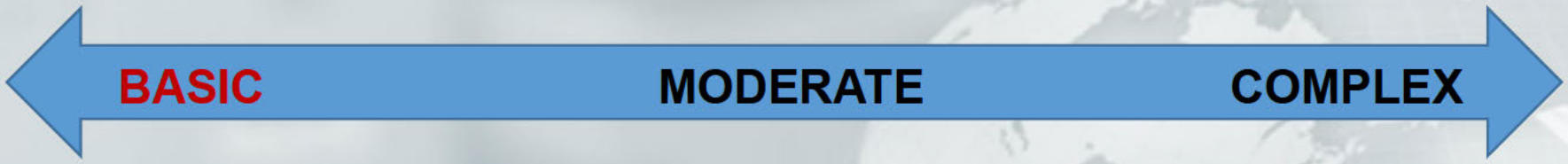
What is TBML?

3 Main Money Laundering Methods	
1. Financial Institutions	Paper trail, high AML controls
2. Bulk Cash	High risk of detection at borders or domestically
3. Trade	Low risk, high reward

Trade-based money laundering is the process of disguising illicit financial flows and moving their value through the use of trade transactions in an attempt to legitimize their origins.

(i.e. transferring value through trade)

Basic Schemes



Transferring goods (or providing services) to finance illicit product / activities

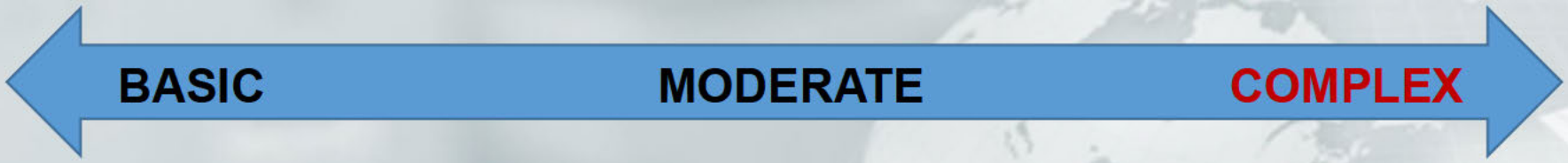
- Vehicles to Africa for illicit narcotics
- Sale of antiquities / oil to finance terrorism
- Consulting services

Moderately Complex Schemes

Various forms of customs fraud:

- **Misrepresentation of price or quantity** (ex. timber, wine, fruit)
- **Misrepresentation of quality or classification** (ex. gold hardware, granite)
- **Multiple invoicing / phantom shipments** (ex. voided car purchases)
- **Misidentifying final recipient / destination of good** (ex. dual-use goods, nominee)

Complex Schemes



Customs Fraud + …

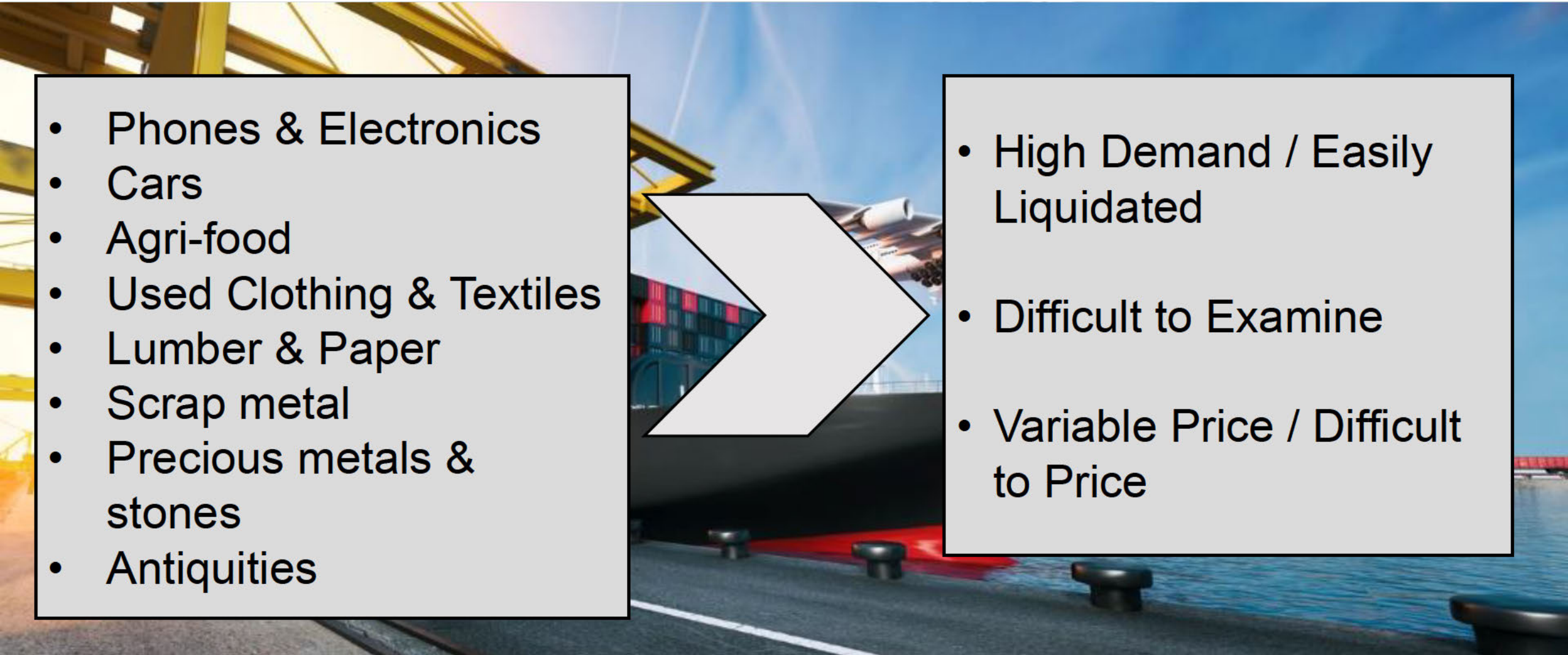
- Layering
- Shell companies
- Offshore accounts
- Nominees
- Legal Trusts

