



REPORT OF REGIONAL THREATS ON MONEY LAUNDERING

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EXECUTIVE SUMMARY

1. Both regionally and globally, criminal organisations launder assets in order ensure financial capacity. With the understanding that the predicate offences of money laundering (ML) generate illicit assets that may be laundered, the region is exposed to a number of threats or potential factors, which could lead to different distortions in the countries financial systems.
2. This Regional Report of Threats on ML (hereinafter referred to as the “Report”) is intended to update the Report of Threats published by GAFILAT in 2015¹. This report is focused on the 2015-2016 period, through regional description, based on the study of typologies identified by the Financial Intelligence Units (FIUs) of the region, the analysis of final convictions for ML, and the information of the National Risk Assessments (NRAs) on ML/TF from GAFILAT member countries.
3. This report covers the systematization of 93 convictions for ML and 82 cases reported by the FIUs in the Regional Typologies Report². The analysis of threats in the NRAs on ML/TF are made from the information submitted by the countries during the NRA Workshop held in the City of Heredia, Costa Rica, from September 28 to 30 2016, as well as from the information directly supplied by member countries.
4. Regarding the above mentioned sources, the descriptive analysis of both ML detection and sanctioning stages enables to characterise, from the review of ML cases and convictions, the behaviour of Anti-Money Laundering Systems of GAFILAT member countries.
5. Thus, in the detection stage, the main typologies identified as mechanisms to launder assets of illicit origin in the region are the creation and use of legal persons and arrangements, the use of front men and smurfing.
6. The typology of legal persons and arrangements is frequently used to make the ML scheme more complex, thus preventing its tracking. While in case of front men, it turns out that organisations and individuals engaged in criminal activities use this typology to distance themselves from property obtained with illicit money, through the registration of real estate, vehicles, and other assets in the name of third parties. Meanwhile, the smurfing typology is usually used in the region by means of movement of small amounts of money so as not to attract the attention of the institutions on the manoeuvres to hide or conceal the illicit origin of the resources.
7. Likewise, in the detection stage during the 2015-2016 period, the most frequent predicate offences were illicit trafficking in narcotic drugs and psychotropic substances, followed by tax crimes (direct and indirect taxes), smuggling (including in relation to

¹ In accordance with what was approved by the XXXIV GAFILAT Plenary.

² Information contained in the document “*Recopilación de tipologías regionales de GAFILAT 2009-2016*” [Compilation of Regional Typologies of GAFILAT], published in 2016. As regards regional typologies, the analysis to determine threats covers the 2015-2016 period, with 29 cases, in 23 of which the predicate offence was identified.

customs and excise duties and taxes), corruption and bribery, and participation in organised criminal groups.

8. Within the scope of ML sanctioning, convictions for this crime show that the predominant predicate offences in the region are the illicit trafficking in narcotic drugs and psychotropic substances, cross-border transportation of cash, participation in organised criminal groups, corruption and bribery and extortion.

9. The information analysis of NRAs on ML/TF identifies the main predicate offences of ML that GAFILAT member countries have reported as ML threats. The main predicate offences are the illicit trafficking in narcotic drugs and psychotropic substances, corruption and bribery, smuggling (including in relation to customs and excise duties and taxes), along with trafficking in human beings and migrant smuggling.

10. This way, the report identifies 7 threats in the region: illicit trafficking in narcotic drugs and psychotropic substances, illicit cross-border transportation of cash, tax crimes (direct and indirect taxes), participation in organised criminal groups, smuggling (including custom taxes and charges), corruption and bribery, trafficking in human beings and migrant smuggling.

11. The first 6 of these 7 threats are identified from the most predominant predicate offences in the detection and sanctioning stages, while the last one is identified from the analysis of NRAs on ML/TF and has low or no presence in the detection and sanctioning stages.

12. The ML threats identified from the study are as follows:

13. **Illicit trafficking in narcotic drugs and psychotropic substances:** This threat is present in a cross-cutting manner throughout the region. The analysis shows that the prevailing typologies are the use of front men, smurfing and legal persons and arrangements where schemes are preferably developed at a national level. The most vulnerable financial sectors are real estate companies and banking institutions where cash is mainly used, along with bank accounts and credit loans.

14. This is the only ML predicate offence that all the countries of the region identified as a threat in the ML/TF NRAs. Along this line, all the countries have declared that they are prone to this threat, whether as producing countries or for being neighbours to any such countries, since they play a strategic role in transit, storage and distribution of substances.

15. **Illicit Cross-Border Transportation of Cash:** This phenomenon characterises certain areas of the region which have identified illicit cross-border transportation of cash as a ML predicate offence. The regional analysis shows that the prevailing typology is the use of legal persons and arrangements, where schemes are mostly developed at an international level. The most vulnerable financial sectors are airlines, banking institutions and public administration institutions, where cash is mainly used.

16. Criminal organisations use the financial system to hide or conceal their actions, where they benefit from the complexity of currencies and from trading transactions

through the physical movement of cash and couriers³. In this regard, the aim of the offenders when carrying out the illicit cross-border transportation of cash is to collect, transport, store and use the cash in the destination countries. These actions or methods are carried out regardless of the ML scheme or motivations⁴.

17. **Tax Crimes (direct and indirect taxes):** Political, strategic and economic interests of the countries are threatened by tax and financial-related offences. As regards the most commonly used typologies for ML resulting from this predicate offence, the frequent use of legal persons and arrangements should be highlighted, where ML schemes at an international level are predominant. The vulnerable financial sectors are the banking sector, money transfer companies, real estate companies and international trade-related companies, while the most frequently used product or means is international money transfers.

18. **Participation in organised criminal groups:** This threat is constantly diversifying its offences and methods⁵. In the region, organised criminal groups seek to hide and conceal flows of illicit assets, preferably through legal persons and arrangements. The most vulnerable financial sectors are those related to trade, along with banking institutions, where the main means are cash and bank accounts.

19. This threat is characterised by the development of ML scheme, mainly at an international level, which evidences the cross-national nature of this predicate offence.

20. **Smuggling:** This threat has been observed in the region as a phenomenon related to the development of international trade, which implies a number of fraudulent business practices. The most commonly used typology in the ML schemes with this predicate offence is the typology of legal persons and arrangements along with front men, and the most frequent vulnerable financial sectors are banking institutions, international trade and real estate companies. Meanwhile, the most commonly used products or means are bank accounts and international money transfers.

21. **Corruption and Bribery:** In general terms, the countries of the region stand out for a high corruption perception, according to the Transparency International report 2016. In this connection, the prevailing typologies are the use of front men and legal persons and arrangements, and ML schemes, which are preferably at an international level. The most vulnerable financial sectors are banking institutions, real estate companies, notaries and automotive companies, where cash is mainly used, along with bank accounts and money transfers.

22. **Trafficking in Human Beings and Migrant Smuggling:** Although trafficking in human beings and migrant smuggling have not been relevant threats identified in either

³ Miller, Rosen & Jackson. 2016. Trade-Based money laundering: Overview and policy issues. Congressional Research Service.

⁴ Idem.

⁵ Extracted from the official web site of the United Nations Office on Drugs and Crime (UNODC), available at <https://www.unodc.org/unodc/en/organized-crime/index.html>

the ML detection or the sanctioning stage, 8 out of 17 GAFILAT member countries (47%) have mentioned these crimes as ML threats.

