



DISRUPTING CRIMINAL TRAFFICKING AND SMUGGLING NETWORKS THROUGH INCREASED ANTI-MONEY LAUNDERING AND FINANCIAL INVESTIGATION CAPACITY IN THE GREATER HORN OF AFRICA

(AML-THB in the GHoA)



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MESSAGE FROM THE PROJECT DIRECTOR



Honored guests, dear colleagues, dear friends, dear everyone

It is a real pleasure to report, regularly every month now, on our busy, technical and always very thorough programme. Despite the critical period of the pandemic, we have moved from the strategic phase to the tactical and operational phases of the Project, thanks to you, to the commitment of our international and regional experts, to our support team from KSMS and in the Region and Paris-Civipol, and of course, thanks to the EU Emergency Trust Fund for Africa (EUTF), which ensures that our project is a success that benefits everyone. And, in case, thanks to anyone I have unintentionally omitted mentioning!

In this summer issue of our newsletter, Alma – our Senior Technical Advisor and editor of our communications document – provides insight into our first Regional Information Exchange Forum held online for our Greater Horn of Africa (GHoA) Gold Certified experts. To maintain continuity from the predecessor AML-CFT Project, those ToT experts who missed an opportunity to reach Gold Certified status, were able to do so thanks to the pledge made at the AML-THB Project’s kick-off conference in 2019 to encourage them to complete their training – and this promise has been fulfilled. Soon we will be able to promote more experts to Gold Certified status, to the delight of the whole Project and the EUTF, but also, and above all, to the delight of the experts themselves, their institutions and their countries.

Going forward, we will be reporting on further Gold Certified awards, and in this edition, you can read the informative feedback from some of our recent laureates from FIUs in the region who recently underwent training on financial intelligence analysis, as well as comments from representatives of observer countries, who are members of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Middle East and North Africa Financial Action Task Force (MENAFATF).

Finally, to top it off, you will benefit from reading a thoroughly researched article on trade-based money-laundering in Ethiopia by another one of our esteemed Gold Certified experts, Tesfay Gebregziabher Kahsay.

Congratulations to all of you for these remarkable achievements. Once again, thanks for your commitment, your loyalty and your confidence in the Project and its objectives. I look forward to ‘meeting’ you all again at the next issue, which, I can announce, is very ‘promising’!

Frédéric Bayard



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REGIONAL INFORMATION EXCHANGE FORUM

Gold Certified Trainers of the Trainers, 21–23 July 2020

The AML-CFT Project's course managed to train more than 143 people, drawn from various institutions and agencies from participating GHoA countries.

Alma Wanyama
Technical Advisor (AML-THB Project)

The Regional Information Exchange for the Gold Certified 'trainers of the trainers' (ToT) experts, which took place on 21–23 July 2020 online, aimed to improve coordination between agencies in the Greater Horn of Africa (GHoA) across national jurisdictions, with the additional objective of defining a more structured approach towards information sharing among institutions in the region, as well as establishing the best way of engaging with the Gold Certified experts.

Notably, the predecessor AML-CFT Project had already initiated a ToT training course, in which technical trainings on various thematic areas and methodological capabilities at three incremental training levels were successfully delivered. The AML-CFT Project's course managed to train more than 143 people, drawn from various institutions and agencies (financial intelligence units (FIUs), law-enforcement agencies, prosecutors, judiciary officials, asset recovery agencies, and intelligence and regulatory bodies) from participating GHoA countries. Of the trainees, 13 successfully achieved AML-CFT Gold Certified Trainer status (referred hereafter as Gold ToT) after going through a robust evaluation by recognised international experts in the field.

The Gold ToT course aimed to build a regional hub of experts. Accordingly, a few participants on that ToT course have served as trainers and speakers on a number of regional and international training courses, while some are providing training within their national jurisdictions on their area of expertise. However, no official follow-up mechanism was implemented to monitor and evaluate (i) how these Gold ToT members were sharing their expertise; (ii) the impact they may have had; or (iii) the possible challenges they may have faced.