- Third-party payment methods / Freight-forwarders
- Transit through FTZs or non-cooperative jurisdictions
- Use of crypto-currencies
- Co-mingling with real estate / casinos

Key Features

- Requires a complicit seller / buyer or dual-presence
- Includes goods AND services (ex. consulting)
- TBML schemes often intersect with capital flight, sanctions evasion, tax/duty evasion, and/or fraudulent tax (GST/HST) refunds
- Often involves easily liquidated / distributed goods

Key Commodities

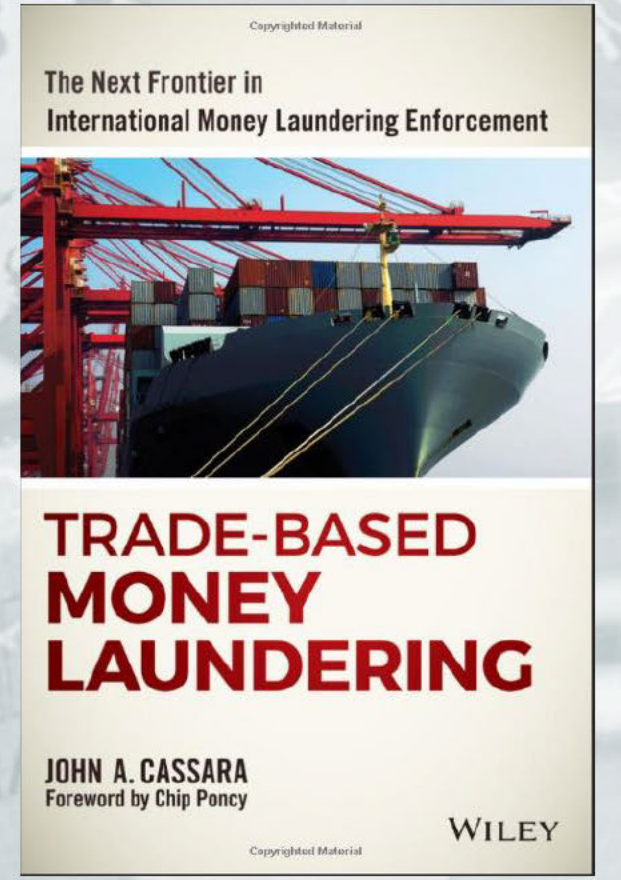


- Phones & Electronics
- Cars
- Agri-food
- Used Clothing & Textiles
- Lumber & Paper
- Scrap metal
- Precious metals & stones
- Antiquities

- High Demand / Easily Liquidated
- Difficult to Examine
- Variable Price / Difficult to Price

International Context

- TBML easily concealed in enormous volumes of global trade
  - % of goods examined by customs authorities is small
- Some experts proclaim it to be the largest money laundering method in the world, but also the least known and understood.
- By some estimates, the customs fraud that underlies TBML accounts for over 80% of illicit financial flows from developing nations
- May cost the global economy as much as 1 to 7 percent of annual Gross Domestic Product (GDP) each year.