INTRODUCTION

23. In December 2015, the Financial Action Task Force of Latin America (GAFILAT) published the Analysis of Regional Threats on Money Laundering (hereinafter referred to as the ML Threats Report) in order to contribute to the national efforts made to identify threats from a regional perspective.

24. The XXXIV GAFILAT Plenary, held in Santa Cruz de la Sierra, Bolivia, on August 12, 2016, approved the update of the Threats Report after acknowledging the need to improve the awareness of the ML criminal phenomenon. Experts from the Financial Analysis Unit (UAF in Spanish) of Chile, along with experts from the Special Verification Intendancy (IVE in Spanish) of Guatemala were in charge of preparing this report with the cooperation of the Council for Financial Activities Control (COAF in Portuguese) of Brazil.

25. This document is intended to update said Threats Report, in accordance with what was approved by the XXXIV GAFILAT Plenary. This report is focused on the 2015-2016 period, through regional description, based on the study of typologies identified by the regional Financial Intelligence Units (UIFs), the analysis of final convictions for ML, and the information of the National Risk Assessments (NRAs) on ML/TF from GAFILAT member countries.

26. This way, the pursued objective is to identify the evolution of the ML phenomenon in the region during the last years, thus enabling to determine some behaviour patterns followed by the different threats within the region and the sub-regions.



WORKING METHODOLOGY

CONCEPTS

27. Find below a definition of the main terms used in this document:

- a) **Threat:** People, group of persons, object or activity with enough potential to cause harm to the State, society, the economy and other key elements of the life of a country or region. Within the context of ML, the definition of threat includes criminals, terrorist groups and their facilitators and funds used in ML or TF activities⁶. Similarly, regional threat may be understood as “one that affects, to a greater or lesser degree, all members of GAFILAT in their capacity as members of the same geographical region or at least sub-region in which it is divided”⁷.
- b) **Predicate offences:** Any offence as a result of which proceeds have been generated that may become the subject of a ML offence⁸.
- c) **Confiscation:** Permanent deprivation of funds or other assets by order of a court or other competent authority. Confiscation or forfeiture takes place through a judicial or administrative procedure that transfers the ownership of specified funds or other assets to be transferred to the State. In this case, the person(s) or entity(ies) that held an interest in the specified funds or other assets at the time of the confiscation or forfeiture loses all rights, in principle, to the confiscated or forfeited funds or other assets. Confiscation or forfeiture orders are usually linked to a criminal conviction or a court decision whereby the confiscated or forfeited property is determined to have been derived from or intended for use in a violation of the law⁹.
- d) **Typology:** Classification and description of the techniques used by criminal organisations to give the appearance of legitimacy to funds of illicit or illegal origin, and transfer them from a place to another or among persons to finance their criminal activities. When a number of ML or Terrorist Financing (TF) schemes seem to be similarly developed, or use the same methods, can be classified as a typology¹⁰.
- e) **Informal currency exchange system:** This typology is characterised by conducting exchange transactions of currency of illicit origin, intended to place assets in the formal economy.
- f) **Smurfing:** ML Typology consisting on splitting or dividing in small amounts apparently isolated transactions, made in the name of one or more investors, not to generate suspicion and to avoid controls associated to larger amounts of money.
- g) **Legal persons:** Any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own

⁶ FATF Guidance. 2013. National Money Laundering and Terrorist Financing Risk Assessment.

⁷ Analysis of Regional Threats on Money Laundering. GAFILAT (2015).

⁸ United Nations Convention against Transnational Organised Crime (2011).

⁹ Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013).

¹⁰ “Compilation of Regional Typologies of GAFILAT, 2009-2016” published by GAFILAT (2016).

- property. This can include companies, bodies corporate, foundations, anstalt, partnerships, or associations and other relevantly similar entities¹¹.
- h) **Legal arrangements:** Express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include *fiducie*, *treuhand* and *fideicomiso*¹².
 - i) **Money or value transfer service (MVTS):** Financial services that involve the acceptance of cash, cheques, other monetary instruments or other stores of value and the payment of a corresponding sum in cash or other form to a beneficiary by means of a communication, message, transfer, or through a clearing network to which the MVTS provider belongs. Transactions performed by such services can involve one or more intermediaries and a final payment to a third party, and may include any new payment methods. Sometimes these services have ties to particular geographic regions and are described using a variety of specific terms, including *hawala*, *hundi*, and *fei-chen*¹³.

¹¹ Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013).

¹² Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013).

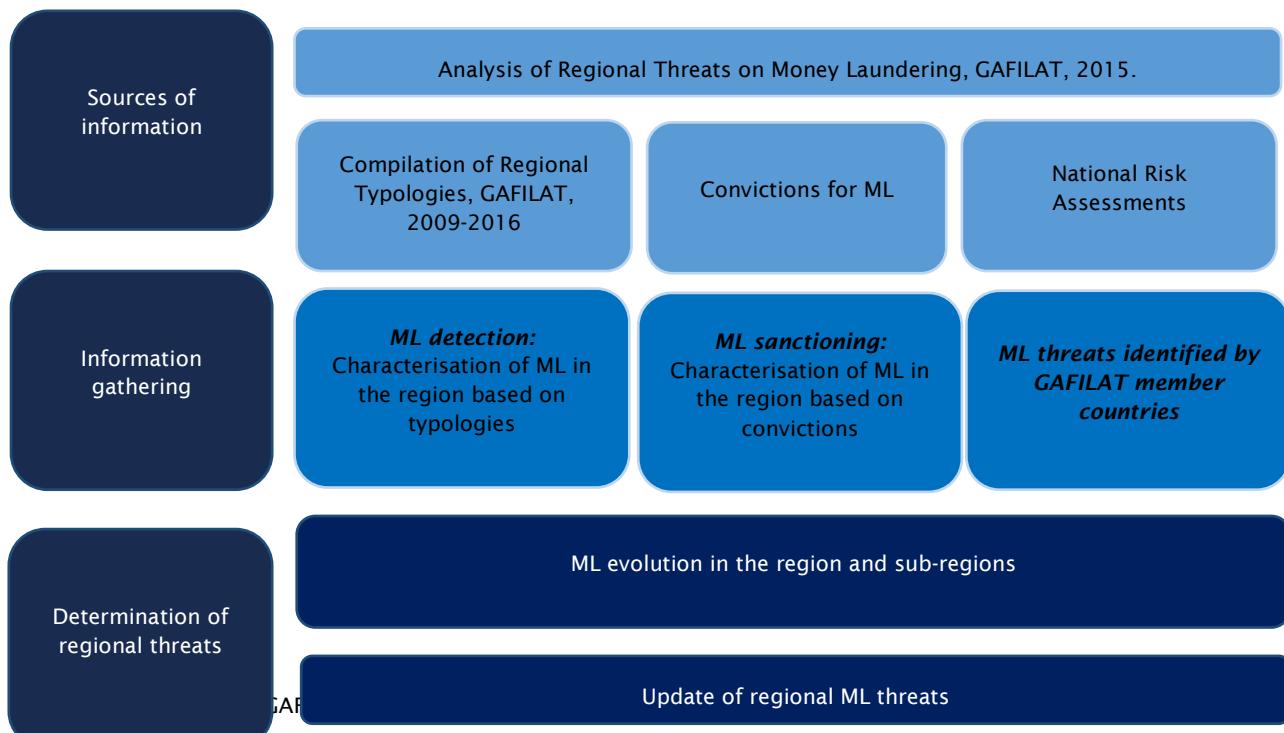
¹³ Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013).