To this end, the succeeding AML-THB Project facilitated an online 'Virtua' Regional Information Exchange Forum among the Gold ToT experts to revitalise and strengthen sustainable regional capacity, and to promote informal networking among the trainers.

Objectives and results

The aim of the Forum was to strengthen participating countries' AML-CFT/THB sustainability and capacity through building a capable pool of regional experts by providing the Gold ToT experts a special opportunity to practise their expertise, upgrade and expand their skills and promote mutual experience/knowledge sharing and regional networking among experts. The Forum was able to:

- Facilitate exchanges of information on the professional and institutional experiences of each trainer, including, but not limited to, good practices, success stories, achievements, shortcomings, challenges and perspectives on the future;

The aim of the Forum was to strengthen participating countries' AML-CFT/THB sustainability and capacity through building a capable pool of regional experts.

- Refresh the deliberations and inferences of the pre-kickoff and kick-off meetings from 2019, and define and develop those outcomes further;
- Promote knowledge sharing and build informal regional and national networks among the trainers;
- Identify the capacity building needs of respective national institutions with a view to developing and enriching the AML-THB Project's training curriculum;
- Outline capacity building courses that can enhance the knowledge and skills of the trainers to better cope with emerging needs in the AML/THB arena;
- Outline and agree on the continued engagement of the trainers (as speakers, trainers, providing assistance or undertaking assignments, etc.) via case-by-case agreements between the Project, the trainer and/or the respective national institutions, with the additional aim of facilitating coordination between national agencies in the region and improving best practice.



Country	Institution	No. of trainees		
		Female	Male	Total
Ethiopia	FIU	-	1	1
Kenya	EACC	1	1	2
Somalia	Ministry of Justice		1	1
Somalia	Prosecution		1	1
Somalia	Regional body		1	1
South Sudan	Prosecution		1	1
Sudan	FIU		1	1
Tanzania	FIU		1	1
Tanzania	Regional body		1	1
Uganda	Judiciary	1		1
Uganda	Prosecution	1		1
		3	9	12

Evaluation feedback

Feedback given by participants via the online MS survey questionnaire revealed how highly rated the training has been in terms of its relevance/importance, meeting its objectives, value add, quality of delivery and levels of participation.

THE AML/CFT ToT PROGRAMME

Participant feedback



Fatma Ayoub Simba

Advocate of the High Court and Subordinate Courts and Director of Legal Affairs and Enforcement Capital Markets and Securities Authority (CMSA) – Tanzania



Viola Ocharo

Civil litigation and Asset Recovery, Attorney, Ethics and Anti-Corruption Commission – Kenya

My experience of the AML/CFT ToT programme in the Greater Horn of Africa was very positive because the training was well-structured with adequate content and resources, both financial and human (the presenters). The venues for the training were comfortable and allowed participants to concentrate in a relaxed environment. The resource people were experienced and conversant with the topics/subjects. Other logistics, including travel, departure and sightseeing, were all excellent. The sponsors and the whole AML/CFT ToT team are highly commended for being able to conduct the training with such a level of efficiency.



Overall, the AML/CFT training enhanced and increased my analytical and operational capacities on financial investigation and anti-money laundering techniques, and helped me to coordinate and collaborate more with other institutions, domestically and internationally. The training also improved my ability to make presentations.

The alternative (virtual) information exchange process adopted in response to the COVID-19 pandemic is commended, showing how the AML-THB Project can adjust and adapt to the changing times. The project team urged us to continue using virtual online communication to stay in touch with partners and thus ensure continuity and the realisation of the Project's objectives.

Future perspectives of the expertise obtained from the Project's training include teaching AML/CFT issues in the industry through the certification programmes, and participating in research on AML/CFT/THB issues and their impact on capital markets.

I am a lawyer by training and currently an employee of the Ethics and Anti-Corruption Commission as an attorney undertaking civil litigation and asset recovery in relation to corruption and economic crimes.



