

TECHNICAL ASSESSMENT-COMPARATIVE ANALYSIS OF

TYOLOGIES AND PATTERNS OF MONEY LAUNDERING AND TERRORISM

FINANCING IN THREE FREE TRADE ZONES IN LATIN AMERICA



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**Technical Assessment-Comparative
Analysis of Typologies and Patterns of
Money Laundering and Terrorism Financing
in Three Free Trade Zones in Latin America**

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Acronyms

ALA/CFT	Anti-Money Laundering/ Combating the Financing of Terrorism
CICAD	Inter-American Drug Abuse Control Commission
CICTE	Inter-American Committee against Terrorism
DTOC	Department against Transnational Organized Crime
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FinCEN	Financial Crimes Enforcement Network
FTZ	Free Trade Zone
GAFILAT	Financial Action Task Force of Latin America
ML/TF	Money Laundering/Terrorism Financing
NPO	Nonprofit organizations
OAS	Organization of American States
TBML	Trade Based Money Laundering
STR	Suspicious Transaction Report
UN	United Nations
UNCTED	United Nations Counter-Terrorism Committee Executive Directorate
UNODC	United Nations Office on Drugs and Crime

Introduction

Drug trafficking, smuggling, trafficking in persons, and the smuggling of migrants and firearms are just a few of the crimes that attract organized crime and terrorist groups. Their enormous profits are easily concealed in some jurisdictions, particularly in countries with legislative systems and institutions susceptible to money laundering and terrorism financing (ML/TF). The flow of illicit financing can have devastating effects on the international financial system, which in turn erodes public trust and propagates illegal activities within criminal organizations. Currently, terrorism poses significant challenges to the international community, such that the countries of the region are convinced that interregional cooperation is an effective measure for interrupting and dismantling money laundering transactions for terrorist and criminal purposes.

To this end, Member States of the Organization of American States (OAS) have expressed their commitment to coordinating efforts and providing a regional and global response to terrorism and terrorism financing. With the support of the Inter-American Committee against Terrorism (CICTE) and other entities¹, the countries of the region have made significant strides in meeting their international legal obligations, by adapting domestic legislation to international standards on combating terrorism and terrorism financing.

The importance of free trade zones (FTZs) continues to grow as globalization defines economic progress. The pace of this growth calls for the ongoing adaptation of legislation in these areas, so as to support economic development, as well as efficiently regulate foreign trade transactions to prevent illicit activities from exploiting these transactions.

Nonetheless, global trade is a sector riddled with loopholes, which are abused by criminal organizations to hide profits derived from criminal activities, thus giving an appearance of legality to their illicit origin. The great challenge for governments is, therefore, to bolster existing oversight mechanisms in foreign trade transactions by aligning them with international standards, while also simultaneously ensuring that any such oversight does not hinder foreign trade transactions or economic growth.

The 2010 report prepared by the Financial Action Task Force (FATF) on money laundering in free trade zones maintains that one of the most commonly-used methods for financing terrorism in Central and South America is Trade Based Money Laundering (TBML).² This type of foreign trade transaction is one of the techniques chosen by criminal and terrorist groups to launder ill-gotten gains; they focus on exploiting the international trade system to transfer assets and securities, while disguising the true illicit origin of those funds.

Although countries have begun taking actions to reinforce their anti-money laundering and terrorism financing legal systems—by revising and amending existing legislation; taking measures to expand the role and capacity of law enforcement agencies to combat financial crimes; and criminalizing the financing of terrorist organizations, persons, and assets—these measures are not yet sufficient in terms of their ability to effectively prevent, detect, and combat terrorism financing.

¹ GAFILAT, DTOC, CICAD, UNCTED, UNODC, inter alia.

² *Report on Money Laundering Vulnerabilities of Free Trade Zones*. FATF- 2010.

The weakness of the systems overseeing customs, trade transactions, and financial transactions, in addition to lacking communication and information sharing among border control agencies, remains a key concern as it facilitates and enables transnational crime.

Background

In recent years, the OAS—through CICTE and CICAD (Inter-American Drug Abuse Control Commission)—has focused its mission on assisting, supporting, and promoting the efforts of Member States to improve the results obtained in the fight against money laundering and terrorism financing in Latin America and the Caribbean.

OAS projects carried out in member states have evolved over time to reflect the changing, progressive growth of this scourge. The OAS has focused its activities on assisting the region's countries as they address the increasingly complex techniques used in ML/TF transactions.

Although these activities differ in their objectives and characteristics, both possess the common purpose of exploring and exploiting the most vulnerable aspects of the countries in the region, and taking advantages of the existing weaknesses in various sectors, like a deficient threat and risk detection system for terrorists activities, ineffective or inexistent legislation to prevent and punish these crimes, lack of information and inter-institutional and international cooperation, corruption, etc.

By identifying emerging threats in money laundering cases, specifically foreign trade transactions in the free trade zones of Latin America, a process of cooperation has begun in the region in order to adopt the necessary measures to minimize the risks of this type of operation.

Objectives

The primary objective of this report is to support member states in developing actions designed to promote domestic, inter-institutional, and international cooperation to facilitate and streamline the legal movement of goods, services, and persons in free trade zones, while simultaneously ensuring that these transactions are carried out in keeping with regulatory controls and protecting the legality of trade transactions.

To this end, this report will analyze the existing characteristics of three free trade zones in the region:

- I. Colon, Panama
- II. Ciudad del Este, Paraguay
- III. Iquique, Chile

In order to meet the abovementioned objective, the results obtained from coordination of the following aspects will be considered:

1. Identify the vulnerabilities and deficiencies of these areas in terms of ML/TF, through existing legislation and its conformity with international standards.

2. Identify the vulnerabilities, threats, and deficiencies of FTZs in terms of their organizational and institutional structure.
3. Use case studies to understand the challenges these areas pose to the region and identify the threats and vulnerabilities associated with money laundering and terrorism financing.
4. Promote the exchange of best practices on minimizing risks in foreign trade transactions in FTZs, by exchanging model laws and regulations.
5. Promote greater inter-institutional cooperation among key actors, such as customs, police, and other enforcement and financial regulation agencies, as well as regulatory entities in the FTZs.
6. Provide recommendations based on the evaluation of the results obtained and the demonstrated risks relating to ML/TF derived from transnational crime.

Methodology

This report was prepared drawing from various sources of information, based primarily on the three workshops organized by CICTE as part of this project:

- Sub-regional Workshop on Terrorism Financing and Money Laundering: Minimizing the Risks in Free Trade Zones. Asuncion, Paraguay, April 2015.
- Sub-regional Workshop on Terrorism Financing and Money Laundering: Minimizing the Risks in Free Trade Zones. Panama City, Panama, August 2015.
- Sub-regional Workshop on Terrorism Financing and Money Laundering: Minimizing the Risks in Free Trade Zones. Iquique, Chile, June 2016.
- Meeting of Experts. Comparative Analysis of Typologies and Patterns of Money Laundering and Terrorism Financing in Free Trade Zones in Latin America. Bogota, Colombia, February 2017.

These activities provided an opportunity for experts in various specialties from the public and private sectors, specialists from enforcement agencies, and trade associations to share their experiences on combating money laundering and terrorism financing in free trade zones.

Also joining was a broad range of experts from the international community: Financial Action Task Force of Latin America (GAFILAT), U.S. experts (ICE/Homeland Security Investigations), the Brazilian Department of Federal Revenue (*Receita Federal do Brazil*), COPEI (Brazilian General Coordination of Research and Investigation), CITCO in Spain (Intelligence Center against Terrorism and Organized Crime), POLFA in Colombia (Tax and Customs Police), Costa Rican Drug Institute, Financial Intelligence Unit officials, Public Prosecutor's Office officials, national customs officials, and police department, among others.

The project team also developed an exhaustive questionnaire that was distributed to the experts participating in the workshops. This provided valuable up-to-date information on the prevailing systems in free trade zones in participants' countries.

The workshop methodology offered both theoretical and practical sessions (presentations, case studies, round tables and practical exercises). There were also site visits to free trade zones, which included meetings and presentations with experts and local authorities. This initiative fostered international cooperation on developing a uniform framework to regulate foreign trade systems in the FTZs, as well as the exchange of experiences and best practices on the matter.

Using these research tools, a comprehensive analysis was conducted of current legislation and the existing institutional structures in each FTZ studied. Domestic and international oversight and cooperation mechanisms were also analyzed.

This document will also present a national and regional guide on combating ML/TF in FTZs, as well as evaluating its transferability to other FTZs in the region. The report will also include a section on best practices for combating terrorism financing and money laundering, based on the experiences analyzed at a national, sub-regional, and hemispheric level.

CHAPTER II

GENERAL CONCEPTS AND LEGAL FRAMEWORK

Money laundering and terrorism financing

From a conceptual standpoint, money laundering (ML) is the process of converting illegal proceeds so that funds are made to appear legitimate and thereby enter the stream of legal commerce.

Within the international legal framework, the *Vienna Convention*³ and the *Palermo Convention*⁴ state that money laundering is understood as:

- *“The conversion or transfer of property, knowing that such property is derived from any [drug trafficking] offense or offenses, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions;*
- *The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offense or offenses, or from an act of participation in such an offense or offenses;...*
- *The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from an offense or offenses, or from an act of participation in such offense or offenses.”*

On this point, it bears clarifying that comparative legislation in the region had progressed in recent years by introducing legal reforms that criminalize money laundering as an autonomous offense, i.e. as an offense independent from the predicate offense that originated the profits. This offense was initially classified as a crime in relation to the laundered proceeds of drug trafficking, as referenced in the international arena in the Vienna Convention. The offense of money laundering was, thus, incorporated into the criminal law of this convention’s signatory states as a crime connected to the predicate offense of drug trafficking. This left the offense of money laundering subject to proving the predicate crime from which the proceeds that were turned into seemingly assets were derived.