WORKING METHODOLOGY

28. To update the “Report of ML Threats” a methodology is used that seeks to identify the threats and their impact on anti-money laundering systems¹⁴ from GAFILAT member countries. For such purposes, information is included, which arises from the ML detection stage provided by regional FIUs, as well as from the sanctioning stage, based on ML convictions. Likewise, to understand the characteristics and identify ML threats in the region, a descriptive analysis is performed of studies from international organisations on current ML predicate offences. An additional source of information is the gathering of threats identified by GAFILAT member countries themselves in their ML/TF NRAs.

29. The following figure shows the working methodology with the specific processes and actions:

Figure1: Working methodology



30. It should be noted that this methodology includes, where applicable, an sub-region analysis, as defined by GAFILAT¹⁵:

- Mexico, Central American and the Caribbean Sub-Region: Costa Rica, Cuba, Guatemala, Honduras, Mexico, Nicaragua, Panama and Dominican Republic.
- Southern Cone Sub-Region: Argentina, Brazil, Paraguay and Uruguay.

¹⁴ Considered as a comprehensive AML system according to the FATF 40 Recommendations, attached as Annex No. 1.

¹⁵ Analysis of Regional Threats on Money Laundering. GAFILAT. 2015. For purposes of clarification, the sub-region “North America, Central America and the Caribbean” has been renamed as “Mexico, Central American and the Caribbean”.

- Andean Sub-Region: Bolivia, Chile, Colombia, Ecuador and Peru.

STAGE 1: INFORMATION GATHERING

ML DETECTION

31. GAFILAT holds the “*Regional Typologies Experts Workshop*”, on a biannual basis, where FIUs of the member countries and observers select and submit typologies detected in their countries, whether due to the relevance of the detected methods or due to the importance of any such criminal activity for said country. Experiences are also shared regarding the identification of red flags and common *modus operandi* by criminal organisations.
32. As a result of these workshops, the document “Compilation of Regional Typologies of GAFILAT 2009-2016”, published in 2016 was drafted. Based on this document, the information obtained in each case is systematised in order to identify the behaviour and frequency of the typologies used, vulnerable economic sector, reporting country¹⁶, predicate offences and, finally, products or means detected in the ML scheme.
33. Thus, this chapter describes and analyses the techniques used and the behaviour of the typologies used regarding ML schemes detected by FIUs in the region.

ML SANCTIONING

34. Final convictions for ML in 2015 and 2016 provided by GAFILAT member countries are used as information source.
35. Information on convictions has been systematised and submitted to data consistency analysis in order to identify features characterising ML schemes in the region, which have been ruled by the respective Courts of Justice. The following was identified in each conviction provided: a) associated ML predicate offence, b) involved economic sectors, c) products used and (d) ML typologies identified.
36. Finally, a descriptive analysis is presented as to the frequency of products or means used, ML scheme geography, and confiscations ordered by the respective Courts of Justice.
37. Along this line, the following considerations should be taken into account:
 - a) In order to address the different predicate offences of each country under the same criterion, they have been standardised according to a list generated based on the categories of offences designated by the Financial Action Task Force (FATF) plus other offences (see Annex No. 2).
 - b) With the goal of giving consistent treatment to the different property confiscated per country, they are grouped and categorised per type of assets.

¹⁶ Details of the exhibitor countries are available only in the cases relevant to the Report of Typologies of 2016; therefore, this topic was not taken into consideration in the systematisation.

- c) There are countries that have reported a greater number of convictions, which does not imply they are more vulnerable to ML. This occurs, among others, due to the availability of the information, the operation of the AML system and the efficiency in crime detection and ruling. It was considered that the convictions submitted by the countries are all the rulings issued during the 2015-2016 period.
- d) It is important consider that the convictions submitted by Mexico, Central American and the Caribbean sub-region account for 58% of total convictions, those submitted by the Andean sub-region account for 33% and those by the Southern-Cone account for 9%.
- e) Brazil, Mexico and Uruguay have not been considered in the analysis due to the scarce information delivered, or failure to provide ML convictions.

THREATS IDENTIFIED BY MEMBER COUNTRIES

38. The FATF Recommendation 1 states that countries should identify, assess and understand their ML and TF risks and take action accordingly. In this regard, countries have taken action to prepare NRAs so as to identify threats and vulnerabilities of their institutions and economic sectors and, based on that, establish the ML/TF risks they are exposed to.
39. Against this background, and with the purpose of supporting member countries in their respective processes, GAFLAT has held two biannual workshops on ML/TF NRAs. In 2015-2016, 15 countries have started or completed the assessment process, and two were in progress. To carry out this analysis, information reported by the countries during the NRA Workshop held in the City of Heredia, Costa Rica, from 28 to 30 September 2016, as well as information directly supplied by member countries was used.
40. In this analysis, the threats identified by the countries are grouped based on the FATF categories of predicate offences. Subsequently, the sub-regional analysis is subdivided into cross-cutting threats, which affect all the countries of the sub-regions, and non-cross-cutting threats, which exist in one or several countries but without reaching all the jurisdictions that make it up.

STAGE 2: DETERMINATION OF REGIONAL ML THREATS

41. To determine ML threats in the region, an index is developed consolidating data regarding ML detection by the typologies identified by FIUs, with the ML sanctioning stage, through ML final convictions.
42. Thus, the index "*ML Threats in Latin America and the Caribbean*" is developed. Data entry to this index implies obtaining the frequency of predicate offences, both in the detection and sanctioning stages, choosing the standardisation method and, finally, weighting the standardised figures.

43. In the period 2015-2016, 93 ML convictions were systematised and 29 cases were reported by FIUs in the Regional Typologies Report. In this connection, the predicate offence was identified in 84 out of the 93 convictions (90.3%), while in cases reported by the FIU, it was identified in 23 out of the 29 cases (79.3%)¹⁷. This takes into consideration the fact that ML predicate offences generate illicit assets that can be laundered and, therefore, pose a threat for the region.

44. This is how the index “*ML Threats in Latin American and the Caribbean*” is developed, which identifies ML threats in anti-money laundering systems of GAFILAT member countries. Similarly, when countries identify a threat in their NRAs and it has low or no presence in the detection and sanctioning stages, a ML emerging threat is set in the region.

45. Annex No. 4 details the above mentioned calculation.

¹⁷ Generally, FIUs have no obligation to identify the ML predicate offence in the financial intelligence processes they conduct, considering that, in general, they focus on the detection stage of anti-money laundering systems. Notwithstanding the foregoing, in cases where the predicate offences can be identified, they are grouped based on the FATF categories.



**CONTEXT:
INTERNATIONAL STUDIES
ON ML PREDICATE
OFFENCES**

46. In the region, criminal organisations launder assets in order ensure financial capacity. Thus, Latin America is exposed to a variety of threats or potential factors that may cause severe distortions in the economic systems of the different countries. This takes into consideration the fact that predicate offences of ML generate assets that can be laundered and, therefore, pose a threat for the region.

47. Along this line, the findings from the analysis of different documents and studies published by international organisations related to ML predicate offences in the region are set out below¹⁸.

SMUGGLING (INCLUDING IN RELATION TO CUSTOMS AND EXCISE DUTIES AND TAXES)¹⁹

48. Although there is no univocal definition by international organisations for the smuggling of goods, it can be addressed, in a conceptual manner, as the illegal export and/or import of goods, without paying the customs duties and relevant taxes. A variety of configurative conducts of this ML predicate offence have been detected. It is highlighted that most basic schemes imply fraudulent commercial practices, such as over and under-invoicing, multiple invoicing or under-shipments of goods and services, as well as falsely described goods and services.