I am grateful for the opportunity to participate in the AML/CFT ToT programme. The programme was a memorable learning experience – it enhanced my knowledge, skills and exposure to AML/CFT issues in and beyond the region.

The programme offers unique benefits because of its personalised development plans, which then hold each participant accountable. These plans also invited the participants to engage in useful introspection, which is not usually included in training programmes – and this for me was an especially valuable approach that enhanced the whole experience.

In addition, the programme has effectively expanded my professional network of relevant role-players in AML/CFT in the region, and has been useful in my work engagements and deliverables. It provided a professional platform for peer-to-peer review, which allowed for information sharing and knowledge acquisition. My perception and understanding of the important role of information exchange in AML/CFT was positively enhanced, and the knowledge I acquired is invaluable to my expertise and future endeavours.

Crucially, the programme has had a positive impact on my confidence as I was able to realistically assess my considerable knowledge of AML/CFT matters, specifically asset recovery.

Thank you for this invaluable and awesome experience.



Sabri Wani Ladu

Deputy Director, Directorate of Public Prosecutions, Ministry of Justice and Constitutional Affairs – South Sudan



I have been working as a senior public prosecutor for five years, and am in charge of supervising and directing criminal investigations at different levels of government. In 2018, I was promoted to the position of Senior Legal Counsel and appointed as the Deputy Director of Public Prosecutions.

Thanks to the knowledge and skills I have gained from the AML/CFT ToT programme, I was assigned to be in charge of International Cooperation on Criminal Matters as the focal person for matters concerning anti-money laundering, the counter financing of terrorism (AML/CFT), anti-human trafficking and the smuggling of persons. I was also appointed as a co-chair of the Taskforce Committee on Anti-Human Trafficking and Smuggling of Persons.

The Taskforce Committee was established in 2019 by the Minister of the Interior with the aim of recommending appropriate government action to make South Sudan fully compliant with the minimum international standards for combating human trafficking and the smuggling of persons. This was seen as an urgent task given South Sudan's ranking at Tier 3 by the US government. Amongst other duties, the committee was tasked with: advising on the ratification of the Palermo Protocols; identifying legal gaps in the current legal framework; suggesting the types of activities (capacity building and public awareness campaigns) that should be delivered; as well as identifying other appropriate regional and international protocols and agreements to which the country should be advised to accede.

As regards the impact of the AML-THB Project's training on my professional life, I am certain that it has built and increased my capacity and skills in dealing with cases of money-laundering and human-trafficking offences, in conducting training, and in advising the respective governmental institutions accordingly. Furthermore, the AML-THB Project has established a solid regional platform that makes communication and information sharing with various regional and international experts on matters of mutual legal assistance regarding AML/CFT much easier. These experts have been assisting South Sudanese police investigators, prosecutors and judges in handling cases of money laundering, asset recovery, information exchange and sharing, as well as advising with regards requests for mutual legal assistance.

South Sudan as a country has also benefited from the Project because it has encouraged our respective institutions to be more alert and aware of the significance of having a robust AML/CFT regime, which has resulted in some progress in terms of the establishment of the South Sudan Taskforce Committee on Anti-Human Trafficking and Smuggling of Person in 2019, and the appointment of the South Sudan Financial Intelligence Units as Inter-Ministerial Units under the Ministry of Finance in 2019. Furthermore, in collaboration with the International Organisation of Migration (IOM), we have been working on a case study on the different forms of human trafficking and smuggling of persons that are common in South Sudan, with a view to closing gaps in the current legal system. And our final report on these matters will soon be officially launched by the Ministry of the Interior.