Terrorism financing is related to the collection of funds or assets for the purpose of carrying out terrorist acts or financing the organization’s structure. The techniques used for money laundering are essentially the same as those used to conceal the sources of and uses for terrorism financing.

Funds used to support terrorism may originate from legitimate sources (direct state financing, donations, profits, or gains from legitimate economic activities, etc.) or from illegitimate sources (such as funds from criminal activities, smuggling, corruption, extortive kidnapping, theft, and any other illicit activity that generates gains), or both. Similarly, in the case of TF, it is important to conceal the source of the terrorism funds, regardless of whether the origin is legitimate or not.

Terrorist groups use various methods to finance their activities in order to conceal their financial movements: business enterprises or charities used as front companies or shell companies; legal and

³ *United Nations Convention against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances* (1988)

⁴ *United Nations Convention against Transnational Organized Crime* (2000)

financial facilities offered by countries and territories labeled as non-cooperative countries by the FATF and alternative remittance systems, specifically Hawala transactions; bulk cash smuggling (the physical transport of cash or currency); structuring deposits into or withdrawals from bank accounts; the use of easily transferrable monetary instruments; and the conversion and irregular use of the gold and precious stone supply chains.⁵

These two approaches are associated with different realities: both typically use the same techniques for moving funds, with one related to the laundering of ill-gotten gains, and the other with financial transactions tied to terrorist organization activities. The techniques employed for money laundering are essentially the same as those used to conceal the sources of and uses for financing for terrorism.

The different stages of money laundering and terrorism financing occur within a host of different countries. For example, placement, layering, and integration may each occur in three separate countries; one or all of the stages may also be removed from the original scene of the crime.⁶

In terms of measures for preventing and detecting these activities, terrorist and criminal assets pose the same threats to financial and public institutions; therefore, the strategies designed to harness financial systems to combat money laundering may also be successfully deployed to combat the financing of terrorist activities. Nonetheless, it bears noting that financial transaction amounts in TF are smaller than those linked to ML transactions.

The crime of terrorism financing. International legislative history

The definition of the term “terrorism” has sparked a debate among the international community, as the concept entails implicit political, religious, ethnic, and social considerations; there is, therefore, no consensus as to what is understood as “terrorist acts.”

However, for the purposes of this report, we will limit the scope of this concept and refer to the guidelines set forth in international treaties, to which the OAS member states are party.

There are two international instruments that provide the basic tenants for establishing the financing of terrorism as a criminal offense in domestic law: the **International Convention for the Suppression of the Financing of Terrorism** (UN, 1999)⁷ and **United Nations Security Council Resolution 1373** (2001)⁸.

Article 2 of the 1999 convention refers to the financing of acts of terrorism as follows:

⁵ Practical Guide on Prevention, Detection and Repression of Terrorist Financing – Latin American Countries- CICTE/OAS 2006.

⁶ Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism. World Bank.

⁷ The International Convention for the Suppression of the Financing of Terrorism was adopted by the United Nations General Assembly by way of resolution A/RES/54/109, on December 9, 1999.

⁸ Resolution 1373 (2001) was adopted by the UN Security Council, held on September 28, 2001.

“Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out: (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.”

This convention defines the offense of terrorism financing as an autonomous and willful crime. This includes the act of **providing or collecting funds** for a terrorist act, establishing that said funds may be of any nature, including of legal origin. Furthermore, this instrument refers to provisions on preventing and suppressing the offense of terrorism financing.⁹

UN Security Council Resolution 1373 refers to the financial support to terrorists and terrorist organizations, deciding that states shall:

“1. (a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts...

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons...

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts...”

The standards set by these two international instruments are similar, though not identical. Each state has the discretion to incorporate the legal constructs contained therein as they see fit, by including the criminalization of these conducts in their domestic laws.

At a regional level, the **Inter-American Convention against Terrorism** was adopted in 2002 by the Organization of American States.¹⁰ The primary aim of the convention is to prevent, punish, and eliminate terrorism. Although it omits any definition of the concept of terrorism, it does refer to

⁹ Articles 4, 5, and 8 of the Convention.

¹⁰ <http://www.oas.org/juridico/english/treaties/a-66.html>

the international conventions against terrorism cited in the 1999 International Convention for the Suppression of the Financing of Terrorism. The Inter-American Convention recommends that OAS member states take such measures as may be necessary to incorporate the guidelines contained in the international instruments, to include the criminalization of the offenses described therein.

Specifically, this convention recommends certain measures related to the financing of terrorism:

“Article 4. Measures to prevent, combat, and eradicate the financing of terrorism

1. Each state party, to the extent it has not already done so, shall institute a legal and regulatory regime to prevent, combat, and eradicate the financing of terrorism and for effective international cooperation with respect thereto, which shall include: (a) comprehensive domestic regulatory and supervisory regime for banks, other financial institutions, and other entities deemed particularly susceptible to being used for the financing of terrorist activities. This regime shall emphasize requirements for customer identification, record-keeping, and the reporting of suspicious or unusual transactions; (b) measures to detect and monitor movements across borders of cash, bearer negotiable instruments, and other appropriate movements of value. These measures shall be subject to safeguards to ensure proper use of information and should not impede legitimate capital movements; (c) measures to ensure that the competent authorities dedicated to combating the offenses established in the international instruments listed in Article 2 have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed under its domestic law. To that end, each state party shall establish and maintain a financial intelligence unit to serve as a national center for the collection, analysis, and dissemination of pertinent money laundering and terrorist financing information. Each state party shall inform the Secretary General of the Organization of American States of the authority designated to be its financial intelligence unit.

2. When implementing paragraph 1 of this article, states parties shall use as guidelines the recommendations developed by specialized international and regional entities, in particular the Financial Action Task Force (FATF) and, as appropriate, the Inter-American Drug Abuse Control Commission (CICAD), the Caribbean Financial Action Task Force (CFATF), and the South American Financial Action Task Force (GAFISUD).”

The FATF 40 Recommendations and the financing of terrorism

The Financial Action Task Force (FATF)¹¹ does not provide a definition of terrorism financing; however, its recommendations urge countries to ratify and enforce the United Nations Convention for the

¹¹ The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 to set standards and promote effective implementation of legal, regulatory, and operational measures for combating money laundering, terrorism financing, the financing of the proliferation, and other related threats to the integrity of the international financial system.

Suppression of the Financing of Terrorism and, specifically, United Nations Security Council Resolution 1373.

The FATF also recommends that states not only criminalize the financing of terrorism, terrorist acts, and terrorist organizations, but also that this offense be designated as a money laundering predicate offense.

The following are the FATF recommendations specifically relating to terrorism financing:¹²

Recommendation 5: Terrorist financing offense.

“Countries should criminalize terrorist financing on the basis of the Terrorist Financing Convention, and should criminalize not only the financing of terrorist acts but also the financing of terrorist organizations and individual terrorists even in the absence of a link to a specific terrorist act or acts. Countries should ensure that such offenses are designated as money laundering predicate offences.”

In its interpretative note, this recommendation provides that “terrorist financing offenses should extend to any person who willfully provides or collects funds or other assets by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used, in full or in part: (a) to carry out a terrorist act(s); (b) by a terrorist organization; or (c) by an individual terrorist.”

Recommendation 6: Targeted financial sanctions related to terrorism and terrorist financing.

“Countries should implement targeted financial sanctions regimes to comply with United Nations Security Council resolutions relating to the prevention and suppression of terrorism and terrorist financing. The resolutions require countries to freeze without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either (i) designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 (1999) and its successor resolutions; or (ii) designated by that country pursuant to resolution 1373 (2001).”

The interpretative note for this recommendation states that “it should be stressed that none of the obligations in Recommendation 6 is intended to replace other measures or obligations that may already be in place for dealing with funds or other assets in the context of a criminal, civil or administrative investigation or proceeding, as is required by Recommendation 4 (confiscation and provisional measures). Measures under Recommendation 6 may complement criminal proceedings against a designated person or entity, and be adopted by a competent authority or a court, but are not conditional upon the existence of such proceedings.” This recommendation refers to the financial intelligence information used by authorities to investigate ML/FT (FATF Recommendations 29-32).

Recommendation 8: Measures to prevent the misuse of non-profit organizations (NPO).

“Countries should review the adequacy of laws and regulations that relate to non-profit organizations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and

¹² http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

proportionate measures, in line with the risk-based approach, to such non-profit organizations to protect them from terrorist financing abuse, including:

(a) by terrorist organizations posing as legitimate entities;

(b) by exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and

(c) by concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organizations.”

The interpretative note for Recommendation 8 states that “some NPOs may be vulnerable to terrorist financing abuse by terrorists for a variety of reasons. NPOs enjoy the public trust, have access to considerable sources of funds, and are often cash-intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. Depending on the legal form of the NPO and the country, NPOs may often be subject to little or no government oversight (for example, registration, record keeping, reporting, and monitoring), or few formalities may be required for their creation (for example, there may be no skills or starting capital required, no background checks necessary for employees). Terrorist organizations have taken advantage of these and other characteristics to infiltrate the sector and misuse NPO funds and operations to cover for, or support, terrorist activity.”