49. This way, permanent world trade growth, which has globally increased four times in the last twenty-five years, has also turned into an instrument for smugglers and other criminals to hide and conceal proceeds from illegal activities²⁰.

50. This topic has also been addressed in the document *Trade-Based Money Laundering: Overview and Policy Issues*, which states that “*Criminal organisations and financers take advantage of the size and complexity of the international trade and finance systems to obscure individual transactions through (1) the complexities involved with multiple foreign exchange transactions and diverse trade financing arrangements; 2) the co-mingling of legitimate and illicit funds; and (3) the limited resources that most customs agencies have available to detect suspicious trade transactions²¹*”.

51. According to *Global Financial Integrity*, a non-profit research and advisory organisation located at Washington, United States, between 2005 and 2014, illicit financial flows in developing and emerging economies have remained at USD 1 trillion. In 2014, illicit outflows represented 4.2 / 2.6% of total trade in developing countries. It is worth

¹⁸ The analysis of predicate offences is presented in alphabetical order and it is not correlated with the level of presence in the region.

¹⁹ Smuggling and illegal cross-border transportation of cash are two different phenomena and, therefore, are analysed as two different offences as regards convictions and typologies.

²⁰ OECD. Illicit Trade: Converging Criminal Networks, OECD Reviews of Risk Management Policies, OECD Publishing, Paris, (2016) at http://www.keepeek.com/Digital-Asset-Management/oecd/governance/charting-illicit-trade_9789264251847-en page3.

²¹ Own translation into Spanish from Miller, Rosen & Jackson. 2016. Trade-Based Money Laundering: Overview and Policy Issues. Congressional Research Service. pp. 1.

highlighting that the growth of illicit trade or smuggling has been sustained regardless of periods of economic recession²².

52. The evolution of this offence shows that, although in previous years it was concentrated in cross-border traders, it is currently committed by criminal organisations, which are also engaged in ML and TF.

53. This activity is a problem that affects the region in different ways, not only economically but also politically and socially. According to the figures of the Latin American Alliance Against Smuggling (*Alianza Latinoamericana contra el Contrabando - ALAC*), an initiative that gathers regional public and private efforts intended to reduce illicit trade crime, it is estimated that from USD 70 to USD 85 billions flow into the countries of the region annually in smuggled goods²³. In Latin America, products with a high level of smuggling are apparel and textile, cigarettes, liquors and steel, among others.

CORRUPTION

54. According to the non-governmental organization Transparency International, corruption can be defined as "*the abuse of entrusted power (public power) for private gains*".

55. According to the document "*Laundering the proceeds of corruption*", published by the FATF in 2011, corruption hurts economic performance by reducing private investment, by adversely affecting the quantity and quality of public infrastructure, by reducing tax revenue, by resulting in a shallower and less efficient financial system and by reducing human capital formation. Additionally, some studies have noted that this phenomenon can have adverse distributional effects as it hurts the poor disproportionately. This is reflected in the fact that countries with high level of corruption, compared to those with low level of corruption, achieve lower literacy rates, have higher mortality rates, and overall have worse human development outcomes²⁴.

56. Along this line, due to the fact that corruption has been related to the funding of political parties, the Organisation for Economic Co-operation and Development (OECD) has issued the document "*Financing Democracy, Funding of Political Parties and Election Campaigns and the Risk of Policy Capture*" whereby this issue is addressed.

57. According to the analysis of said document, coexistence of corruption and political finance generally occurs by buying economic favours through campaign donations. This implies that in order for elected officials to grant or mediate to grant favours to companies, they should have influence on parts of the public administration responsible for public engagements, public loans, tax inspections, or any other influence.

²² Global Financial Integrity. Illicit Financial Flows from Developing Countries: 2004-2013 (2015). Also available at: <http://www.gfiintegrity.org/report/illicit-financial-flows-to-and-from-developing-countries-2005-2014/>.

²³ Information obtained from the second meeting of sectorial boards of the *Alianza Latinoamericana Anticontrabando*. Santiago de Chile, March 2017.

²⁴ FATF. Laundering the Proceeds of Corruption (2011), pp.9

58. In this regard, one of the indicators globally used is the “Corruption Perception Index” of Transparency International, where rank 1 (one) represents the country with the lowest corruption perception²⁵. According to this index, in the year 2016, most countries of the region had a high corruption perception.

59. In this respect, from all the 17 GAFILET member countries, 9 countries are ranked from 101 to 150, while 5 countries are ranked from 100 to 51, and the remaining 3 countries are ranked from 50 to 1.

TAX CRIMES (DIRECT AND INDIRECT TAXES)

60. In general terms, tax crime²⁶ includes failure to pay taxes as a result of omission of tax revenues.

61. Tax crimes, like other financial crimes, pose a threat to the political, strategic and economic interests of countries; hurt the confidence of people in the State Administration; their willingness to pay taxes and deprive Governments of revenues necessary for a sustainable development of countries.

62. According to the document “*Tax Evasion in Latin America*” published by the Economic Commission for Latin America and the Caribbean (ECLAC)²⁷, the tax evasion approach has changed in the last few years, from a domestic tax perspective to an international perspective, due to increased international transactions by multinational companies.

63. Although the countries of the region have made progress in their tax laws through the addition of mechanisms hindering the transfer of benefits, little is known about the current magnitude of this phenomenon, according to the same Report.

64. In the last twenty years, most countries of the region experienced an increase in tax revenues (relative to GDP), due to different internal and external reasons. In this connection, tax systems have shown a number of weaknesses, for instance, tax default by both domestic and foreign tax-payers²⁸.

65. In the last few years, payment of taxes in cash by multinational corporations has been one of the main concerns. Due to their economic power, they can perform actions intended to take advantage of international taxation, and implement tax planning strategies that indirectly reduce tax revenues of places where they actually operate²⁹.

ILLEGAL EXTRACTION OF NATURAL RESOURCES

²⁵ International Transparency. Corruption Perception Index (2016).

²⁶ Also called tax crime or tax evasion, among others.

²⁷ “Tax Evasion in Latin America.” Macroeconomics for Development, No. 172. February 2016.

²⁸ Idem.

²⁹ Idem.

66. According to the study issued by the Global Initiative against Transnational Organised Crime³⁰ (a network of around 100 independent experts across the world who work on human rights, democracy, governance and development-related topics), a distinction must be made between informal and illegal mining. The first one is conducted by miners who operate on a small-scale without licence but who have started a legal regularisation process. The second one is carried out in violation of the law, whether because mines are operated in protected areas or because they fail to comply with environmental, tax and labour laws³¹.

67. This study also relates the development of illegal mining with the interest of criminal organisations that seek to diversify their business, mainly together with drug trafficking.

68. Illegal proceeds would mainly come from the production of illegal mining, a source of illicit proceeds subject to be laundered in the same mining sector or in other sectors of the economy.

69. The report also alerts about the severe environmental consequences caused by illicit development of this activity. Thus, illegal mining is described as one of the most destructive activities for the environment, since it ignores legal requirements and restrictions intended for environmental protection.

70. Extraction of natural resources is also associated to drug trafficking, since this latter acts as a decisive factor towards deforestation figures. This is through the construction of infrastructure such as clandestine landing strips and illegal roads for aircrafts, and through the privatisation of public land to create "narco-estates"³².