In conclusion, I strongly believe that the AML/CFT training was one of the most successful programmes I have ever attended because of the transformation I have realised in my professional career in term of changing my approach to money-laundering offences, and in terms of the new experience and skills that I have gained. Accordingly, I will continue to advise the Ministry of Justice and other respective government institutions to:

1. Appoint the members of South Sudan Multi-National Committee on Anti-Money Laundering in order to carry out their roles and responsibilities under Section 11 of the Anti-Money Laundering and Counter Terrorist Financing Act (2012).
2. Conduct and adopt the legal-gaps analysis on Anti-Human Trafficking and Smuggling of Person that is being conducted by the Taskforce Committee as per its mandate, in collaboration with the IOM.
3. Advise the Ministry of Interior to study the Palermo Convention and its three Protocols. Thereafter, to advise the Ministry of Justice on the possibility of acceding to the Protocols, whether through reforming the South Sudan Penal Code (2008), or by drafting a comprehensive bill on anti-human trafficking and smuggling of persons that would adopt the international definitions of human trafficking and the smuggling of migrants, as well as cover all aspects of prevention, protection, prosecution and rehabilitation, including the stipulation of stringent punishments to deter traffickers.

E-TRAINING FOR FINANCIAL INTELLIGENCE UNITS ON FINANCIAL ANALYSIS

27–31 July 2020

Tuemay Aregawi

Senior Technical Advisor with the AML-THB Project
who coordinated the training

Background

The AML-THB Project has been engaged in designing and delivering capacity building activities since its kick-off in November 2019. However, the recent COVID-19 pandemic crisis has disrupted the conventional face-to-face delivery of the activities and the Project has adapted its engagement through digital means, including e-training. And in this regard, the project has designed e-learning courses.

Financial intelligence units (FIUs) play a central role in connecting reporting entities and the criminal justice sector in any national anti-money laundering (AML) regime. All the FIUs of the Greater Horn of Africa (GHOA) countries are entrusted with collecting suspicious transaction reports (STRs) from designated reporting entities and to conduct financial analyses to decide whether the reports should be subject to further investigation by the relevant law enforcement agencies (LEAs). Effective financial intelligence analysis and investigation are vital tools for identifying and disrupting criminal networks and their financial flows, and for producing evidence and actionable intelligence.

FIUs are required to have the necessary capabilities (skills, tools and systems) to effectively analyse and disseminate their analytical products to guide strategic and operational AML interventions. The Financial Action Task Force (FATF) Recommendation 29 recognises that financial analysis and dissemination is a defining role of FIUs. Immediate Outcome 6 also requires competent authorities to utilise financial intelligence and other relevant information for financial investigations.

In line with the above, the AML-THB Project organised the first round of an online training programme for FIUs on financial analysis, from 27–31 July 2020, with a particular focus on detecting, identifying and disrupting illicit financial flows stemming from the trafficking in human beings (THB) and the smuggling of migrants (SoM).

Objectives and results of the training

The overall objective of the training is to reinforce the financial intelligence analysis capability of FIUs and thus contribute to the enhancement of their AML effectiveness. The training was planned to enable participants to:

- Better understand the cycle of intelligence management and describe the main functions, processes and techniques applied in each step;
- Appreciate and use strategic and operational/tactical intelligence analysis techniques as applied to financial analysis;
- Understand and operationalise the skills and techniques for assessing the risks of STRs in general and the risks of money-laundering stemming from THB/SoM in particular;
- Understand the basic concepts of THB/SoM and the characteristics of criminal networks and their operations.

Deliberation of the training

The training was delivered by senior international experts with solid operational and training experience in the field. The training brought together 23 analysts and managers (including seven women) from five GHOA FIUs and five from eastern and southern Africa. The training was conducted using the Microsoft Teams online training app.

No.	Country/FIU	No. of trainees		
		Female	Male	Total
1	Ethiopia	–	5	5
2	Kenya	1	1	2
3	Somalia	1	1	2
4	Somalia	1	1	2
5	Somalia	1	3	4
6	South Sudan	–	1	1
7	Sudan	1	–	1
8	Tanzania	1	1	2
9	Tanzania	–	2	2
10	Uganda	1	1	2
		7	16	23

The AML-THB Project has been engaged in designing and delivering capacity building activities since its kick-off in November 2019.