Through its assessment methodology, FTAF analyzes country compliance levels based on two aspects:

1. Technical compliance assessment: addresses compliance with FATF Recommendations, as they relate to the relevant legal and institutional frameworks of the country, and the powers of competent authorities and procedures utilized.
2. Effectiveness assessment: assesses the effectiveness of implementation of the recommendations and the extent to which a country has achieved a defined set of outcomes that are central to a robust AML/CFT system.

Criminalization of terrorism financing

One of the greatest legal challenges the region had to face in terms of money laundering and terrorism financing was the need to align domestic law with international standards, following the ratification of the abovementioned international treaties.

In several of the region’s countries, the institutions charged with punishing this crime faced two overarching obstacles: (1) the offense of money laundering required proof of the predicate crime, i.e. it was tied to the existence of a prior offense and (2) the perpetrator of this crime was linked to the accessory, such that if the perpetrator of the predicate offense was the “laundering” party, he could only be punished for the predicate offense. This meant that, among other consequences, only a small number of judicial proceedings relating to this crime were prosecuted in the countries of the region.

The impetus initiated by the mutual evaluation processes conducted within the FATF and its regional organization (GAFILAT)¹³ brought about greater awareness on the delays in bringing existing legislative frameworks in line with international standards. To this end, reform processes included the criminalization of terrorism financing as an autonomous offense, as well as the incorporation of new actors that were required to report suspicious transactions, increased regulation of oversight mechanisms and the operations of the organizations involved in this process, particularly an increased FIU role, among other matters.

Models for criminalizing money laundering and terrorism financing in some countries of the region

Country	Criminalization of money laundering	Criminalization of terrorism financing
Argentina	Criminalization of money laundering as an autonomous offense and the criminalization of self-laundering: Art. 303 of the Criminal Code. Law 26.683 (2011).	Terrorism financing is criminalized as an autonomous offense in Art. 306 .1 of the Criminal Code, within the “Crimes against the Financial and Economic Order.”
Bolivia	Money Laundering: Art. 185 bis of the Criminal Code. Amendments to Law 004 (Extension of the group of predicate offenses).	Terrorism financing: Art. 133 bis of the Criminal Code. (Law No. 170, 2012 and Law No. 262, 2012).
Brazil	Money Laundering: Law No. 12.683 enacted July 9, 2012, which amended Law No. 9.613/98. It eliminated the list of predicate offenses, allowing for money laundering to include crimes of concealing or hiding the origin of resources derived from any crime or criminal violation.	Law 13.260/16 (2016), which criminalizes terrorism and terrorism financing.

¹³ Financial Action Task Force of Latin America.

<p>Chile</p>	<p>Money Laundering: Law No. 20.818 of 2015 introduced important amendments to Law No. 19.913, expanding the Catalogue of Money Laundering Predicate Offenses. Law 20.000 and 20.393.</p>	<p>TF has been established as a crime in Art. 8 of Law 18.314 (2003).</p>
<p>Colombia</p>	<p>Money Laundering: Law 599 of 2000, Art. 323 of the Criminal Code and its reforms define the illicit activity of money laundering.</p>	<p>TF has been established as a crime in Art. 345 of the Criminal Code (Law No. 599 of 2000, amended by Law No. 1121 of 2006).</p>
<p>Costa Rica*</p>	<p>Law No. 8719 (2009) to strengthen anti-terrorism legislation. It aims to strengthen legislation against serious crimes constituting acts of terrorism (it amended Law 8204).</p>	<p>TF Article 69 bis of Law 7786 of 2016 updates the criminal definition of TF; it incorporates the text of Article 2.b. of the Convention for the Suppression of the Financing of Terrorism.</p> <p><i>* Bill 19.951, which reforms the law on narcotics, psychotropic substances, illicit drugs, related activities, money laundering, and terrorism financing, was passed during the first debate by the Legislative Assembly on April 21, 2017. The new regulation establishes the obligation that professionals working in non-financial activities—like attorneys, accountants, notaries, and real estate agents— will have once the law is passed in its entirety and enacted.</i></p>
<p>Guatemala</p>	<p>Law against Money or Other Asset Laundering (Decree No. 67-2001).</p>	<p>TF is established as a crime in Art. 4 of the Law to Prevent and Suppress the Financing of Terrorism, Decree 58-2005.</p>
<p>Panama</p>	<p>Money Laundering Law: Article 254 of the Panamanian Criminal Code. Law No. 23 (2015), set forth significant reforms to the money laundering regime. Law 27 (2015), amends Law 42 (2000).</p>	<p>TF is established as a crime in Art.133 bis of the Criminal Code. Law No. 170 (2012) incorporates the offense of TF into the Criminal Code, complemented by Law No. 262 (2012). Law 10 (2015).</p>

Paraguay	Law 1015/97, which prevents and suppresses illicit acts aiming to launder money or assets, and Amending Law No. 3783/09 and Resolution No. 253/11.	TF is established as a crime in Law No. 4024/10, Anti-terrorism Law of June 2010.
Peru	Legislative Decree 1106 of 2012: it is no longer necessary to demonstrate the predicate offense.	TF is established as a crime in Section 1 of Law No. 29936, incorporating Section 4-A of Decree-Law No. 25.475 (2012).
Uruguay	Law 18.494 Control and Prevention of Money Laundering and the Financing of Terrorism.	The offense of terrorism financing is provided for in Article 16 of Law No. 17.835 (2004), as amended by Law No. 18.494 (2009).

CHAPTER III



FREE TRADE ZONES

What is a free trade zone?

Free trade zones are designated areas within jurisdictions in which incentives are offered to support the development of exports, foreign direct investment (FDI), and local employment. These incentives include various sorts of measures, such as exemptions from duties and taxes, simplified administrative procedures, and the duty-free importation of raw materials, machinery, parts, and equipment. In addition to boosting economic opportunity in these areas, these incentives can result in a lowering of finance and trade controls and enforcement, as well as administrative and oversight proceedings, such as in trade transactions, thereby creating opportunities for money laundering and the financing of terrorism.

To this end, and as a result of this special system, certain techniques have been identified as having been used by money laundering and terrorism financing operations in the framework of foreign trade transactions in these areas, by exploiting certain vulnerabilities arising from the very characteristics of FTZs.

There is a growing concern about how the rapid growth in the global economy has made international trade an increasingly attractive avenue to move illicit funds through financial transactions associated with the trade in goods and services. Foreign trade transactions in free trade zones are a complex phenomenon, since its constituent elements cut across not only sectoral boundaries but also national borders.

Free trade zones in Latin America

According to the International Labor Organization (ILO), Free Zones (“Zona Franca” in Spanish) are “industrial zones with special incentives to attract foreign investors, where imports are subject to a certain degree of industrial processing, before being exported again”. In some jurisdictions, the terms “Free Zone” and “Free Trade Zone” are equivalent expressions, while in other countries the terms have concrete differences. Both terms are used interchangeably throughout this text.¹⁴

The first country to establish a free-trade regime was Uruguay in 1923, followed by Panama in 1948 and Colombia in 1958. There were two large waves of incorporating free trade zones into the region: the first in the 1960s and 1970s in Mexico, Brazil, Chile, and Dominican Republic and the second in the 1990s, when Guatemala, Costa Rica, Argentina, Paraguay, and Nicaragua began to implement this regime to promote its foreign trade.

According to the Latin American Free Trade Association, the region’s FTZs can be classified as follows:¹⁵

1. **Export zones:** 1) Industrial diversification: these are used to increase the added value of goods produced and services provided in the free trade zones, as in Costa Rica and Dominican Republic; 2) Maquila employees (textile/fashion industry): this has been implemented to compete with CAFTA-DR in countries like El Salvador, Honduras, Guatemala, and Nicaragua; and 3) logistics services: these are used exclusively to distribute goods and services to obtain logistical advantages in countries like Chile, Argentina, and Uruguay.

¹⁴ Labour and Social Issues relating to Export Processing Zones. Ginebra, International Labour Organization (ILO), 1998.

¹⁵ *Asociación de Zonas Francas de las Américas*. Magazine. Vol. I/11/2015.

2. **Import substitution zones:** these were implemented to create a larger supply of foreign goods and services in the domestic market (Brazil).
3. **Mixed zones:** this model consists of three different free-trade zone categories, with operations in Colombia and Uruguay: 1) permanent: these free trade zones are defined geographic areas that have been specially designated by the government for companies operating in these areas to benefit from various tax- and tariff-related incentives; 2) special or “single enterprise”: these zones provide duty and tariff benefits to a specific company, provided that it meets investment and employment requirements; 3) transitory: these are areas with special authorization from the government to hold international trade fairs, exhibitions, conferences, and seminars that may be significant for the domestic economy and foreign trade.

Most commonly-used types of transactions in TBML for ML/TF

In most cases, TBML activities include operations that attempt to distort the price of the transaction’s merchandise, alter merchandise quality or even the quantity of goods as they cross borders or move through supply chains.