71. Compared to other illegal activities, such as drug production and smuggling, illicit gold mining and gold smuggling are both easy to blend into the legal economy and carry far lighter sentences if detected. The fact that it has this alluring characteristic means that criminal networks and groups tend to exploit mining operations³³.

72. Smuggling of gold occupies a unique position in the gold supply chain, as it can serve the dual purpose of generating profits and moving funds.

73. According to the study prepared by the Global Initiative against Transnational Organised Crime, between 28% and 80% of gold extraction is illegal in the countries of the Andean sub-region.

ILLEGITIMATE TRAFFICKING IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

³⁰ Organized Crime and Illegally Mined Gold in Latin America (2016), pp.5

³¹ Based on this study, definitions of illegal mining vary greatly across countries.

³² UNODC, Executive Summary of World Drug Report 2016. pp.22.

³³ Global Financial Integrity, "Follow the money, Financial Flows linked to Artisanal and Small-Scale Gold Mining" (2017), pp. 31.

74. According to the United Nations Office on Drugs and Crime (UNODC)³⁴, illicit trafficking in narcotic drugs and psychotropic substances involves cultivation, manufacture, distribution and sale of substances prohibited by Law.

75. As to drug supply and markets worldwide, the most widely cultivated drug crop continues to be cannabis, which was reported by 129 countries in 2014, followed by opium poppy and coca cultivation³⁵.

76. Regarding drug trafficking, the World Drug Report of 2016 notes that "*Drug markets tend to be influenced by local idiosyncrasies in both developed and developing countries, but sizeable markets for certain substances, notably cocaine and synthetic substances, have taken hold in developed countries before subsequently expanding to developing countries*³⁶".

77. Said report provides region-based background on bulk production of cannabis (systemically developed worldwide), opium poppy (particularly in the sub-region of Mexico, Central America and the Caribbean), and coca cultivation and production exclusively the Latin American region.

78. Regarding opium production, the UNODC has reported that the sub-region of Mexico, Central American and the Caribbean has doubled production over the period 1998-2014, reaching some 500 tons and accounting for almost 11% of the estimated global opium production in 2015.

79. Based on the statistics provided by the World Drug Report of 2014, global coca cultivation has increased 10% against the previous year. Along this line, the region is the main protagonist due to its large coca cultivation and processing areas developed in the Andean sub-region³⁷.

80. Regarding cannabis seizure, the report notes that "*The Americas, followed by Africa, remain the main production and consumption regions for cannabis herb, with about 75% of all cannabis herb seizures worldwide taking place in the Americas in 2014, the largest amounts in North America, while Africa accounted for 14% cannabis herb seizures and Europe for 5%*³⁸".

81. In this connection, the World Drug Report of 2016 argues that the region is prone to narcotics trafficking given its geographic condition for the production of raw materials used as basis for the manufacturing of different substances, mainly cocaine, and since it is a lucrative profit-making activity it enables fast expansion of the storage, transport, sale and consumption phases³⁹.

³⁴ Definitions and concepts taken from the UNODC Web Page: <https://www.unodc.org/unodc/en/drug-trafficking/>

³⁵ UNODC, Executive Summary of World Drug Report 2016. pp. 13.

³⁶ UNODC, Executive Summary of World Drug Report 2016. pp. 18.

³⁷ UNODC World Drug Report 2016. pp. 82.

³⁸ UNODC, Executive Summary of World Drug Report 2016. pp. 16.

³⁹ UNODC. World Drug Report 2016. pp. 82.

82. The report of the International Narcotics Control Board (an independent, quasi-judicial expert body established by a treaty, in charge of monitoring compliance with international drug control treaties states that “*the region of Central America and the Caribbean continues to be a major trans-shipment area for illicit drugs trafficked from the producing countries in the Andean region (notably Colombia) to final destination markets in the United States and, to a lesser extent, Canada and Europe*⁴⁰”.

83. The same report sets out that “*South America remained virtually the sole supplier of cocaine to drug abuse markets around the world. Thus, South America continued to account for the majority of global cocaine seizures. The global area under coca bush cultivation increased in 2014 as a result of a sharp increase in Colombia, while, according to UNODC, the Plurinational State of Bolivia reduced the area devoted to illicit coca bush cultivation*⁴¹”.

TRAFFICKING IN HUMAN BEINGS AND MIGRANT SMUGGLING

84. Smuggling of Migrants is a crime involving the procurement for financial or other material benefit of illegal entry of a person into a State of which that person is not a national or resident. Migrant smuggling affects almost every country in the world and costs thousands of people their lives every year. As to figures, currently, data is too scattered and incomplete to paint an accurate picture of numbers of people who are smuggled each year and the routes and methods used by those who smuggle them⁴².

85. However, the UNODC mentions that criminal organisations providing smuggling services, among others, have increased their border services. This is a highly profitable business in which criminals enjoy low risk of detection and sanctioning. Thus, the modus operandi and structure of these organizations are increasingly sophisticated⁴³.

86. Human trafficking is defined as the recruitment, transportation, transfer, receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, among others, for the purpose of sexual exploitation, forced labour or services, slavery or removal of organs⁴⁴. The UNODC⁴⁵ 2016 report states that no country in the world is immune from trafficking in persons.

⁴⁰ UNDOC, Report of the International Narcotics Control Board of 2016 (2017). pp 72.

⁴¹ UNDOC, Report of the International Narcotics Control Board of 2016 (2017). pp 89.

⁴² Information taken from the UNODC Official Web Site. Available at: <https://www.unodc.org/unodc/en/human-trafficking/smuggling-of-migrants.html>

⁴³ Idem.

⁴⁴ Taken from the UNODC Web Site, which quotes Section 3° of the United Nations Protocol to Prevent, Suppress and Punish Trafficking In Persons: <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

⁴⁵ UNODC 2016. Global Report on Trafficking in Persons 2016. Available at https://www.unodc.org/documents/lpo-brazil//Topics_TIP/Publicacoes/2016_Global_Report_on_Trafficking_in_Persons.pdf.

87. In general terms, human trafficking has multiple impacts, not only for the trafficked individual but also political and economic impacts as well as impacts on the Rule of Law⁴⁶.

88. In the first case, trafficking usually involves prolonged and repeated trauma, due to physical, sexual and psychological abuse, and violence, deprivation and torture and forced use of substances or drugs. Studies indicate that trauma may persist far beyond the end of any exploitation⁴⁷.

89. In terms of political implications, since this crime involves transnational movement of people, the countries' migration policies play a significant role. Thus, the complex interrelationship between policy and action as regards trafficking in persons, smuggling of migrants and migration flows is highlighted⁴⁸.

90. In economic terms, the costs of trafficking in persons incorporates many elements, including the value of all resources devoted to its prevention, the treatment and support of victims and the apprehension and prosecution of offenders. Further, trafficking in persons causes a distortion since it redirects to offenders (or traffickers) the financial benefits of migration affecting migrants and their families, and more generally, the community, the government and potential legitimate employers⁴⁹.

91. Regarding the impact of human trafficking on the Rule of Law, the UNODC report states that "*trafficking violates the rule of law, threatening national jurisdictions and international law.*" This is because organised crime distorts wealth distribution, unlawfully redistributing national wealth and unduly influencing markets, political power and societal relations⁵⁰.

92. In Central America and the Caribbean⁵¹, 57% of the total victims were trafficked for sexual exploitation, 16% for labour exploitation or forced labour, while 27% for other purposes. Along this line, 38% accounts for adults while 62% for children.