The training covered, among other areas, the following key themes supported by the FATF and Egmont Group training courses:

1. The role of financial intelligence in the prevention, disruption, investigation and prosecution of criminal activity, based on international recommendations;
2. Concepts and definitions of intelligence including the difference between data, information and intelligence, cycles of intelligence, types of intelligence analysis, information evaluation and sources of financial information;
3. Operational analysis and STR risks;
4. Strategic analysis and analytical products;
5. Introduction to THB and SoM, and an overview of the criminal networks and their illicit financial flows in the GHoA; and
6. THB/SoM money-laundering and terrorism-financing red-flag indicators – based on the 2018 FATF report.

The training sessions were supported by several practical exercises, case studies and experience sharing among participants. Trainings on operational and strategic analysis were supported by a pre-training assessment using the Mentimeter app, which allows trainees to respond to selected questions online and analyse the answers, showing the participants' level of understanding.

Evaluation feedback

Feedback given by participants via the online MS survey questionnaire revealed that the training is highly rated in terms of: relevance/importance, meeting its objectives, its value add, quality of delivery and level of participation. Eighteen out of 19 respondents responded Yes to recommending the training to others while only one responded partially. The following charts are excerpts from the MS survey analysis.

A second round of this training, revised and enriched by the feedback provided from participants, will be delivered to more analysts to accommodate requests for more training by several FIUs.

1. Relevance & importance



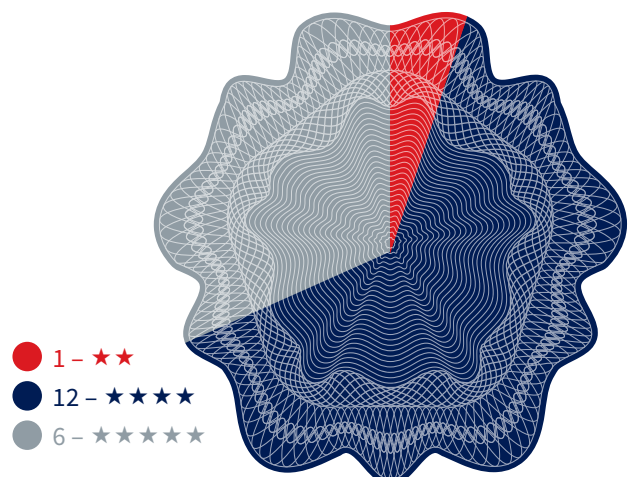
2. Achievement of objectives



3. Value addition to knowledge & skills



4. Interactivity of the training (out of 5)



E-TRAINING FOR FINANCIAL INTELLIGENCE UNITS ON FINANCIAL ANALYSIS

Participant feedback



Viswanee Bundoo
Analyst, Financial Intelligence Unit -
Mauritius

I joined the Mauritius Financial Intelligence Unit (FIU) in 2012, and was recently promoted to the position of financial intelligence analyst. I am very thankful to my Head, who nominated me to attend the online training on Financial Intelligence Analysis, which was held from 27 to 30 July 2020.



I feel very honoured to be asked to write a few words on the training sessions. I personally found the training very instructive, comprehensive and enriching in assisting FIU analysts to further develop their skills. The trainers were very knowledgeable and shared their own experiences generously. All questions put forward by participants were well covered by the trainers. I feel very optimistic about performing my job thanks to the additional skills I acquired from the training. I have already started applying the benefits to my skills in my day-to-day analytical work. And I would like to thank the AML-THB Project team and all the trainers for making my experience possible.

I personally found the training very instructive, comprehensive and enriching in assisting FIU analysts to further develop their skills.



Suraj Joggessur
Analyst (Operations), Financial Intelligence
Unit - Mauritius

The e-training for financial intelligence units (FIUs) on financial intelligence analysis (27-31 July 2020) was very interesting and most of the objectives were met. I believe every candidate, after completion of the course, will have acquired knowledge from, and shared their experiences with, analysts from several



other countries. The discussions on the Financial Action Task Force (FATF) recommendations as well as on the National Risk Assessment (NRA) were very enriching, and I believe that the participants will have largely understood what the fundamentals are, and so their countries should be able to draw up better NRAs.