The most commonly-used techniques in TBML include the following:¹⁶

- **Over and under-invoicing for goods and services.** According to the FATF, these two types of transactions are among the most commonly-used methods for cross-border money laundering. By invoicing the good or service at a price below market value, the exporter is able to transfer value to the importer, as the payment for the good or service will be lower than the value that the importer receives when it is sold at market value. Alternatively, by invoicing the good or service at a price above the market value, the exporter is able to receive value from the importer, as the payment for the good or service exceeds the value that the importer will receive when it is sold at market value. These types of transactions generally require the collusion of both parties and can have significant tax implications, which is why most organizations prefer to create, modify, merge, or close front companies or dummy corporations, depending on their operating needs. More complex products or goods transported through a supply chain are more prone to being used in under- and over-invoicing activities, as it is more difficult for customs officials to assess the true market value of the goods and services.
- **Multiple invoicing of goods and services.** This technique uses multiple invoices to justify multiple payments in a single transaction. It could also make the transactional volume appear to justify the flow of assets from abroad. A company or an individual associated with the foreign trade sector could, thus, justify multiple payments for the same goods or services, or justify payments to providers or creditors based on this type of documentation. Moreover, splitting up and making multiple payments or transfers using different financial institutions can also increase the level of complexity of the transaction and stymie detection efforts.
- **Manipulating the shipments of goods and services.** In addition to manipulating the prices of goods and services, the criminal organization can overstate or understate the quantity of goods or

¹⁶ *Trade-Based Money Laundering: Overview and Policy Issues*, CRS Report. June 22, 2016.

services being exported or imported. Using this technique, exporters and importers can collude to not send any goods at all, but still process all necessary shipping and customs documents. Banks and other financial institutions may not be aware that these “phantom” transactions are occurring.

- **Falsely described goods and services.** A criminal organization can misrepresent the quality or type of a good or service being negotiated. This creates a discrepancy between the value of a good as it appears on the shipping and customs documents and what is actually shipped.
- **A combination of two or more of these common TBML techniques.** This technique is a frequently-used method for laundering proceeds from drug sales in Latin America. Criminal organizations adopted these techniques to launder vast quantities of drugs proceeds in the 1980s.
- **Funnel accounts.** In May 2014, FinCEN¹⁷ issued an updated advisory on TBML transactions regarding the increased use of this technique involving funnel accounts, due to restrictions on U.S. dollar in certain Latin American countries.¹⁸ A funnel account is an individual or business account in one geographic area that receives multiple cash deposits and from which the funds are withdrawn in a different geographic area with little time elapsing between the deposits and withdrawals. FinCEN’s analysis provides several specific red flags associated with this transnational organized criminal activity.

Threats

This section will address the most pressing threats in the region. Later, we will also cover the study of vulnerabilities inherent to FTZs. This report aims to combine a comprehensive overview of threats, explained through a sub-regional prism, in order to provide geographic context to each threat’s impact, based on the experiences gained throughout this project. Chapter IV will refer to the primary typologies in the region.

According to the FATF’s National ML/TF Risk Assessment, risk is defined as: a person or group of people, object or activity with the potential to cause harm to the state, society, the economy, or other key elements of life in a country or region.¹⁹ The concept of vulnerability is linked to situations or activities that could be exploited or used to realize the threat.

Using the criteria set by GAFILAT in its “Analysis of Regional Threats on Money Laundering,”²⁰ we will focus the regional threat study on those threats that affect the region’s member countries to some degree. We will then analyze each of the sub-regions.

¹⁷ Financial Crimes Enforcement Network. United States Department of the Treasury.

¹⁸ FinCEN, Update on U.S. Currency Restrictions in Mexico: Funnel Accounts and TBML, advisory, FIN-2014-A005, May 28, 2014.

¹⁹ National Money Laundering and Terrorist Financing Risk Assessment: FATF Guidance.

²⁰ Analysis of Regional Threats on Money Laundering. GAFILAT. December 2015.

Organized crime

Countries across the region have detected the presence of organized crime, whose main activity centers on controlling drug trafficking and other criminal activities. Similar to drug trafficking, these other activities generate a series of ill-gotten gains that require ML to be used.

These organized criminal groups may be transnational or local in nature. Drug trafficking is a highly lucrative activity for these groups when acting in a specific territory. More specifically, organized criminal networks belonging to organized criminal structures spring up around local small-scale drug dealing (also known as micro-trafficking). These also tend to be linked to other crimes like migrant smuggling, human trafficking, extortion, kidnapping, illicit arms trafficking, and other criminal activities.

Drug trafficking

The region is affected by the phenomenon of drug trafficking in its various aspects and stages, from production to the return of part of the gains obtained, to the transit process to consumption sites (racking, logistical support, etc.). The degree to which countries of the region are affected by this activity depends on various factors, such as geographic location, orographic conditions, crop tradition, asymmetrical legislative frameworks, and the institutional and legislative structure. This situation has become a threat of the first order to the region.

Bearing in mind that illicit gains may be legitimized outside of where they were generated, the May 2014 report prepared by GAFILAT's Risk Analysis and Financial Inclusion Working Group (GTARIF) identified drug trafficking as the greatest regional ML threat from among the designated categories of offenses established in the FATF 40 Recommendations, followed by corruption, smuggling, and tax offenses²¹. The countries of the region concluded that transactions linked to drug trafficking constituted the majority of the STRs (Suspicious Transaction Report); they also heavily impact police and court investigations, asset seizure operations, and judgments issued for ML as the predicate offense.

Illegal mining

There is growing concern surrounding the laundering of money obtained from the illegal exploitation of minerals and the use of illegally extracted gold as a means for money laundering. The concern stems from the risk to domestic and regional market integrity. Illegally extracted gold is often mixed with resources from other criminal activities, like the purchase of the gold using drug trafficking profits, the illegal exploitation of natural resources, and human smuggling. It is transported, transferred, and transformed using seemingly legal or wholly illegal means to other jurisdictions, from where it can be imported with little oversight, as gold is not a financially negotiable instrument.

Other crimes creating illicit profits

The same GTARIF report notes other criminal activities present in the region that are catalogued as threats. In addition to drug trafficking, these include public corruption and bribery, smuggling

²¹ Conclusions from the Regional Threats Perception Workshop regarding ML. GTARIF. May 2014.

of goods and counterfeit products, tax offenses, cyber-crime, human smuggling (migrants), human trafficking,²² pharmaceutical crimes (counterfeit products), and environmental crimes (crimes against wildlife and forests). We will explain below the sub-regional impact of these crimes.

Threats, by region

I. NORTH AMERICAN, CENTRAL AMERICAN, AND CARIBBEAN SUB-REGION (Mexico, Costa Rica, Honduras, Guatemala, Panama, and Nicaragua)



Some of the countries in this sub-region have rates of violence and crime among the highest in the world. A large portion of these trends are closely linked to organized crime, comprised of territorial and transnational groups.

Characteristics	Most prevalent crimes	Main methods employed for ML
Transit sub-region for drug trafficking routes.	Drug trafficking.	Cash or currency derived from the commission of a crime entering and circulating in the sub-region (insertion into legal channels).
Presence of criminal organizations, with high crime rates.	Extortion and kidnapping.	Agriculture, financial operators, real estate, luxury goods acquisition, hospitality, construction of shopping centers, casinos, and pawnshops.

²² Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment. UNODC. September 2012.

<p>Expansion area for micro-trafficking organizations.</p>	<p>Illicit activities linked to public corruption.</p>	<p>The weak enforcement of preventive measures in the financial sector in certain countries, deficient oversight of the activities of economic operators and professionals categorized as Designated Non-Financial Businesses and Professions (DNFBPs), and awareness of ML risks in these activities.</p>
	<p>Smuggling and sale of counterfeit products.</p>	<p>Social and institutional tolerance in certain countries of the sub-region of this type of behavior could attract ML activity.</p>
	<p>Human and migrant smuggling.</p>	

II. SOUTHERN CONE SUB-REGION (Argentina, Brazil, Paraguay, and Uruguay)



Characteristics	Most prevalent crimes	Main methods employed for ML
Presence of transnational drug trafficking organizations.	Drug trafficking.	Cash or currency movements. In some areas located along extremely porous borders, the economy is highly informal. They are characterized by the absence of regulations of economic and commercial activity and by the regular use of cash.
Geographic position of the exit routes to move drugs to consumer markets (especially Europe) and even countries within the sub-region.	Smuggling of diverse products and counterfeit goods (Triple Frontier): DVDs, clothes and accessories, cigarettes, electronic and computer technology, inter alia.	In some countries in this sub-region, there is a certain degree of mistrust of banking institutions, which leads to the use of alternative avenues for depositing local or foreign currency and increases the volume of cash movements.
Proximity of the sub-region's countries to areas producing mostly illegal drugs.	Smuggling of weapons, vehicles, protected animal and vegetable species, and other goods (counterfeit products).	ML transactions outside the financial sector: through investments in the acquisition and construction of real estate, the import and sale of luxury automobiles, the buying and selling of jewelry and precious stones, and agricultural activities.
Points of illicit substance production (particularly chemical precursors, especially for methamphetamine).	Tax evasion and other fraud (capital flight and other tax crimes). Human smuggling.	Transactions through attorneys, accountants, and notaries. Use of complex corporate structures, which requires advanced legal, financial, and business advice.
Narcotic collection and distribution centers in the region (micro-trafficking).	Public corruption.	Possible lack of awareness among these professions as to the dangers posed by providing certain services. These types of professional and business activities are not reporting entities in all countries in the sub-region regarding ML matters.