Harms to Canada

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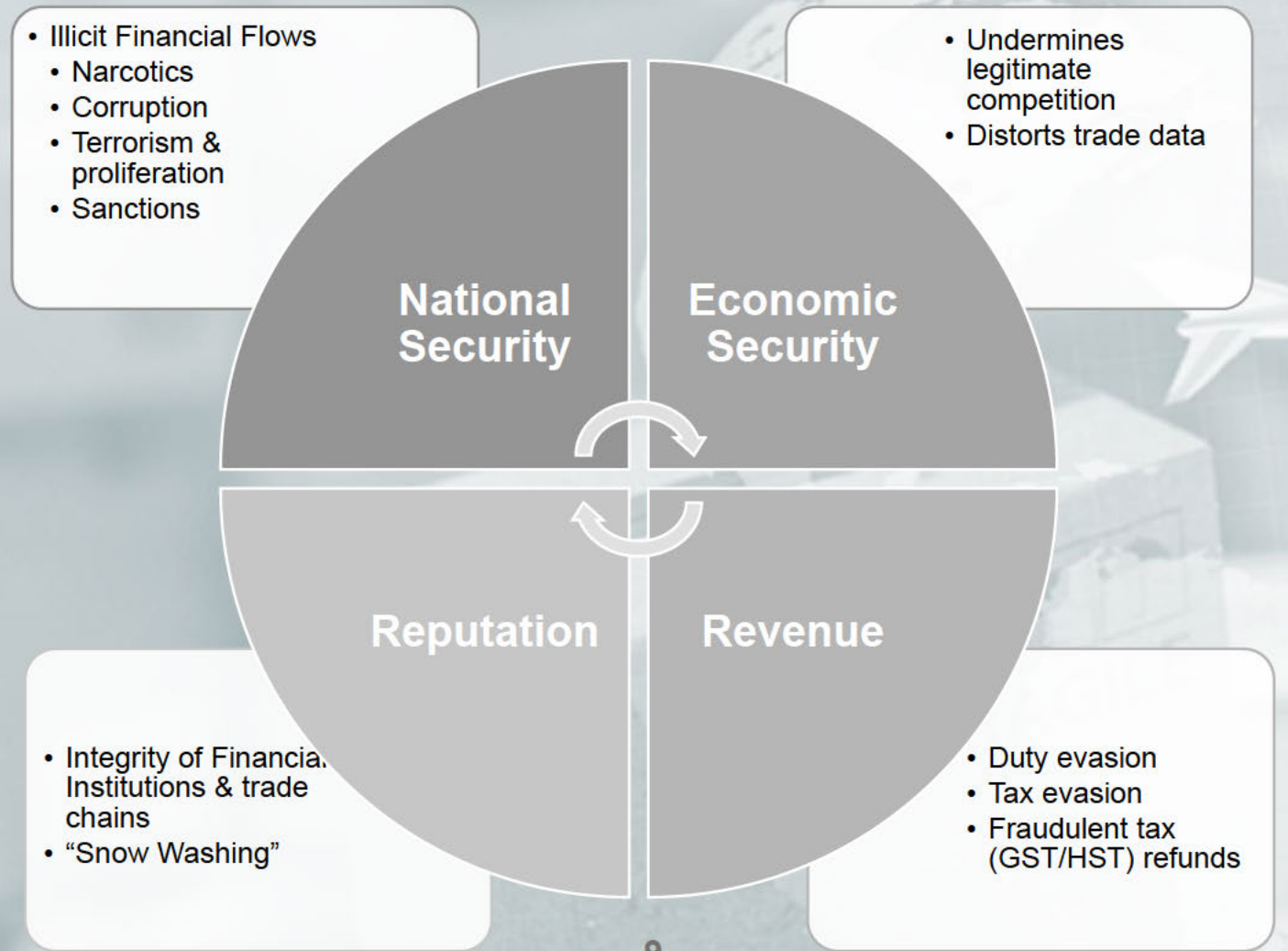

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Intersecting Mandates

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FINANCIAL

- **FINTRAC**
  - Compliance Operations - Financial Reporting
  - Intelligence Operations – FININT to support investigations relevant to ML/TF
  - Strategic Intelligence and Policy Operations – Educating public, regime partners and decision makers

TRADE

- **CBSA**
  - Supports public safety and national security priorities by ensuring that all goods imported or exported comply with program legislation
  - Identifies and investigates the customs fraud offences that allows TBML to occur

CRIMINAL

- **RCMP**
  - Promote public safety by dismantling, deterring and prosecuting organized crime and protecting Canada's economic and financial integrity
  - Part of mandate and strategy to respond to trans national organized crime

TAX

- **CRA**
  - Investigates potential criminal violations of the Acts administered by the CRA, focusing on promoters of sophisticated and organized tax schemes, international tax evasion, and working jointly with law enforcement on money laundering.

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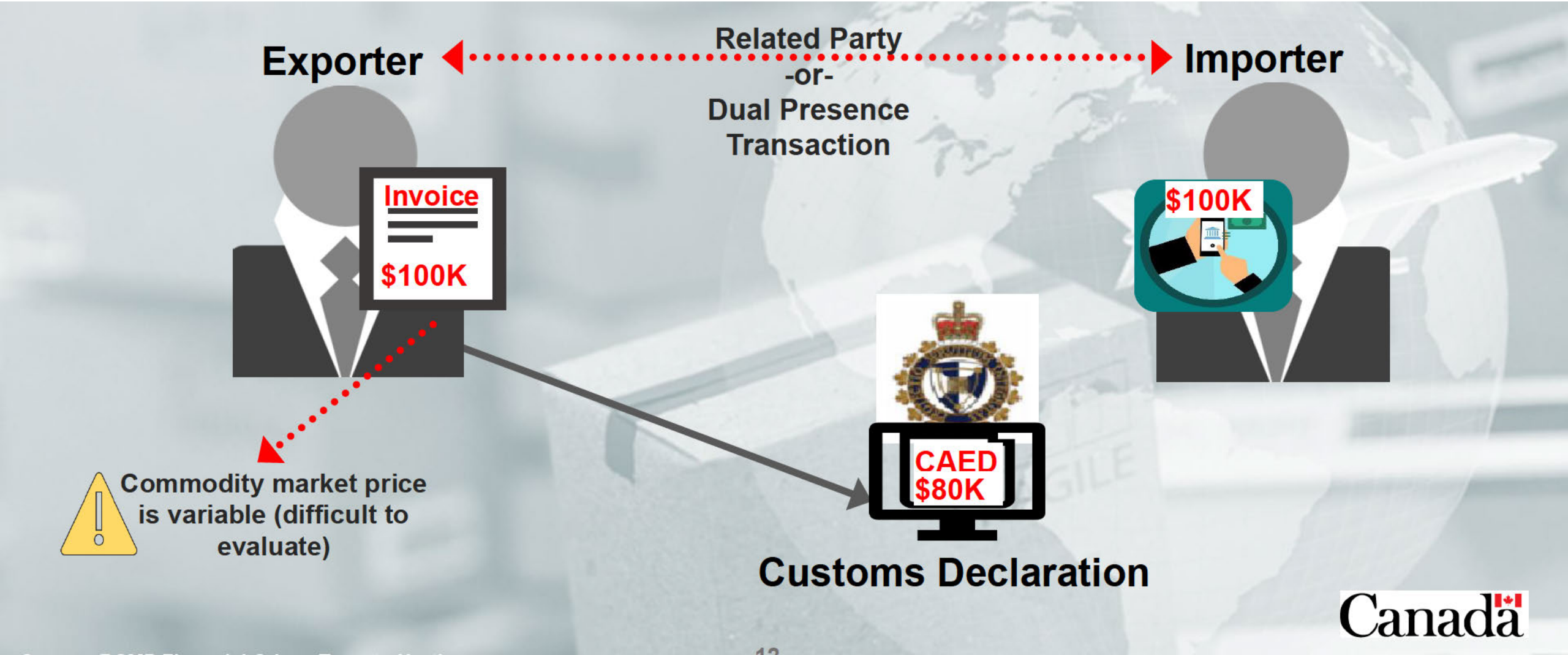
Key Typology 1: Black Market Peso Exchange