93. For the countries of South America⁵², 57% of the total victims were trafficked for sexual exploitation, 29% was related to labour exploitation or forced labour and 14% for other non-specified purposes. Likewise, 61% of the detected victims were adults and 39% were children.

⁴⁶ UNODC, An Introduction to Human Trafficking: Vulnerability, Impact and Action (2008), pp. 25-27

⁴⁷ Idem.

⁴⁸ Idem.

⁴⁹ Idem.

⁵⁰ Idem.

⁵¹ For the purposes of said document it includes: Bahamas, Barbados, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Panama and Trinidad and Tobago.

⁵² For the purposes of said document it includes: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Guiana, Uruguay and Venezuela.



**DESCRIPTION OF ML IN
THE REGION BASED ON
FIU TYPOLOGIES**

94. The following chapter is intended to characterise ML in the region, from the descriptive analysis of the typologies identified by GAFILAT member countries in the document "*Compilation of Regional Typologies of GAFILAT 2009-2016*".

95. GAFILAT holds the "Regional Typologies Experts Workshop", on a biannual basis, where the FIUs of the member countries and observers select and submit typologies detected in their own countries, whether due to the relevance of the detected methods or due to the importance of any such criminal activity for said country⁵³.

96. Therefore, this chapter provides a descriptive analysis on the detection of ML transactions, characterising, from the analysis of the cases, the behaviour of the detection stage of AML systems from GAFILAT member countries.

CORE TOPICS

97. The document "*Compilation of Regional Typologies of GAFILAT 2009-2016*" includes a total of 82 cases, divided into 9 core topics.

Table 1: Number of cases per core topic.

Core Topic	No. of Cases
Use of formal and informal remittance and currency exchange services, and physical cash movement.	21
ML through corporate vehicles and legal arrangements.	18
ML through designated non-financial businesses and professions.	16
Use of foreign trade transactions and smuggling.	8
ML through diversion of funds, tender processes and other corrupt practices.	7
Inexplicable wealth increase of individuals and use of front men.	4
Use of factoring and leasing activities.	4
Use of new payment services and products.	2
Terrorist financing.	2
General total	82

Source: Prepared based on the document "*Compilation of Regional Typologies of GAFILAT, 2009-2016*" published by GAFILAT in 2016.

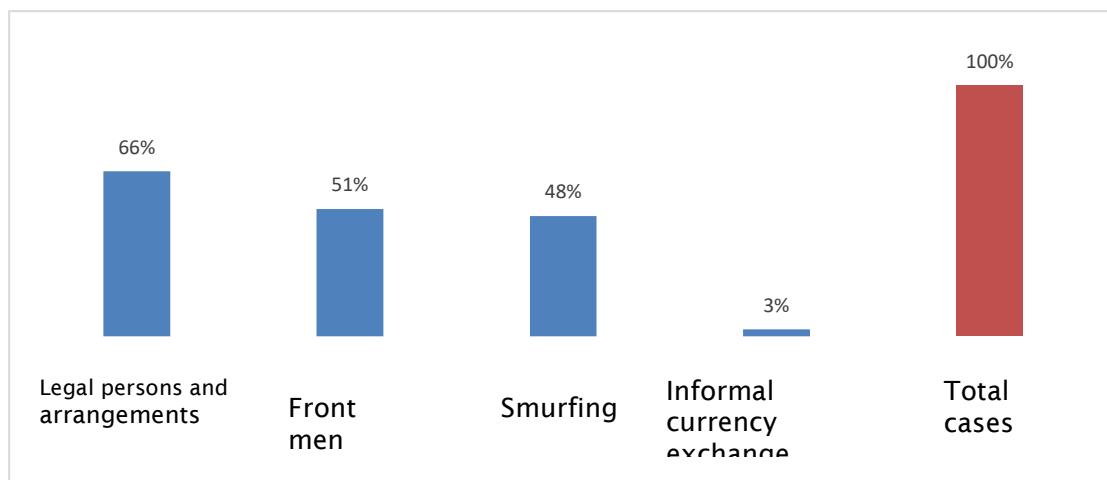
⁵³ Cases were reported by the FIUs due to their characteristics, innovation and complexity; hence, its representativeness of the regional reality can only be assessed within this action framework.

98. Overall, the cases of the region are mainly comprised within the topics relevant to the “use of formal and informal remittance and currency exchange services, and physical cash movement”, together with money laundering through “corporate vehicles and legal arrangements”, and through “designated non-financial businesses and professions”, which jointly account for about 68% of the cases detected by the regional FIUs.

TYPОLOGIES

99. Most of the typologies detected as mechanisms to launder assets of illicit origin in the region are the creation and use of legal persons and arrangements, the use of front men and smurfing, which are present in 65.8%, 50.7%, 47.9%, of the analysed cases, respectively.

Chart No.1: ML Typologies identified based on the analysis of cases reported by FIUs.



Source: Prepared based on the document “Compilation of Regional Typologies of GAFLAT, 2009-2016” published by GAFLAT in 2016.

100. The typology of legal persons and arrangements is frequently used to make the ML scheme more complex, thus preventing it from being tracked. In this regard, cases tend to show that corporations are organised as a vehicle and have short effective terms. Besides, their corporate purpose is diverse.

101. Furthermore, cases show that organisations and individuals involved in criminal activities register real estate, property and other assets in the name of third-parties, so as to disassociate themselves from the property obtained with illicit money, using the front men typology.

102. Meanwhile, smurfing typology is usually used in the region by means of movement of small amounts of money, so as not to attract the attention of the institutions on the manoeuvres to hide or conceal the illicit origin of the money. This way, this typology is particularly linked to cases involving cross-border transportation of money, generally in

cash, and is used for the purposes of laundering or moving assets to a country other than that where the predicate offence was committed.

VULNERABLE FINANCIAL SECTORS AND PRODUCTS USED

103. In the detection stage, the financial sectors mostly used by offenders to launder assets have been banks (71%), existing in 56 of the 79 cases where the vulnerable financial sector is identified; real estate companies (29%); money transfer companies (18%) and bureaux de change (18%).

104. Real estate companies are positioned among the most vulnerable sectors of the region, since purchase of real estate is a common way to launder assets by criminal organisations. In turn, based on the analysed cases, movements of purchase and sale of real estate within short terms are noted, as well as the purchase of real estate for amounts higher than their appraisal, with the sole purpose of laundering money.

Table 2. 10 main economic activities detected by FIUs for ML.

Economic activity/Sector	No. of cases where it is present	% of cases where it is present
Banks	56	71%
Real Estate Companies	23	29%
Money Transfer Companies	14	18%
Bureaux de Change	14	18%
Automotive Companies	13	16%
International Trade	11	14%
Notaries	7	9%
Casinos	7	9%
Financial Institutions	5	6%
Savings and Credit Cooperatives	5	6%

Source: Prepared based on the document "Compilation of Regional Typologies of GAFILAT, 2009-2016" published by GAFILAT in 2016.

105. Both money transfer companies and bureaux de change are used due to the products offered and the intensive use of cash. Particularly, bureaux de change are used to exchange currency obtained from illicit activities, as well as to exchange low-denomination banknotes to high-denomination ones.

106. It is worth highlighting that, on average, 2.4 different economic activities or sectors are compromised for every case detected by regional FIUs, which shows the diversification in the operation of criminal organisations to launder assets of illicit origin.

107. When products or means used for money laundering are analysed in the ML detection stage, it turns out that both cash and bank accounts are used in more than half the cases analysed.