III. ANDEAN SUB-REGION (Bolivia, Colombia, Chile, Ecuador, and Peru)



Characteristics	Most prevalent crimes	Main methods employed for
Presence of drug trafficking.	Drug trafficking.	Banking sector, stock exchanges, exchange houses, remittance entities.
Some countries in the sub-region are categorized as the major cocaine producers in the region and even the world.	Kidnapping and extortion.	Real-estate sector.
Territories dedicated to drug production with weak institutional control and organized criminal groups operating in the areas.	Public corruption and defrauding of public administrations Tax fraud.	Gambling.
Coordinated transport networks and illegal supply chains that grant entry to inputs and precursors and exit to narcotic production.	Smuggling.	Legal professional (attorneys and notaries).

Criminal groups established in production areas and controlling drug production, distribution, and sale.	Human trafficking.	Luxury goods (high-end cars, jewelry).
Areas where drug trafficking is initiated and transported to points of consumption.	Economic crimes (use of insider information, fraudulent procurement of credit, scams, etc.).	
	Crimes linked to the illegal exploitation of natural resources (illegal mining, logging). These are significant in this sub-region due to the presence of mineral deposits and vast areas with plant resources that could be harvested and from which substantial benefit could be obtained.	

ML techniques in the three sub regions

- Splitting up of cash deposits in financial institutions
- Investments of illicit capital in companies
- Granting loans with usurious interest rates
- Currency smuggling and exchange
- Use of front and/or shell companies
- Transfers from abroad from non-existent companies
- Investments in the financial system
- Splitting transactions through currency exchange stores
- Cash purchase of real estate and luxury items

- Use of front men (asset registration, particularly for movable and immovable property, under a third party)
- Cross-border transport of ill-gotten gains
- Sales simulated through fictitious accounts in company accounting records

FTZ vulnerabilities

As previously explained, the countries of the region have developed these types of regimes within specific areas, in which incentives are provided to support foreign trade transactions through duty and tax exemptions, simplified administrative procedures, and tax-free imports, among other measures. In turn, these arrangements have lowered checks on both trade and financial transactions. As a result, FTZs have become highly susceptible to illicit activities.

The misuse of free trade zones affects all jurisdictions; even those countries that do not have FTZs are impacted as goods may originate or be transshipped to multiple destinations through an area not subject to adequate export controls.

ML conducted through foreign trade utilizes a variety of methods, like under- and over-invoicing; multiple invoicing; over- and under-shipment of goods, such that the quantity differs from trade documents; and falsely described goods. This disguising process varies in complexity, depending on a myriad of factors.

FTZs may also be used to create legal entities and access to the international financial system, by providing opportunities to give the appearance of legality to illicit products. Many of the main zones are also located in the regional financial hubs that connect foreign trade centers to access to global finance hubs.

FTZs, thus, represent enormous potential for criminal organizations and terrorist groups to exploit the international trade system with a relatively low risk of detection. The FATF lists the chief vulnerabilities as follows:²³

1. Enormous volume of trade flows, which obscures individual transactions and provides abundant opportunity for criminal organizations to transfer value across borders;
2. Complexity associated with (often multiple) foreign exchange transactions and recourse to diverse financing arrangements;
3. Additional complexity that can arise from the practice of commingling illicit funds with the cash flows of legitimate businesses;

²³ Trade Based Money Laundering. FATF. June 23, 2006.

4. Limited recourse to verification procedures or programs to exchange customs data between countries;
5. Limited resources that most customs agencies have available to detect illegal trade transactions; and
6. Lack of adequate substantive legal rules and procedures that enable an efficient mechanism allowing for prosecution of crimes linked to ML/TF.

This list is useful for providing a general understanding of FTZ vulnerabilities. Later in the report, we will discuss the specific characteristics of the above-mentioned FTZs. The vulnerabilities identified in various countries of the region vary according to different factors and circumstances, like the degree to which countries comply with international anti-ML/TF standards, the geographic location of a specific zone, or aspects relating to the social, political, or economic situation.

Vulnerabilities detected in the region

Through TBML and other methods, Latin American FTZs are being exploited by organized crime to launder their proceeds and smuggle illicit goods among the region's countries. Governments have adopted measures to enhance their anti-ML/TF legal framework, by revising and amending existing legislation to enable FIUs to freeze assets, confiscate goods, and criminalize the financing of terrorist organizations, persons, and assets.²⁴

In addition to the strides the countries of the region have made through legislative reform on AML/CFT regulations, they have also progressed in expanding the role and capacity of law enforcement agencies to combat financial crime. Nonetheless, there are significant persistent challenges related to certain factors, like weak customs, trade, and financial transaction oversight, added to lacking communication and information sharing among border control agencies.

According to the results obtained to date, the cases studied in this report reveal the following systemic weaknesses of FTZs in Latin America that allow for illicit activities to be covered up:

- **Asymmetries of anti-money laundering and counter-terrorism financing measures in FTZs**

In step with the legislative advances made in achieving the level of international standards in this area, numerous anti-ML/TF measures have been developed in the financial sector. However, they have not typically extended to FTZ-linked activities, considering the progressive increase in and development of the number of these zones. Some countries in the region demonstrate significant trade openness and boast a robust financial market and interconnectedness with other countries and financial hubs, thereby offering a wide array of savings and investment products, which is very advantageous for the country. A clear example of this situation is the insufficient information on the ownership of companies interested in establishing themselves in the zone. Front companies are able to create a network of legal entities linked to financial institutions. The lack of transparency in the process for establishing a company in FTZs enables this type of company to perform different complex transactions that are often impossible to trace.

²⁴ Money laundering vulnerabilities of Free Trade Zones. FATF. March 2010.

- **Inadequate supervision and lack of customs transparency in ML/TF matters**

Consistent with the purposes of establishing free trade zones, goods introduced in a FTZ are generally not subject to the usual customs controls. Therefore, in the absence of an adequate customs control and oversight system operated by domestic authorities, there is a risk of this system being exploited, which are conducive to commercial fraud. Licensing procedures and supervision of activities in FTZs are often complicated and bureaucratic, which can lead to insufficient oversight. There is a lack of clarity regarding regulations covering the control of free trade zones. In some cases, it is not clear if the government or the customs authorities have the jurisdiction to exercise controls. The lack of control by customs raises problems in the fields of intellectual property, security of the supply chain, valuation fraud, and other non-fiscal offenses.

- **Lack of cooperation and coordination among domestic institutions**

Coordination and cooperation among customs authorities and prevention and control authorities, both public and private, are frequently insufficient. This reflects a lack of coordination between customs systems and zone management systems in some cases. In addition to customs and zone authorities, other federal or state regulatory or law enforcement authorities may be involved in various capacities within the zones. The operational cooperation and coordination among competent authorities must be addressed to avoid a gap in the control of FTZs, including the role of FIUs.

- **Disparities in the existing legal framework in the FTZs**

Legislation is not homogeneous among the region's countries regarding various aspects, such as existing rules for registering legal entities, including inadequate registry maintenance systems and information technology; criminal liability of legal entities; and reporting entities. While the latter have been expanded in keeping with FATF rules regarding casinos, real estate agents, notaries, attorneys, public accountants, precious stones and metals dealers, corporate service providers, and trusts, not all countries implement the same level of oversight over these actors. Also, worth noting are the FIUs in the region, whose functions and powers differ from country to country, e.g. sanctioning power. Furthermore, there are different regimes covering matters like the requirement to screen and get to know the client, apply due diligence measures, and report suspicious transactions (STRs) to the FIU. The asset seizure and forfeiture systems are also different in areas such as the establishment of bodies to administer seized goods.

- **Vulnerable types of goods**

The type of goods introduced in a free trade zone (of varying values, sizes, volumes of trade) may be subject to diverse economic operations, such as transshipment, assembly, manufacture, processing, storage, re-packaging, and re-labeling, as well as storage for sale, delivery, and transshipment. The tracking of shipments, particularly for re-packaging, is key for controlling free trade zones. Some goods may be more vulnerable to smuggling, such as cigarettes, alcohol, electronic items, and luxury goods.

- **Intensive use of cash in FTZs**

The heavy use of cash has been detected in some FTZs, in overlapping regions with international trade free zones, and areas with high trade exchange with foreign visitors. This allows for connections to ports and/or logistical resources with ties to zones with a substantial presence of terrorism. The

use of this mechanism can be exploited through legal trade transactions to justify the movement of funds to finance terrorism.

- **Lack of international coordination and cooperation in anti-ML/TF efforts**

The lack of trade data that could be effectively shared by the region's security forces and competent authorities (including FIUs) creates a deep void for investigations and trade transactions registered in the FTZs. Moreover, the lack of integrated computer systems to monitor transactions and the movement of goods in a timely fashion is a noticeable vulnerability in these types of transactions.

- **Lack of an efficient jurisdictional mechanism**

The experiences observed regarding ML/TF cases detected in the region as part of this project coincide in that the serious regulatory and, more specifically, procedural deficiencies (e.g. incorporation of evidence) must be dealt with, as they hinder the effective prosecution of the cases reported. Only a small number of the ML/TF cases have led to criminal proceedings and even fewer have led to a conviction. There are persistent systematic deficiencies in the region's criminal justice system, including widespread backlog in the judicial process, the lack of judicial independence, and legal loopholes. Additionally, in some jurisdictions, judges and prosecutors lack experiences in investigating financial crimes in FTZ environments.