Source: FinCEN Graphics

Key Typology 2: Related Party Transactions



Trade-Based Money Laundering Through "Financial" Phantom Shipments

Layering of foreign illicit funds using open account "free flow" wire transfers fraudulently masked as payment for goods

UAE Free Trade Zone Trading Company

No goods are shipped/exist

No fictitious documentation/reporting

No legitimate business relationship

Commodity types often mismatched with stated business activities

Rapid wire transfers to multiple CAN entities on same days and for same amounts

Canadian USD Business Bank Account

US Business Bank Account

UAE Money Exchange Or Bank

USD EFT ordered from the Third Party to Canadian Exporter

US Correspondent Bank

Canadian Beneficiary Bank

Trends: Professional Money Launderers

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- Skilled facilitators of laundering
  - Distanced from the proceeds generating offences
- Linked to professions conducive to laundering
  - Lawyers
  - Accountants
  - Own/control import-export companies
- Sometimes linked to Informal Value Transfer Service networks (*hawala* and *fei chen)*
- Fee for service
  - Fees dependent on access to domestic cash pools
- Co-mingling with casinos and real estate

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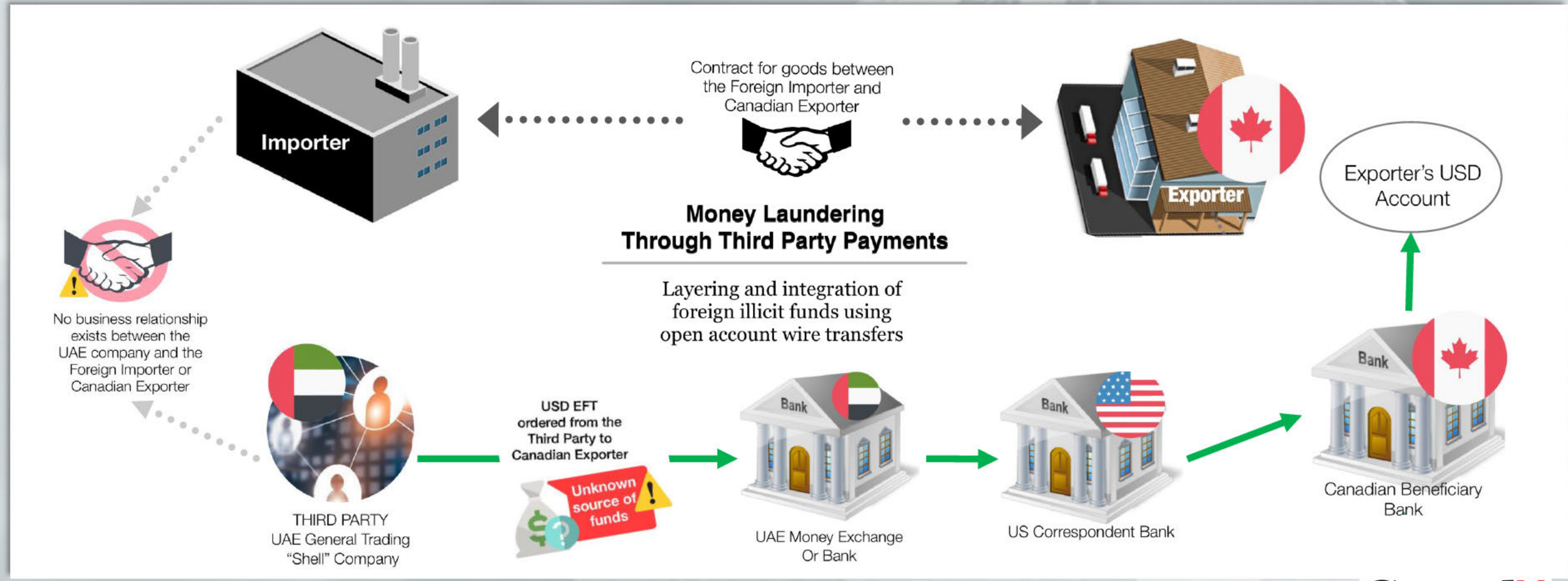
Example: Third Party Invoice Settlement



Source: RCMP Financial Crime, Toronto North

Example:
Third Party Invoice Settlement (cont'd)

Suspicious Transaction Report:

"…Our client received two wire transfers from the UAE, which is not a location in which the client is known to trade. When questioned, the client advised that the UAE company is a regular customer that normally transfers from Colombia. The client was unable to explain why they were receiving funds from the UAE. The potential flow of funds from Colombia – UAE – to Canada represents an uneconomic flow of funds and is suspicious…"