108. Cash is present in 73% of the cases analysed, being the predominant means detected to launder money of illicit origin, since it is difficult to track its origin and destination.

109. The use of bank accounts is significantly predominant in the region as a ML mechanism. Thus, bank movements, such as instalments, charges, transfers and cheques have positioned among the most frequently used instruments, given their security, ease, speed and variety of moments that can be performed.

110. International transfers are being widely used in the region for ML. Although they can be operated through banking institutions, this service is also delivered by remittance or money transfer companies, which are among the most vulnerable financial sectors.

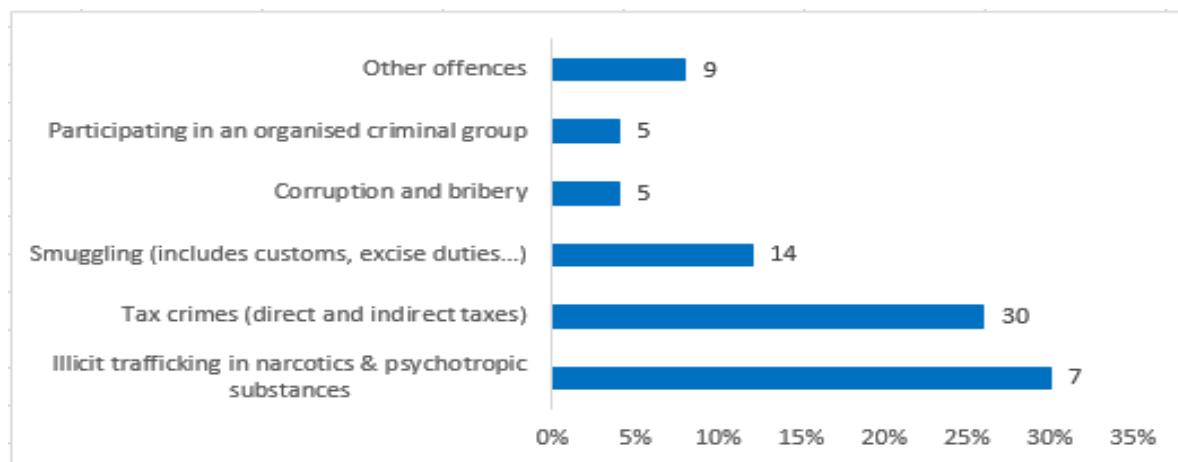
DETECTION OF ML PREDICATE OFFENCES

111. To identify predicate offences associated to cases reported by regional FIUs, only the 2015- 2016 period is considered to keep the basis of the analysis regarding the other variables analysed hereof.

112. This is how, from the analysis of the cases detected by FIUs in the report "Compilation of Regional Typologies of GAFILAT 2009-2016" between 2015 and 2016, ML predicate offence was identified in 23 out of the 29 cases analysed (79.3%).

113. Within this context, illicit trafficking in narcotic drugs and psychotropic substances is the ML predicate offence present in 30% of the cases analysed and detected by the FIUs of the region, followed by tax crimes and smuggling, with 26% each.

Chart 2. Predicate offences of ML detected by FIUs. 2015-2016.



Source: Prepared based on the document "Compilation of Regional Typologies of GAFILAT, 2009-2016" published by GAFILAT in 2016.

*This category groups the following predicate offences: Illicit cross-border transportation of cash (including financing), market manipulation, trafficking in human beings and migrant smuggling, fraud, use of confidential or insider information, extortion and counterfeiting and piracy of products.



DESCRIPTION OF MONEY LAUNDERING IN THE REGION BASED ON ML CONVICTIONS IN 2015- 2016

114. The following chapter is intended to characterise the ML phenomenon in the region, based on the 93 convictions for ML issued between 2015 and 2016, reported by different GAFILAT member countries, through their relevant national coordinators.

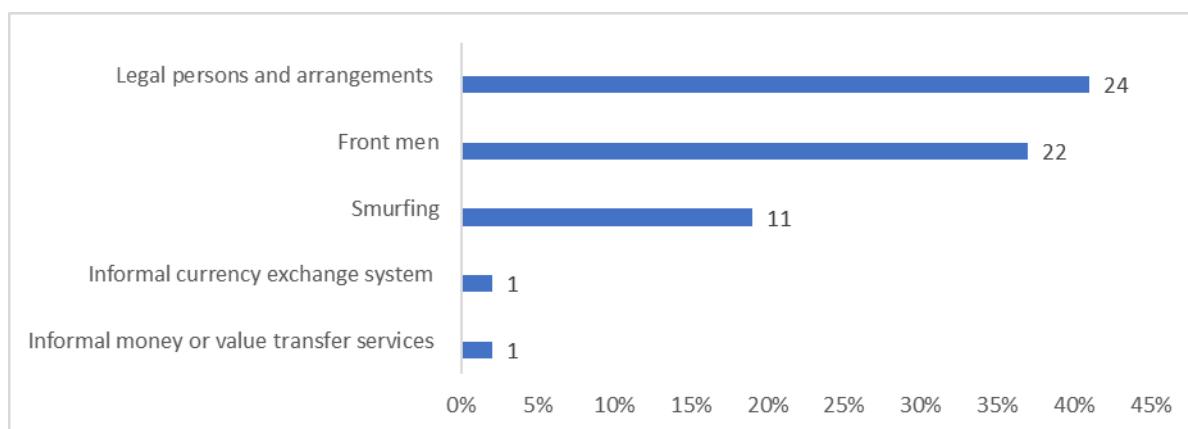
115. The following is a description and a behavioural analysis of predicate offences, typologies, as well as the vulnerable financial sectors in these 93 convictions.

116. Thereafter, there is a description and an analysis of the products used the geography of the ML scheme, and type of confiscated assets. Thus, this analysis enables to obtain accurate information regarding how the region has been used in the sentenced ML schemes.

TYPОLOGIES

117. Upon analysing convictions for ML in the region, it is noted that the most frequently used typology to launder assets of illicit origin is the use of legal persons and arrangements. Moreover, the use of front men and smurfing are methods widely used to hide or conceal money of illicit origin in the region.

Chart No.3: ML typologies identified based on the analysis of 93 convictions during 2015-2016 in the region.



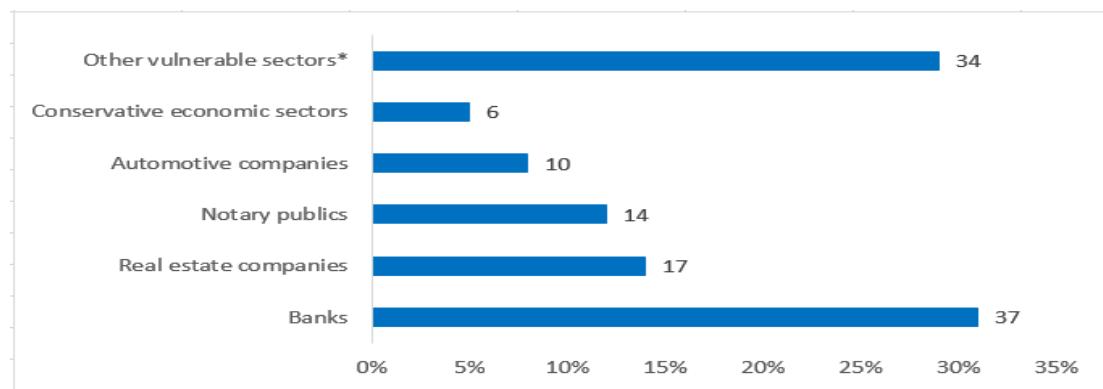
Source: Prepared based on the 93 convictions for ML reported by the different GAFILAT member countries.