- **Lack of awareness as to the importance of preventing and combating ML/TF**

There has been some resistance in the region to the global trend towards greater transparency in transactions linked to ML/TF, i.e. there is some reticence to oversight and the obligation to provide information to control bodies. In some jurisdictions officials responsible for overseeing and controlling transactions in the FTZs receive little training, which translates into the abovementioned scant oversight and management of these types of transactions and further impedes implementation of an effective AML/CFT policy.

- **Inadequate implementation of preventive measures to counter ML/TF**

Money launderers and terrorism financiers use various types of financial institutions. These institutions are associated with: screening the client and due diligence, maintaining registries, suspicious transaction reports, currency transaction reports, striking a balance between the privacy laws and reporting and disclosure requirements, regulation and oversight, and integrity standards for financial institutions and certain designated non-financial businesses or professions, as well as legal entities and legal structures. In this case, there must be adequate, correct, and timely information on the end users of these institutions, in addition to oversight of legal entities.²⁵

²⁵ FATF Recommendations.

CHAPTER IV

TYPLOGIES OF ML/TF AND RED FLAGS IN FOREIGN TRADE TRANSACTIONS

Regional Typologies

Based on the GAFILAT definition provided in the Regional Typologies Report 2014-2016, in the context of money laundering and terrorism financing, we understand typologies to be “the classification and description of the techniques used by criminal organizations to give the appearance of legality to funds of licit or illicit origin, and the movement of these funds among geographic zones and/or actors with criminal intentions.”²⁶

The study and analysis of typologies aid law enforcement bodies in understanding these mechanisms, the financial products used, and how to measure the risk associated with the transactions performed as part of a specific activity.

More importantly, typologies associate red flags to help investigators proactively identify behavioral patterns related to money laundering and terrorism financing. Identifying several concurrent red flags in a transaction constitutes sufficient reasons for furthering an analysis or establishing a line of investigation within a money laundering case.

Analysis of the main criminal trends in the region clearly reveals the presence of a “contagion” element in the typologies used by criminal organizations to give the appearance of legality to ill-gotten gains. The use of loopholes or asymmetries in regulatory frameworks has been exploited by organized crime and extrapolated to other jurisdictions with relative success, to such a degree that regulations have been issued to address it.

These activities could spread to other regions due to several reasons, such as border porosity, the mobility of criminal organizations, the deficiencies in mechanisms to measure the risk of money laundering and terrorism financing in emerging sectors of the economy, and, more importantly, by gaps in information sharing and cooperation between law enforcement agencies domestically and regionally.

Based on the analysis of the cases studied by this project, a series of ML and/or TF schemes in FTZs were identified. These schemes either have similarities or they employ the same or similar methods, thus enabling their classification within the regional typologies.

Fictitious exports of goods and services

This refers to the export of fictitious goods or services whose delivery or commercial value on the international market is difficult to verify or quantify (given their specific, unique, or intangible nature).

The usual method for carrying out this type of transaction is using a front or shell company, most of which have broad company purposes. These companies initiate trade activities for considerable sums of money in business sectors with where they are completely unknown and perform transactions outside the realm of business logic.

To complete these transactions, the company must have a counterpart in a foreign country to act as the recipient of the goods or services it is providing. The export transaction is carried out in

²⁶ GAFILAT Regional Typologies Report 2014-2016. Financial Action Task Force of Latin America. August 2016 [Available in Spanish].

accordance with of all formal legal requirements; in some instances, even some of the benefits provided for in customs or tax codes are requested for this type of transaction.

The proceeds from these transactions are transferred from the offshore accounts of the importing company through authorized financial intermediaries and subsequently distributed or converted into other financial instruments (primarily checks). These are then used to generate cash in local currency or as a payment method for other types of assets.

Payment of illicit activities with smuggled goods

This typology explains the interaction between organized criminal groups and goods smuggling networks. This case refers to a network seeking to transfer proceeds from illicit activities in a foreign country (country A) to a local country (country B), where the organization's ringleaders are located. Additionally, a smuggling network needs money abroad to pay for goods that are smuggled into the country where the network that needs money in the local currency (country B) operates.

The criminal organization is, thus, able to pay a provider (who may or may not be in country A) for smuggled goods; the smuggling network's contacts send the goods to country B through previously-established routes. Once the goods reach the distribution centers in country B, they are quickly purchased in cash by retailers in the local currency, such that the network is able to obtain the amount lent by the organization in country A in the short term and make the corresponding payment in the local currency.

Most of these goods are resold to a retailer chain, which then sells them in various "informal" markets in several countries, leveraging the advantages of porous borders and loopholes in the control of goods moving across borders.

Smuggling of supplies for trademark infringement networks

This typology has several similarities to the previous one in terms of how the goods are transported, as well as the relationship between money laundering networks and other transnational criminal organizations.

This specific scenario refers to "satisfying" a constant demand for supplies from networks of "production" and/or "commercialization" of counterfeit products that infringe intellectual property laws. A criminal organization uses other illegal mechanisms to bring "white goods" (manufactured products to which a label from a widely-recognized brand on the market can be affixed) to countries where they need cash in the local currency. The primary goods used in this type of activity are clothing, shoes, purses, and wallets.

A different method is importing generic or counterfeit brands of electronic goods, or ones with a name very similar to a recognized brand, which are sold directly or are "re-branded" and sold to pass them off as original, but at very low prices. Similar in nature is the trade in supplies for the sale of pirated copies of videos and software, like CDs and data storage devices (USB memory).

Import of falsely described or manipulated quantities of goods

The purpose of this type of transaction is to transfer proceeds from illicit activities carried out in country A to a foreign country B, in order to prevent detection by local authorities. The operational arm of the organization in country B can then access the funds or store them in local currency at secure sites.

To justify this transaction, a member of the criminal organization acquires a batch of low-quality goods, which are re-manufactured (by mixing in a small portion of the original-quality goods with the rest of the low-quality goods), re-branded, or re-labeled prior to being sent to country A. Upon arrival in country A, they are passed off as the original brand and, thus, invoiced for a similar amount as would be assigned to the original-brand merchandise. Subsequently, the export payment for the fake value given in the invoice is sent to country B, where the organization can access the money in local currency.

Once the goods are received in country A, the relevant procedures are carried out and the goods are sold to distributors that can sell them at lower prices in distribution centers for counterfeit items or pass them off as originals, thereby creating larger profit margins. In this case, the additional value of the taxes paid on the import of the goods is offset by the real procurement value abroad—which was less than the declared amount—and by the sale of the counterfeit goods to distribution networks.

Overpricing of goods

This mechanism aims to bring in ill-gotten gains and justify them via the reintegration of foreign currency resulting from an export. To this end, criminal organizations create front companies that operate in the country where they need the money. They then procure domestically -manufactured goods, export them, and smuggle them back in.

To carry out this type of transaction, criminal organizations create front companies that purchase these types of goods. Either through real or fictitious businesses, they import these goods from other countries, declaring a value much higher than the real value. This amount is then reintegrated through formal financial intermediaries. The goods are imported taking advantage of tax and customs benefits or they are brought in through open smuggling operations. The goods are then easily sold, as they tend to be goods that are typically successful in the market. This method allows proceeds from illicit activities to be mobilized through authorized channels.

This method has been used recently in corruption-related transactions, in which cash is required to pay bribes as part of procurement processes.

Triangulation of goods

This was one of the most commonly observed mechanisms at the workshop breakout sessions. It occurs when country A purchases goods procured abroad with the proceeds of illicit activities and sells them to structure capital and give these funds the appearance of legality. To this end, goods

are imported with tariff preferences (no payment of customs duties, tariffs, or VAT), using forged certificates of origin.

The origin of the goods is a decisive factor for the administration of customs and/or tax preferences; therefore, the certificate of origin is the documentary evidence used by customs authorities for imports benefiting from these preferences.

Through this method, the criminal organization procures products in country B and forges the certificate of origin, the invoice, and travel documents, such that these products are perceived as having originated in country C, with which country A has a treaty that grants customs and/or tax preferences for said product.

The product enters country A and is cleared through customs using technical smuggling through triangulation of goods with forged documents. These goods are subsequently sold and monetized, providing the ability to demonstrate the source of greater profits, given that the product was procured at lower prices, and entered the country without paying customs duties, to later be sold domestically at higher prices.

Cross-border transportation of cash of illegal origin

This typology uses “faithful collectors,” or international sales agents who travel to border countries to collect on previously-made sales. They accumulate money in the relevant local currency from multiple people without establishing the licit origin of the funds.

A person works for a company located in country A, and he travels to a place abroad, where he establishes trade relations with three individuals. A debtor “A” delivers cash, while debtor “B” and debtor “C” pay for goods, which are typically smuggled, all in cash. The origin of the money is unknown, but the collector, a known entity in the context, collects the money. This collector declares the cash, indicating that he works for the company. Upon arriving in country A, he delivers the money to the company and the other funds are delivered to other companies within the same FTZ.

Trade of illegally-obtained precious metals

This refers to the trade of precious metals (primarily gold or silver bullion), which are sold by different jewelry stores, pawnshops, jewelry store owners and/or managers to a coordinating entity responsible for collecting and purchasing these metals, so that they may then be sold to an entity abroad.

The coordinating entity receives several international transfers from a foreign company as payment for the exported gold and silver. These funds are then transferred to different beneficiaries, primarily to companies with no apparent economic relationship. The funds are then transferred to individuals and/or companies in the jewelry business. Another portion of the funds are sent to jewelry store owners and pawnshops (some are partners and/or legal representatives of the coordinating entity), which subsequently issue checks (which are cashed) to individuals who apparently belong to organized crime.