Canadian Schemes: Mobile Phones

- Portable, easy to ship
- Easy to sell: high-value, high-demand globally
- Descriptions easily manipulated to adjust value (used sold as new, memory size etc.)
- Shipments can be “recycled”
- Inventories acquired by networks of domestic straw buyers
  - Illicit funds used to reimburse buyer credit cards
- Global problem, known to government authorities and banks

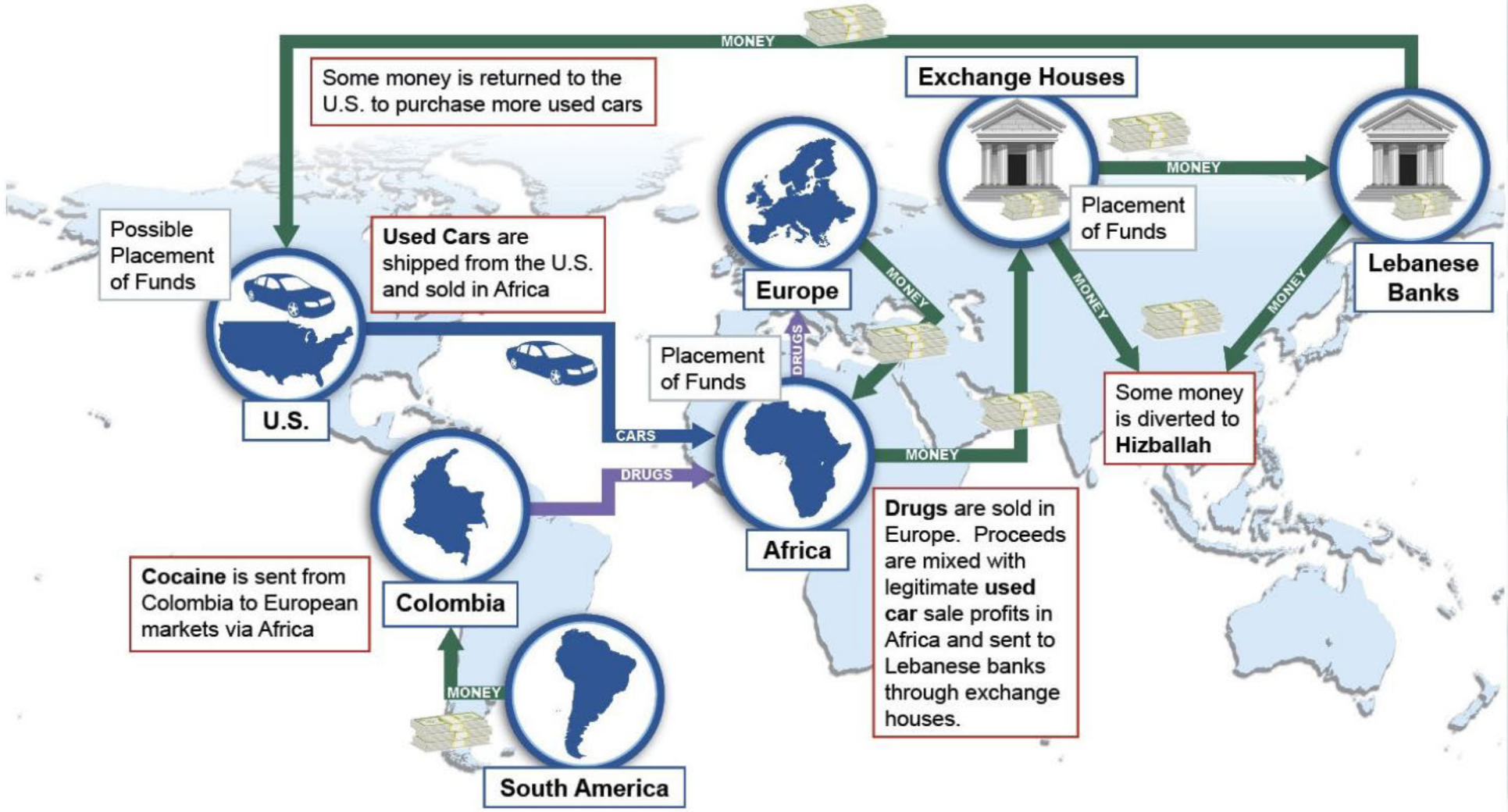
Canadian Schemes: Agri-food sector

- Vulnerable to international Professional Money Laundering Networks
  - Including variations of the Black Market Peso Exchange

- Receiving payments from unrelated third parties
  - Trade settled via unknown/illicit transfers
  - Agri-food products shipped to drug-source countries
  - Canadian brokers/exporters appear willfully blind to these suspicious transfers

- Example:
  - Colombian client pays Canadian exporter through a UAE General Trading Company. The Canadian exporter did not question this payment method.

