



# A Prosecution Perspective: Transshipment and Forensics

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# Outline

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- The many uses of forensic evidence
- The legal/courtroom use of forensic evidence
- A prosecutor's view on the complex supply chain in transshipment cases
- Examples
- Value of proving false declarations v. underlying illegal harvest



# Use of Forensics

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- Help provide direction to an investigation
- Confirm investigation assumptions
  - Operators: Confirm supply chain assumptions
- Show a lack of due care/due diligence
- Bargaining chip
- Courtroom evidence
  - Much higher standard for courtroom evidence
    - United States: *Daubert* Standard
    - UK/Australia: “a body of knowledge or experience which is sufficiently organized or recognized to be accepted as a reliable body of knowledge or experience.”
    - General adversarial process

# Use of Forensics

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- Prosecution considerations:
  - Qualified laboratory
  - Sufficient legal chain of custody
  - Qualified witness
  - Scientific method used
    - Has the method been tested?
    - Has the scientific theory has been peer reviewed?
    - The reliability and error rate
    - The extent of general acceptance by the scientific community
  - DNA is widely accepted, but other methods have not been as firmly established

# Transshipment Cases

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- Complex supply chains
- For United States/EU, jurisdiction is likely only at the end of the supply chain
- Very difficult to determine underlying concession-level crimes
- Illegality is likely proved by circumstantial indicators
  - False species
  - False harvest location
  - False quantities
  - Mismatched documents

# Examples:

Wood harvested in PNG  
by Saunders, LLP



Sold as logs to Chinese  
manufacturer



Purchased as furniture in  
Germany by Hinrichs, GmbH



# Examples:

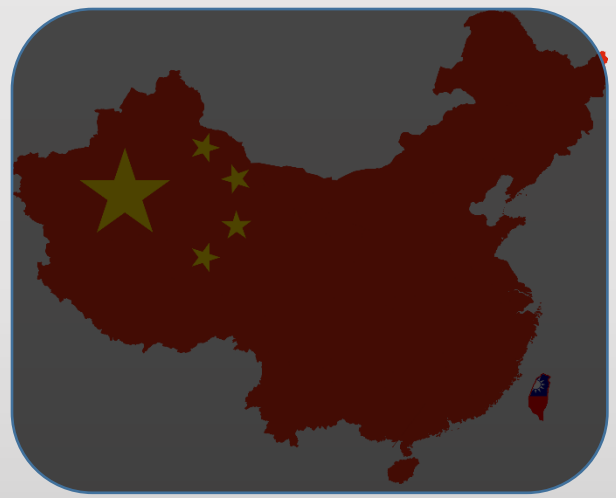
Wood harvested in PNG  
by Saunders, LLP



Sold as logs to Chinese  
manufacturer



Purchased as furniture in  
Germany by Hinrichs, GmbH



**It will be difficult for enforcement  
to prove that Saunders  
overharvested...**

**This transshipment country is  
often a black box, so...**

**And even more difficult to prove  
that Hinrichs knew that Saunders  
overharvested, thus harder to  
prove a lack of due care/due  
diligence...**

# Examples:

Wood harvested in PNG  
by Saunders, LLP



Sold as logs to Chinese  
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Purchased as furniture in  
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If this is overharvested from a concession, then it will be difficult to prove,  
unless the supplier is providing false declarations, or the underlying  
paperwork shows that it could not be feasible



# Examples:

Wood harvested in PNG  
by Saunders, LLP



Sold as logs to Chinese  
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Purchased as furniture in  
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If this is CITES timber without proper paperwork, there must have been a  
false declaration or false paperwork

# Examples:

Wood harvested in PNG  
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If this is timber that is banned from export in harvest country, there must have been a false declaration or false paperwork

# Common Thread

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- Almost all types of underlying illegality require false declarations or false paperwork.
- Thus, all the investigation needs to prove is that the operators claim is NOT TRUE
  - This can be done with import paperwork
  - Underlying paperwork
  - Statistical analysis
  - Forensics
- The more of these you have, the stronger your case

# Take Aways

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- Proving illegality in country of harvest is ideal, but may be too difficult
  - Lack of paperwork
  - Lack of operator knowledge
  - Lack of court-acceptable forensics
- Proving falsity of declarations can have same impact
  - Typically utilizes acceptable forensics
  - Can still trigger heightened due diligence
  - Can still trigger criminal penalties
  - Will still impact market
- Do not rely on only one investigative method
- Discuss requirements with prosecutor early & often

# Thank you!

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