I also believe that the emphasis given to operational and strategic analysis will effectively broaden our knowledge and skills. The session on the trafficking of human beings was also very interesting, even though Mauritius has not been subject to that debate as we have not had any official reported cases.

Even though the online platform is not really practical for such interesting trainings, the current COVID situation prevails, and within those limitations I believe the training was well organised and conducted. Personally, I would recommend that such trainings are carried out frequently, which will surely take all FIU analysts to the next level in their day-to-day activities. I also recommend that, once everything is back to normal, such trainings should be conducted at an actual location to allow for more interaction with the trainers, and as a more conducive way to share experiences and maintain a useful network of FIU analysts.



OVERVIEW OF TRADE-BASED MONEY LAUNDERING

The case of Ethiopia

Tesfay Gebregziabher Kahsay¹

Introduction

Trade-based money laundering (TBML) is one of the common typologies of cleansing criminally gained 'dirty money'. The Financial Action Task Force (FATF), in its 2006 study report,² has identified TBML as one of the three key methods that criminals use to move, launder and reintegrate illicit finance into the legitimate/formal economy. TBML is manifested through the abuse of international trade and its financing systems. The FATF defined TBML as 'the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illicit origin [...] achieved through the misrepresentation of the price, quantity or quality of imports or exports'.³

The international trade system (and its financial transactions) is highly vulnerable because of its complexity, lack of uniformity, lack of information sharing, and its limited but also uneven resources for effectively regulating and controlling the suspicious trade transactions that criminals can use to disguise and launder their illicit financial gains.⁴ As the FATF report claimed, 'most customs agencies inspect less than 5 percent of all cargo shipments entering or leaving their jurisdictions'.⁵

The Ethiopian international trade regime involves multiple public agencies, which include the Customs Commission,

Ministry of Trade, the National Bank of Ethiopia and other regulatory bodies; and private institutions such as banks, freight forwarders and customs clearing companies, and shipping and logistics companies. These agencies and the private sector actors have extremely limited awareness about the money-laundering risks related to trade, let alone the specialist expertise to detect, identify, report and disrupt suspicious trade transactions. These limitations are in addition to the global challenges summarised above. TBML is highly complex and difficult to detect while also being significantly prevalent.⁶

TBML in Ethiopia

Under normal circumstances, international trade in Ethiopia is documented, requiring all transactions to be bank-intermediated except in rare and exceptional cases. The three most common methods of international trade transactions are through letter of credit (LC), cash against document (CAD) and telegraphic transfers (TT). All international trade transactions are subject to official contracts and are reviewed by financing banks and the National Bank of Ethiopia before they grant foreign currency for payments of import goods/services. All transactions are made bank-to-bank. Transactions made between banks of the importer and exporter may look safe; however, illicit practices to launder money or to evade tax, to export capital or abuse foreign currency regulations are common. TBML is particularly less scrutinised because of the lack of awareness and expertise across all concerned institutions, and due to the fact that the focus is mainly on foreign currency controls, valuation controls (for securing higher customs duty purposes) and controls on the validity of the items list.

In Ethiopia, TBML can happen during both the import and export of goods and services. Illicit transactions on export trade in Ethiopia are much more prone to capital flight and the abuse of foreign currency while money laundering

1 Tesfay Gebregziabher Kahsay (MBA, LLB, BA) has more than 22 years of experience in financial investigation and analysis. He has served as a trainer at various AML/CFT-related workshops organised by a number of institutions in Ethiopia. He served as a deputy chair for the law enforcement sector in the Ethiopian National Money Laundering and Terrorism Financing Risk Assessment. He taught criminal investigation and law at the Ethiopian Police University College. Currently, he is the Director: Financial Transactions Examination and Analysis, at the Directorate of the Ethiopian Financial Intelligence Centre. He can be reached at tesfaygziabher@gmail.com.