Canadian Schemes: Cars



Source: FinCEN

Tangled Web: 1

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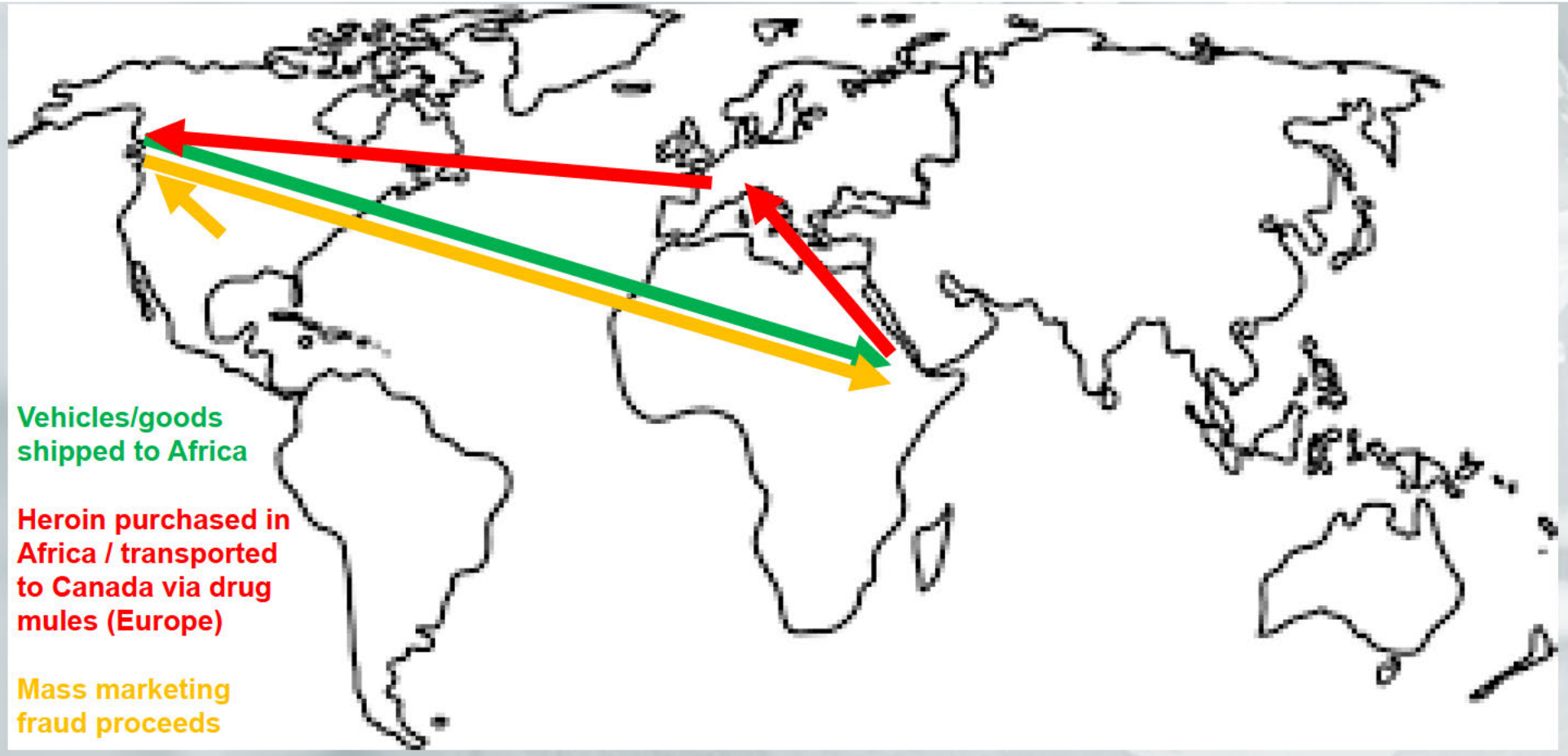

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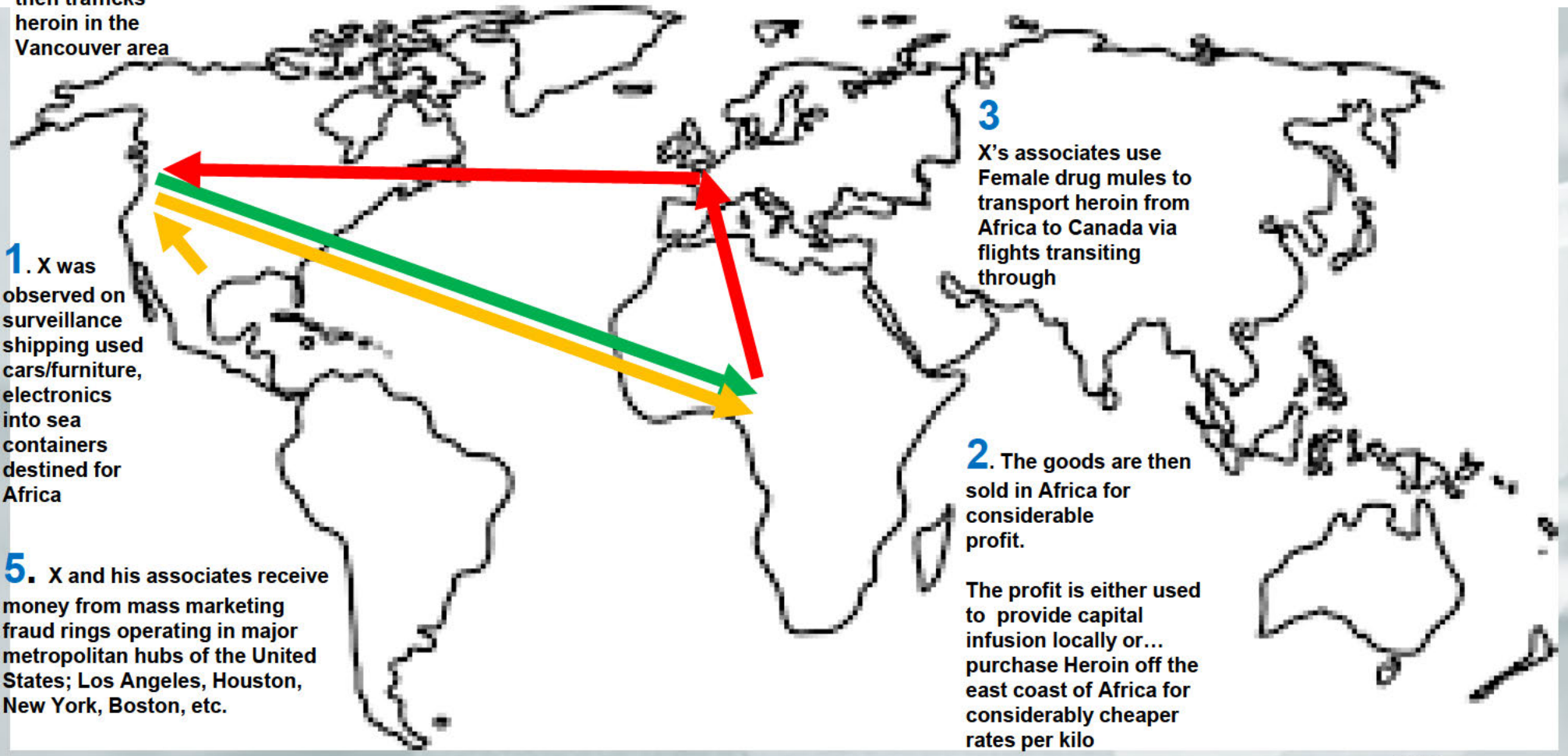
Tangled Web: 2