Another manifestation of this typology consists in structuring the purchase of gold scraps, melting the scraps down, and using the previously-described typology to import goods with false descriptions or manipulated quantities of goods. This allows the gold to be camouflaged among the other goods and melted into different forms to disguise its essence. In some cases, the gold derived from this activity is further transformed to make it look like gold extracted from a mine and, thus, simulate mine production (legal or illegal operations). Thus, these mines, despite not having constant operations, produce large quantities of metal.

Red flags

Regarding individuals

- Individuals who frequently use intermediaries to conduct trade or financial transactions.
- Individuals who deposit cash, immediately followed by the purchase of traveler's checks, money orders, or other instruments to pay third parties.
- Individuals conducting large-sum money transactions electronically or via other methods to avoid direct contact with company personnel.
- Customers who refuse to provide requested information or the information provided is inconsistent or difficult for companies to verify.
- Customers who refuse to complete the forms required by the company, to provide the necessary information to complete the forms, or to carry out the transaction once completion of the forms has been requested.
- Individuals who deposit funds into savings accounts, whose funds are frequently withdrawn from ATMs located abroad.
- Very young individuals with little experience, who are unknown in the field and who are owners, managers, or legal representatives of foreign trade companies.
- Individuals linked to foreign trade companies who are unfamiliar with the details of their operations or the characteristics of the goods they are importing or exporting.
- Individuals linked to companies that were liquidated shortly after being formed or after performing a few transactions (typically in operation under two years).
- Individuals acting as legal representatives, partners, auditors, or accountants to several trading firms.
- Low-profile individuals, like couriers, secretaries, and receptionists, among others, acting as legal representatives or partners in the company.

- Individuals conducting multiple transactions that exceed the reporting amounts and whose transaction justification declarations have different handwriting and are, on occasion, illegible.
- Currency purchase and sale transactions associated with identity documents of deceased persons or identity documents whose characteristics (i.e. consecutive numbering, place of issue, inter alia) do not coincide with those set by the corresponding authorities.
- Individuals conducting multiple transactions exceeding the reporting amounts and their transaction justification declarations have different handwriting and are, on occasion, illegible.
- Groups of individuals sending money orders on similar dates with the same telephone number or the same information for the sender, recipient, or place of origin.
- Customers who appear as recipients for multiple transactions and when contacted state that they did not make them or have no knowledge of said transactions.
- Individuals with documents to substantiate their transactions that appear to be similar or which do not match their economic profile or activity.
- Money transfers for similar amounts to the same recipient from several senders, with clear signs of structuring (smurfing).

Regarding companies

- Foreign trade companies that focus their activities on novel or hard-to-quantify goods.
- Companies with no record of the imports and/or exports they carry out (ostensibly for the first time); transactions for amounts exceeding their declared equity.
- Companies that were formed on similar dates that state broad, similar corporate purposes and have the same domicile, telephone number, e-mail, partners, and executives.
- Companies with a recurring history of customs and tax audits for irregularities in the valuation of goods and payment of taxes.
- Companies that use names, logos, or other advertising elements that are similar in content or appearance to recognized brands on the market (typically foreign brands) to try to give a newly-formed company the appearance of solvency, seriousness, or having a track record.

- Companies located in high-risk areas that import goods that, due to their characteristics (type, frequency, or quantity), do not match their business activities.
- Foreign trade companies that have the same legal representative/executives, despite being located in different countries.
- Companies whose import volumes and sales do not match their installed capacity.
- Companies that perform import transactions that include goods that are not related to the characteristics or corporate purpose of the company.
- Foreign trade companies that frequently receive considerable sums of money from different regions of the country and from different senders with no apparent relationship.
- Companies that suddenly appear on the scene conducting foreign trade transactions, having had little experience in the market or having no known personal or commercial references (so-called “parachute” companies).
- Companies whose employees handle substantial sums of cash on behalf of third parties.
- Foreign trade companies that suddenly increase their purchase of cashier’s checks for no apparent reason.
- Companies that receive unjustified capital injections that do not match their financial history.
- Creation of companies whose corporate purpose is to conduct foreign trade transactions without a specific business plan.
- Companies that only show movements in cash that is deposited in numerous small-amount transactions and then withdrawn or transferred to other accounts, either domestically or abroad.
- Multiple cash transactions performed on the same day for similar amounts, in favor of a company or one or several individuals. These funds are subsequently transferred to other accounts and withdrawn as cash.
- Recently formed companies that receive multiple consignments in a short period and then show no activity.
- Companies that show no payments to providers or employees, despite large flows of cash.

Best practices

National Strategy Action Plan-Chile (2012): the National Strategy Action Plan to Prevent and Combat ML/TF outlined 50 specific objectives and five lines of activity: (1) Understanding the ML/TF phenomenon and ad hoc inter-institutional coordination to combat it; (2) Asset investigations and administration of assets seized and forfeited due to ML/TF; (3) Measures to control asset movements in border regions; (4) Amendments to domestic legislation to prevent and combat ML/TF; and (5) Transparency and identifying the final beneficiaries of legal entities. In July 2016, Decree No. 1.724 was issued, creating the Intersectoral Advisory Committee to Prevent and Combat Money Laundering and Terrorism Financing, which institutionalizes the National AML/CFT System that coordinates the Financial Analysis Unit. Its mission is to advise the President on coordinating the actions, plans, and programs of various institutional actors on the prevention, detection, and prosecution of ML/TF. The unit aims to assist in coordinating public agents, representatives of the financial and economic sectors, as well as civil society representatives to create the conditions necessary for advancing efforts to prevent, detect, and prosecute ML/TF activities. To this end, two working groups were created to address prevention, detection, and prosecution.

Information exchange Chile-Peru: this was one of the most highlighted practices in the work sessions that were carried out as part of this project. Within the framework of this information exchange mechanism, the Financial Intelligence Units of Chile (UAF) and Peru (FIU) exchange information corresponding to reports of cross-border transportation of money as an additional source for the development of strategic and operational analysis, focused on the detection of patterns of behavior associated with the typology of cross-border transportation of currency from illegal sources. According to some cases, people transporting cash across borders try to justify the cash transportation, giving the impression that is a legal activity, using the cash declarations made at the entrance or exit of the territory. The constraint that intelligence agencies is the fact that they only have the reports of admissions from other countries, and they have no way of comparing them with other additional information. This mechanism allows researchers to identify those movements in which currencies are declared correctly, and those that present inconsistencies and would therefore need a more detailed review or verification.

Task Force - Brazil: the customs and tax intelligence model implemented in Brazil and its impact on money laundering and terrorism financing investigations has yielded a very positive investigation experience spearheaded by the task force formed by the Brazilian tax and customs administration (Receita Federal), Prosecutor's Office, and Federal Police. The joint work is authorized by a judge and enables suspending tax secrecy and sharing tax information, and financial and economic investigations of taxpayers involved in criminal activities. The National Anti-Corruption and Money Laundering Strategy of 2003 and related government working groups have allowed Brazil to make significant strides in strengthening its legal framework, by bolstering investigating and prosecution capacities for financial crimes through specialized police units and courts, as well as the contribution of civil society to possible reforms. There are still remaining challenges, including the slowness with which the criminal justice system moves vis-à-vis statutes of limitations and the use of tax havens outside the country.

Inter-institutional working group-Paraguay: the Government of Paraguay is working to improve its AML regime and implement its strategic plan. In order to coordinate the actions of multiple agencies working to prevent, detect, and combat ML/TF operations, training for an inter-institutional working group on financial crimes has been launched to enhance AML coordination. This coordination includes, but is not limited to, investigations, prosecutions, financial-sector preventive measures, and

asset confiscation. The public and private sectors are currently coordinating under the Prevention Regulation on the cross-border control of financial instruments issued by SEPRELAD (Paraguayan Secretariat for the Prevention of Laundering of Money or Assets)

International coordination and collaboration – Bolivia-Peru: there are certain practices that have yielded positive outcomes in combating ML/TF, particularly in terms of international coordination and collaboration surrounding information. An example is the Egmont Secure Web, an electronic communications system that enables members to share encrypted information on e-mails and financial intelligence, as well as other information that may be of interest to members; the Red de Recuperación de Activos de GAFILAT (GAFILAT Asset Recovery Network, RRAG) an information exchange platform; and participation in the VII Meeting of the Bilateral Peruvian-Bolivian Commission to Combat Smuggling, held in Cusco, Peru on May 12 and 13, 2016, with the objective of identifying tax investigations into laundered assets derived from smuggling that have been initiated based on communications sent by the Peruvian Customs and Tax Administration and Bolivian National Customs Authority in the border region to the Public Prosecutor’s Office.

Exchange of Information at the Operational Level-Colombia: timely access to sources of information is a key success factor in financial investigations. The search for “denied data” becomes the cornerstone of the initial tasks of gathering information, and the success of the actions that are carried out later depends on the time dedicated to performing these searches. Following this principle, the Colombian Financial Intelligence Unit has focused its efforts on consolidating a robust and efficient information system that provides real-time information on people of interest (natural and legal). Access to this information is carried out within the framework of specific memoranda of understanding with public and private entities through the implementation of information management tools that have the highest security standards. In addition, this mechanism is the model for the development of similar initiatives in other agencies at the domestic and regional levels.