2 FATF (2006) *Trade-based Money Laundering*. <https://www.fatf-gafi.org/media/fatf/documents/reports/Trade%20Based%20Money%20Laundering.pdf>

3 FATF (2006), fn 2, pp. 3.

4 APG (2012) *APG Typology Report on TBML*. https://www.fatf-gafi.org/media/fatf/documents/reports/Trade_Based_ML_APGReport.pdf. See also FATF (2008) *Best Practices on TBML*. <https://www.fatf-gafi.org/media/fatf/documents/recommendations/BPP%20Trade%20Based%20Money%20Laundering%202012%20COVER.pdf>

5 FATF (2006), fn 2, pp. 2.

6 BAFT (2017) *Combating TBML: Rethinking the Approach*. https://baft.org/docs/default-source/marketing-documents/baft17_tmbl_paper.pdf

could still take place to some extent. This article, therefore, will focus on suspicious trade activities of TBML during the import of goods and services. The techniques of fraudulent customs activities that can lead to TBML in Ethiopia are summarised below. The transfer of laundered money is often through illegal *hawala* and to some extent through physical cash flows in illegal ways. The findings are based on the author's own studies, conducted for a master's of business administration (MBA) degree thesis.⁷

1. Under-invoicing of goods/services

The importer:

- Opens letter of credit (LC) from domestic banks with an under-invoiced value;
- Pays the extra payment through an affiliated third-party (including shell company) or through an illegal *hawala* to the third-party company;
- Imports the goods/services and sells them;
- Often uses less known or unregistered collaborator (colluding) suppliers, or even uses false invoices made locally/abroad;
- Often has an affiliate/sister company abroad to facilitate the process;
- Purchases foreign currency for extra payment from the black market; and
- Commits crimes of tax evasion, abuse of VAT and profit tax/income tax returns, and illegal foreign currency purchases (black market).

2. Over-invoicing of goods/services

The importer:

- Opens LC from domestic banks with an over-invoiced value;
- Imports the over-priced goods and sells them at market value (often reduced);
- Keeps the extra money in foreign accounts (companies), which can be used during under-invoiced imports;
- Often uses lesser known or unregistered collaborator (colluding) suppliers, or even uses false invoices made locally/abroad; and
- Commits crimes of abuse of foreign currency or capital flight, and false claiming loss/bankruptcy and refunds from the government is also possible.

3. Fictitious/phantom invoicing of goods/service

The importer:

- Opens LC from domestic banks for multiple import orders;
- But does not buy/import any goods and services;
- Often uses lesser known or unregistered collaborator (colluding) suppliers, or even uses false invoices made locally/abroad;
- Keeps transferred payments abroad;
- Commits crimes including foreign currency abuse and capital flight; and
- Does not pay any custom duties, VAT, or profit taxes.

4. Falsified invoicing of goods/services

The importer:

- Opens LC from banks for many commodities;
- Buys shipped fake goods and services;
- Transfers more foreign currency abroad to buy the fake commodity;
- Often uses lesser known or unregistered collaborator (colluding) suppliers, or even uses false invoices made locally/abroad;
- Keeps extra payments abroad, which might be used during under-invoicing; and
- Commits crimes including foreign currency abuse and capital flight.

Among the above, the first two are the more common methods, followed by fictitious invoicing. The use of falsified invoicing is rare. Fraudulent trade activities, such as the above, are very common as reported by the Ethiopian Customs Authority, and the number of successful investigations, prosecutions and convictions are recorded on the predicate offence. Investigations are carried out, and some of them are prosecuted; however, no single case has led to either money-laundering investigations or prosecutions.⁸

Gaps/limitations in detecting, identifying and investigating TBML

The Ethiopian Financial Intelligence Centre (EFIC) has so far: carried out strategic analysis on fraudulent invoicing methods on importing goods; issued a guideline for financial institutions on detecting and reporting suspicious transactions including TBML red-flag risk-indicators; published an assessment on the role of *hawala* mechanisms on money-laundering and terrorism financing; and

⁸ EFIC (n.d.) Strategic analysis on under/over invoicing of import goods (unpublished). Ethiopian Financial Intelligence Centre.

delivered multiple training sessions on TBML to bankers, Customs officials and law enforcement agencies. However, significant limitations in the sector still prevail.