Emerging Issues

- Abuse of Open Account transactions – Third-Party invoice settlement
  - No equivalent to US wire fraud offences (18 USC §1343) in the *Criminal Code*
  - US authorities can leverage wire fraud as a criminal predicate in US TBML schemes
  - No mechanism to reconcile customs declarations with sales and shipping invoices

Emerging Issues (continued)

- Structuring through trade in goods
  - Canadian businesses not required to report cash payments over $10,000
  - No equivalent to US structuring offences (31 USC § 5324)

- Trade Finance Reporting Gaps
  - Documentary credit information is not accessible to FINTRAC

- *Traders* (i.e. anyone who facilitates the exchange of goods across national borders, such as freight forwarders) not included in current AML/CTF reporting regime.

- FINTRAC does not collect all relevant data (i.e. Letters of Credit, international EFTs under $10,000, domestic EFTs (unless noted in STRs), trade transactions handled by lawyers)

Operational Challenges

Intelligence

- Identifying TBML from trade transactions extremely difficult (i.e. a needle in a needle stack)
- Opaque trade systems & long supply chains prevent effective monitoring (i.e. buried data)

Investigative

- Complex schemes requiring SMEs
- Must be able to "follow the goods" & "follow the money"
- Often not directly tied to predicates
- New approach: leveraging customs & tax designated offences as basis for charges
- International requests for information

Prosecutorial

- Limited financial crime prosecutorial expertise
- Charges favour predicate crimes
- Blanket assertions of solicitor-client privilege

Structural Challenges

- Multiple stakeholders (domestic & international) required to tackle TBML presents coordination / logistical challenges

- Multiple countries with differing governance/legal regimes

- Multiple agencies with differing but overlapping mandates
  - Information consumers:
    - RCMP, CBSA, FINTRAC, CRA, CSIS
  - Information providers
    - EDC, GAC, IC, provincial agencies, private sector actors

- Non-traditional private sector stakeholders:
  - Financial institutions (including Capital Markets)
  - Trade chain (importer/exporters, customs brokers, freight forwarders, shippers)

Intersecting Mandates – Collective Efforts

"Those responsible for detecting and investigating TBML as well as those who collect trade data and handle trade finance are critical to raising awareness and building capacity to identify TBML"

- APG

Building a TBML case

Target Identification

- Intelligence
- Tips
- Referrals
- Analytics

Intelligence Gathering

- FINTRAC STRs
- & transaction data
- CBSA trade data
- Open source tools
- Analysis
- Investigative techniques
- Integrating investigative resources / expertise (ie. RCMP / CBSA / CRA)

Secure Evidence

- Judicial authorizations
- Investigative techniques
- Forensic accounting
- Employing multiple legislation (ex. CC, ITA, ETA, Customs Act)

Budget 2019 Initiatives

- GOC AML "Action, Coordination, Enforcement" (ACE) Team (Public Safety Canada lead)
  - Pilot initiative bringing together dedicated experts from across intelligence and law enforcement agencies to strengthen inter-agency coordination and cooperation and identify and address significant money laundering and financial crime threats.
  - Budget 2019 investment of $24 million over five years, beginning in 2019–20, for Public Safety Canada to implement the ACE Team as a pilot initiative

- CBSA Trade Fraud / TBML Centre of Expertise
  - Brings together CBSA experts in commercial/trade, intelligence, and criminal investigations at NHQ and regional offices to strengthen CBSA's ability to identify, interdict, and investigate the trade fraud offences that allow TBML to occur
  - Leverage *Customs Act* offences for RCMP to pursue ML
  - Budget 2019 investment of $28.6 million over four years, beginning in 2020–21, with $10.5 million per year ongoing
  - Supported through increased financial intelligence from FINTRAC, which received Budget 2019 funding starting in 2021-22