TTU - UNITED STATES: the National Security Investigation Division (ICE/HIS) of the United States Department of Homeland Security Immigration and Customs Enforcement (DHS) created a Trade Transparency Unit (TTU). The TTU has developed a network of counterparts in nearly a dozen countries. It examines trade anomalies and financial irregularities associated with TBML, customs fraud, smuggling, and tax evasion. These units were created to exchange critical trade data among numerous countries. They have established information exchange agreements with 14 countries to facilitate the identification of transnational criminal organizations that use TBML schemes to repatriate proceeds generated through multiple illegal activities, including drug and human smuggling, customs fraud, and intellectual property rights violations. ICE continues to expand the operational TTU network, which currently includes Argentina, Australia, Chile, Colombia, Dominican Republic, Ecuador, Ecuador, France, Guatemala, Mexico, Panama, Paraguay, Peru, Philippines, and Uruguay.

CHAPTER V



RECOMMENDATIONS

LA / FT affect the development of countries

The LA / FT affect the development of the region's countries in various ways:²⁷

1. It increases crime and corruption: a comprehensive and effective ALA / CFT framework significantly reduces the profitability elements of these criminal activities and, in fact, it discourages criminal and terrorist groups from utilizing certain jurisdictions. On the contrary, as long as a country is deemed to be a haven for LA / FT, it will likely attract criminal groups and promote corruption;
2. It weakens financial institutions: ML/TF can harm the soundness of a country's financial sector, as well as the stability of individual financial institutions in multiple ways; it discourages foreign investment and distorts international capital flows;
3. It negatively affects the macroeconomic development by diverting resources from more productive economic activities, and may also produce destabilizing impacts in neighboring countries. Currently, as a result of globalization, the negative effects of these activities impact on global integrity and financial stability.²⁸

The design of a strategy to combat LA / FT

As we have noted, the region's countries are engaged in developing policies to combat money laundering and the financing of terrorism. However, the first step in addressing this fight requires the formulation of a national strategy, based on an assessment and diagnosis of the situation in each country in the different sectors involved in the development of both phenomena.

This evaluation includes the monitoring of the economic situation, the evaluation of the financial and non-financial sector, aimed at strengthening the capacity of the state in the fight against this scourge. A good diagnosis is fundamental for the elaboration of programs that address the detected deficiencies and the areas of potential risk.

Compliance with international standards

Based on the guidelines outlined by the FATF, and considering the peculiarities of the cultural, legislative, and constitutional context of each country in the region, we believe that there are certain core principles that should be observed to align with the international standards set forth by the FATF. These recommendations are aimed at enabling countries to achieve the following objectives: "identify the risks, and develop policies and domestic coordination; pursue money laundering, terrorist financing and the financing of proliferation; apply preventive measures for the financial sector and other designated sectors; establish powers and responsibilities for the competent authorities (e.g., investigative, law enforcement and supervisory authorities) and other institutional measures; enhance the transparency and availability of beneficial ownership information of legal persons and arrangements; and facilitate international cooperation".²⁹

²⁷ Reference guide for anti-money laundering and combating the financing of terrorism. Supplement on Special Recommendation IX. World Bank.

²⁸ The IMF and the fight against money laundering and the financing of terrorism. International Monetary Fund. Technical factsheet, March 2016.

²⁹ The FATF Recommendations. "International Standards on Fighting LA / FT and Proliferation," February 2012

FTZ assessments should be conducted according to the international standards set by the FATF and its specific recommendations regarding money laundering and the financing of terrorism. Countries should, therefore, introduce both legislative and institutional reforms. This would entail investing in the creation of new structures and institutions or modifying already existing ones. Moreover, officials overseeing these institutions must be appropriately trained in this specialization. This investment will depend exclusively on political decisions made by states, as well as the degree of awareness of ML/TF risks.

Adequate legal framework

It has been shown that countries with an adequate legal framework are best positioned to combat ML/TF. This framework includes the laws, regulations, and directives that would ensure efficient implementation thereof. As mentioned, countries in the region have made efforts to introduce LA / FT legislation at various levels to meet the international standards required by the FATF and other international instruments. However, it is important to avoid the dispersion of laws in the matter, and to achieve a harmonious and coordinated legislative set, which allows an efficient system.

In particular, the FTZs need an adequate legal framework in many areas such as: control and reporting systems; designated nonfinancial activities and professions (DNFBPs); effective monitoring systems; asset management institutions seized, and other issues already addressed in the “Disparities in the existing legal framework in the FTZs”.

Efficient implementation of the legal framework

Taking into account the considerations mentioned in the preceding paragraph, the countries of the region have made efforts to introduce ML/TF legislation at various levels to meet the international standards required by the FATF and other international instruments. Nonetheless, this is insufficient to guarantee the effective enforcement of the legislation. In some cases, the institutional reality and legislative and procedural tools are inadequate to effectively enforce the laws, rendering ineffective the application of laws relating not only to the control of foreign trade operations, but also to the detection, prevention, investigation and prosecution of illegal operations detected in the scope of the FTZs.

Adequate judicial system

An adequate and efficient judicial system is essential for the success, not only in detecting the crimes we have described, but also in investigating and prosecuting them. This system prevents the lack of experience, information, and resources from impeding proper administration of justice. Countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorism financing investigations.

The FATF encourages countries to support and develop special investigative techniques and mechanisms, such as undercover operations, specialized in asset investigations, and cooperative investigations with other countries.³⁰

³⁰ FATF Recommendation, Rec. 30

International cooperation

Isolated anti-ML/TF efforts have been proven ineffective in a globalized world, in which ill-gotten gains are mobilized almost instantaneously, with no limits or respect for borders. The transactional nature of criminal activities yielding illicit gains that must later be laundered demands the effective collaboration of national public bodies to combat these activities, as well as the joint, coordinated participation of the agencies charged with performing these functions in different countries. All countries should ensure that policy makers, the FIUs, law enforcement (including customs, where necessary), financial institution supervisors, and other relevant authorities have effective mechanisms in place that enable them to cooperate with each other, and with their regional and global counterparts.

In addition, international cooperation becomes necessary not only at the institutional level (understood as the carrying out of joint efforts by the bodies of various governments), but also in terms of incorporating legislation addressing the different aspects for combating ML/TF, such as adequate laws providing for efficient extradition methods, tax matters, FIU capacities, financial institution control, mutual legal assistance, freezing and confiscation, etc.

Interinstitutional cooperation and coordination, and exchange of information

There is a clear need to improve cooperation among competent national and international authorities, as well as with the private sector, as relates to free trade zones. Inter-institutional collaboration (understood as a joint management system that allows the fast and efficient exchange of information among national institutions), is key to better identifying the illicit activities (e.g. plans to commit fraud) that exploit free trade zones. More efforts should be made to increase transparency, regulation, and effective controls through appropriate procedures that should be enforced in all free trade zones.

A frequent criticism from reporting institutions about the FIUs is that the latter provide very little or no feedback on the usefulness of their reports, i.e. reporting agencies do not know if their reporting method are useful for combating money laundering and terrorism financing.

Also, incorporating technology into information exchange systems is essential for speeding up and mobilizing the prevention, detection, and investigation processes for ML/TF transactions.³¹

Awareness raising on the importance of combating money laundering and financing of terrorism

An effective framework for combating money laundering and terrorist financing must be accompanied by a process of raising awareness, both within the private and public sectors, about the seriousness of this issue and its institutional, economic and social impact. In particular, within the framework of the FTZs, it is essential for trade organizations to understand the importance of these risks, and to support public sector institutions in the mechanisms of prevention and detection of these operations.

³¹ FATF Recommendations, 31.

Conclusions

The countries of the region are committed to a policy development process to combat money laundering and the financing of terrorism, by aligning their domestic legislation with the international standards set by the FATF and international treaties.

It is vital that this process be in step with the creation of a national strategy, based on an adequate assessment and evaluation of the various sectors involved in these two phenomena. A comprehensive, effective policy framework to combat money laundering and terrorism financing will discourage criminal activities and favor institutional and economic development in the region's countries.

Free trade zones, in particular, require a sound regulatory framework to counter the challenges and vulnerabilities described throughout this report. The inherent weaknesses of these jurisdictions are being exploited by criminal and terrorist groups to launder money and finance terrorism, using various foreign trade transaction mechanisms.

Despite the strides made in this area, there are still persistent challenges related to: adopting an efficient customs control and foreign trade transaction monitoring system; promoting greater cooperation among the regulatory agencies in FTZs; and fostering dialogue and cooperation among the competent public and private bodies, in order to implement an efficient, transparent mechanism in these jurisdictions.

Isolated anti-ML/TF efforts have been proven ineffective in a globalized world, in which these transactions occur covertly, with no limits or respect for borders. The transactional nature of these activities demands not only the effective collaboration of national public bodies working to combat them, but also the joint and coordinated participation of the agencies charged with carrying out these functions in the region's free trade zones.

In the framework of this project, the objectives proposed at the outset were met, specifically those relating to: promoting the increased exchange of best practices to minimize risks in free trade zones; fostering the exchange of legislative and regulatory models; fostering dialogue and cooperation among the institutions working on foreign trade transactions—customs, police, financial intelligence units, and financial and non-financial regulators; and promoting internal, inter-institutional, and international cooperation to facilitate and streamline the licit movement of goods, services, and persons. The report further laid the foundation for greater awareness of the importance of combating money laundering and terrorism financing, as well as the push for increased transparency in foreign trade transactions in the free trade zones of the region.

The views expressed in this document do not necessarily reflect the opinion or policy of the OAS Member States or participating organizations.



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