Lack of awareness, specifically on the risks of money laundering from international trade, is wide and acute in almost all relevant stakeholders, including those responsible officials at the Customs Commission, banks and the Central Bank. Experts involved in processing international trade have the expertise to detect and identify suspicious activities; however, a lack of coordination and information among relevant stakeholders, and internationally, remains rampant. Moreover, it is relatively easy to produce forged documents domestically or to collude with foreign agents or shell companies or through an affiliated/sister/parent company abroad. Customs and law enforcement bodies traditionally focus on investigating and prosecuting the predicate offences, and no TBML case has been successfully investigated or prosecuted with convictions.

This article suggests the following immediate and long-term interventions to address TBML in Ethiopia:

- **Promote awareness raising** about the risks of TBML to relevant stakeholders, particularly the Customs Commission, the Central Bank, tax administration agency, law enforcement agencies, banks, freight forwarders, etc.
- **Design and provide technical training** to experts involved in processing international trade, primarily to Customs officials, banks, the Central Bank (which

has a critical role in approving and supervising foreign currency permits for the import of goods) and law enforcement agencies on how to detect, identify, analyse, report and investigate suspicious transactions of trade within the scope of their mandate.

- **Strengthen interagency cooperation and information sharing** among relevant stakeholders and with cross-border agencies, including the use of existing frameworks such as Interpol, the World Customs Organisation (WCO), International Trade Organisation (WTO) and the FATF. This cooperation should include strengthening public-private partnerships.
- **Develop and apply TBML-related red-flag indicators** to the Customs Commission and the Central Bank and integrate them with the existing indicators already developed for banks. The Customs Commission can adapt such indicators within the WCO SAFE Framework of Standards,⁹ which also promote customs-to-customs, customs-to-private sector cooperation, and risk-based systems for regulating and facilitating trade.
- **Improving customs valuation and assessment mechanisms** to strengthen the detection and identification of suspicious activities/transactions.
- **Strengthening the EFIC's** institutional and operational capabilities and its mandate of coordinating the national anti-money laundering regime.

⁹ WCO (2018) *SAFE Framework of Standards* (2018 edition). <http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/safe-package/safe-framework-of-standards.pdf?la=en>

CASE STUDY: Under-invoicing

In 2015, a local bank granted foreign currency to a trading company named A12 PLC to import Isuzu mid-truck vehicles from Dubai with a price of US\$5,500/vehicle. The importer secured all the necessary permits and the vehicles were imported accordingly. The local bank transferred the money to Dubai via bank-to-bank payments.

The Ethiopian Customs then allowed the importer to sell the vehicles from his authorised bonded warehouse. Then Customs received a tip-off from an informant that the importer was selling the cars at a very high price compared to the import price. This created a valid suspicion and a joint investigation team from Customs, the police and the financial intelligence centre was established.

The investigation found the following:

- The assessed price was US\$12,000/vehicle (a difference of US\$6,500/vehicle), which was also verified by internal documents recovered from the premises of the importer and corroborated by witnesses.
- The importer produced fake or fraudulent invoices in the name of the exporter in Dubai.

- The company in Dubai was found to be an affiliated company to the importer, established to facilitate such illegal trade transactions.
- Customs/police searched the premises of the importer and retrieved multiple forged documents, including proforma invoices, commercial invoices, certificates of origin, bills of loading, etc.
- The importer bought the foreign currency in US dollars from the black market and transferred it to the company in Dubai via illegal *hawala*.
- A Customs audit revealed that the importer had evaded ETB73.5 million from VAT and profit tax in a single fiscal year.
- Based on a court warrant, investigators seized 35 Isuzu vehicles as exhibits and for future possible confiscation as proceeds of crime.
- Investigators confirmed that 135 vehicles were imported at an under-invoiced price that amounted to a total additional value of US\$877,500.
- The importer and his accomplices were charged with crimes related to customs frauds, tax evasion, VAT tax offences, forgery of documents and money laundering.



CONTACTS

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