Opportunities

- Private sector engagement
  - FINTRAC Major Reporters Forum
  - ML Contact Group
  - Public Private Partnerships, i.e. Project Athena
- Joint Force Operations
  - Mutual target selection, Cross-training, Develop indicators, foundation for aggregate data sharing
- MOUs and multi-lateral/bi-lateral agreements
- Engaging information collectors and non-traditional partners
  - (EDC, GAC, IC, BCLC)
- Procurment of IT systems capable of analyzing and sharing *big data*
- International collaboration (i.e. resources deployed abroad)

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C/M Bryanna GATELEY

RCMP Federal Serious and Organized Crime

“E” Division HQ

Sgt. Sushile SHARMA

RCMP Federal Serious and Organized Crime

Financial Integrity Section

"E" Division HQ

Joel GIBBONS

CBSA Intelligence and Targeting Directorate, NHQ

Trade Fraud and TBML Centre of Expertise

Dan LAMBERT

Assistant Director Intelligence Sector

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APPENDICES

Published Guidance

- **FINTRAC Operational alert on Professional Money Laundering (2018):**
  - TBML features prominently:
  - Public document primarily aimed at providing guidance to reporting entities;
  - Based on recent TBML observations;
  - Provides basic background and indicators.
- **FATF and APG typology reports:**
  - FATF TBML (2006)/ APG TBML (2012)/ BAFT (2017)
  - FATF Professional Money Laundering (2018)

Reference number: 18/19-SIDEL-025

July 18, 2018

Professional money laundering through trade and money services businesses

Professional money launderers are sophisticated actors who engage in large-scale money laundering on behalf of transnational organized crime groups such as drug cartels, motorcycle gangs and traditional organized crime organizations. Professional money launderers sell their services to these groups and are involved in the majority of sophisticated money laundering schemes; they are not members nor are they involved in the predicate offences that generate illicit proceeds. As such, they present unique identification challenges.

While professional money launderers may be accountants, bankers or lawyers, current financial intelligence suggests that they often are owners of, or associated with, trading companies or money-services businesses. Professional money launderers use their occupation and knowledge, as well as the infrastructure associated with their line of work and their networks, to facilitate money laundering, providing a veneer of legitimacy to criminals and criminal organizations.

This operational alert provides indicators for money laundering carried out through trade and money services businesses. Entities required to report to FINTRAC should use these indicators on their own and in combination to identify potential professional money laundering activities. Reporting entities should also use these indicators in conjunction with a risk-based approach and other money laundering indicators. Financial institutions are especially well positioned to recognize and report on suspicious financial transactions that may be connected to professional money laundering. FINTRAC uses these indicators, along with other sources of information, to assess reporting entities' compliance with their reporting obligations.

Trade-based money laundering

Professional money launderers use trade transactions to legitimize proceeds of crime and move them between jurisdictions and between currencies. FINTRAC has observed two main schemes of this type.

- Schemes involving falsified customs, shipping and trade finance documents, including the following:
  - Phantom shipments: Transferring funds to buy goods that are never shipped, received or documented.
  - Falsely described goods and services: Misrepresenting the quality, quantity, or type of goods or services traded.
  - Multiple invoicing: Issuing a single invoice but receiving multiple payments.
  - Over/under invoicing: Invoicing goods or services at a price above or below market value in order to move money or value from the exporter to the importer or vice-versa.
- The Black Market Peso Exchange, which typically works as follows:
  - Transnational organized crime groups, such as Colombian or Mexican drug cartels, place proceeds of crime into the U.S. financial system through structured cash deposits (deposits that are organized to avoid record-keeping or reporting requirements) of U.S. dollars.

FINTRAC Red Flags

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Indicators of trade-based money laundering by professional money laundering networks (FINTRAC)

- An entity is a Canadian **small or medium-size import/export company, wholesaler, dealer or broker** operating in a sector dealing in high-volume, high-demand commodities with variable price ranges, including agri-food, textiles, electronics, toys, lumber and paper, and automotive or heavy equipment.
- The entity has **business activities or a business model that is outside the norm for its sector**, or conducts no business activities in Canada. It may also be difficult to confirm the exact nature of the business.
- The entity **transacts with a large number of entities** that have activities in the above-noted sectors or have names that suggest activities in a wide range of unrelated sectors, and also does some or all of the following:
  - receives **a sudden inflow of large-value EFTs**;
  - orders EFTs to China- or Hong Kong-based trading companies or individuals, and receives EFTs from the U.S. and Latin American countries;
  - orders EFTs to entities or individuals in the U.S., Mexico or Latin American countries, and receives such transfers from the U.S.;
  - orders or receives EFTs to/from entities holding a bank account in Latvia or Cyprus, and are registered to addresses in the U.K., Cyprus, the British Virgin Islands, Panama, the Seychelles, Belize, the Marshall Islands or other offshore financial centers; and
  - orders or receives payments for goods in **round figures** or in increments of approximately US$50,000.
- A trading company based in the United Arab Emirates orders EFTs to individuals or entities in Canada.
- An entity's U.S. dollar business accounts held in Canada exhibit flow-through activity—that is, **money is taken or transferred out of the account as quickly as it flows in**.

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FATF Red Flags

Several red flags indicating potential TBML are:

- Payments to a vendor by unrelated third parties
- False reporting, such as commodity misclassification, commodity over- or under-valuation
- Repeated importation and exportation of the same high-value commodity, known as carousel transactions
- Commodities being traded that do not match the business involved
- Unusual shipping routes or transshipment points
- Packaging inconsistent with the commodity or shipping method
- Double-invoicing