118. Upon analysing typologies in aggregate by sub-region, it is noted that legal persons and arrangements are the most commonly used in convictions, as seen in convictions from the sub-region of Mexico, Central America and the Caribbean, and the Southern Cone, while front men is the technique most widely used in convictions from the Andean sub-region.

VULNERABLE FINANCIAL SECTORS

119. The analysis of regional convictions for ML shows that, on average, 2 financial sectors are vulnerable for every conviction⁵⁴. Upon further investigation about these sectors, it is identified that banks, real estate companies and notaries are the most widely used sectors for ML in Latin America.

Chart No.4: Vulnerable financial sectors identified in convictions during 2015-2016 in the region.



Source: Prepared based on the 93 convictions for ML reported by the different GAFILAT member countries.

*This category groups the following vulnerable financial sectors: Shops, Bureaux de Change, Airlines, Financial Institutions, Stock Exchanges, Public Institutions, Money Transfer Companies, Auction Houses, International Trade, Customs Agents, Stock Exchange Brokers, Savings and Credit Cooperatives, Securities Transportation Companies, Non-Profit Organisations, Pension Fund Management Companies (AFP in Spanish), Insurance Companies.

120. Finally, it is worth mentioning that in the Andean sub-region, as well as in the sub-region of Mexico, Central America and the Caribbean, the banking sector has been the most frequently used in ML schemes.

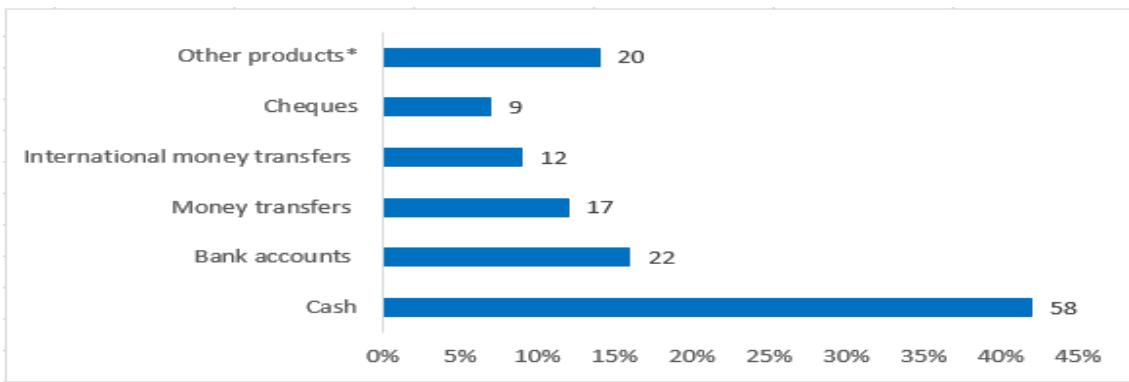
USED MEANS OR PRODUCTS

121. When convictions for ML in the region were analysed, a total of 138 products or means used in aggregate were identified⁵⁵, which have been grouped in nine categories, where the use of cash, bank accounts and money transfers stand out.

Chart No.5: Products or means identified in 2015-2016 convictions in the region.

⁵⁴ Vulnerable financial sectors were identified in 58 of the total convictions.

⁵⁵ The products or means used were identified in 77 of the total convictions.



Source: Prepared based on the 93 convictions for ML reported by the different GAFILAT member countries.

*This category groups the following products used: Financial loans, certificates of deposits, mortgage loans, stock purchase and sale.

122. In this regard, the most commonly used products in the three sub-regions analysed are the use of cash, bank account and money transfers.

GEOGRAPHY OF THE ML SCHEME IN CONVICTIONS

123. Based on the analysis of ML convictions, the geography has been defined to determine if the scope of the ML scheme movements ruled by the courts of justice of the member countries of the region is national or international.

124. Based on the ML convictions analysed, 54% of the ML schemes are carried out at a national level, while 46% at an international level⁵⁶.

125. In the Mexico, Central America and the Caribbean sub-region, international movements are mostly recorded while in the Andean sub-region national movements prevail. Meanwhile, in the Southern Cone movements have been equally recorded.

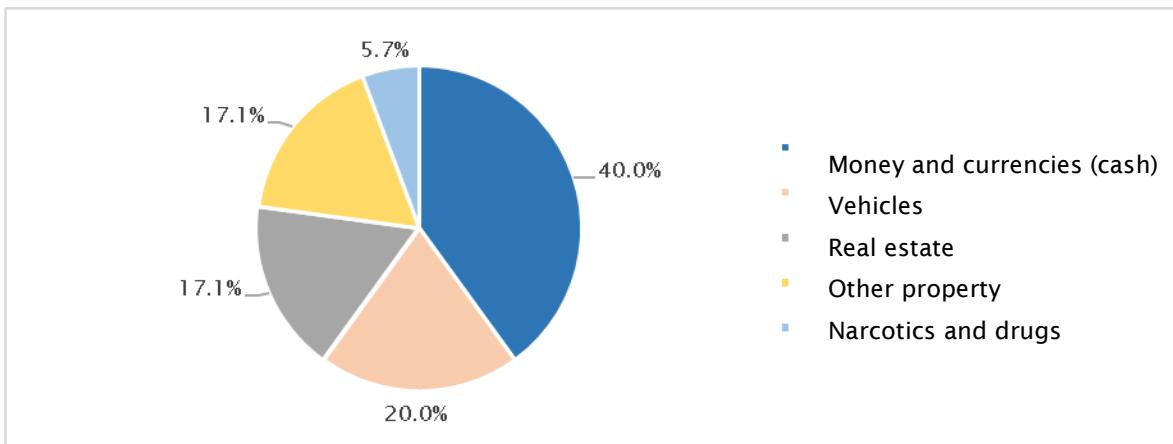
CONFISCATIONS

126. Between 2015 and 2016, 140 confiscations were ordered in the region, which are grouped in different categories so as to perform a correct data treatment. Thus, the information enables the identification of the most frequently confiscated property and, in turn, the type of assets preferred by asset launderers⁵⁷.

Chart No.6: Regional information regarding assets confiscated by rulings issued in 2015-2016 in the region.

⁵⁶ The geography of the ML scheme was identified in 84 of the total convictions.

⁵⁷ In 73 of the total convictions, some type of confiscation was ordered.



Source: Prepared based on the 93 convictions for ML reported by the different GAFILAT member countries.

127. In this connection, the most frequently confiscated asset⁵⁸ is cash and currency, which account for 40% of confiscated assets, followed by vehicles, real estate, other personal property and narcotic drugs.

128. Particularly, in the Mexico, Central America and the Caribbean sub-region, and in the Southern Cone cash and currency are most frequently confiscated assets. While in the Andean sub-region real estate is mainly confiscated asset.

ANALYSIS OF THE CONVICTIONS USED WITH REGARDS TO PREDICATE OFFENCES

129. From the analysis of the ML convictions, it arises that illicit trafficking in narcotic drugs and psychotropic substances is the most frequent predicate offence in the region as the generator of illicit assets. In turn, illicit cross-border transportation of cash, as well as the participation in organised criminal groups, are the predicate offences used, which assets of illicit origin have been subsequently laundered.

Chart No.7: ML predicate offences identified in 2015-2016 convictions in the region⁵⁹.

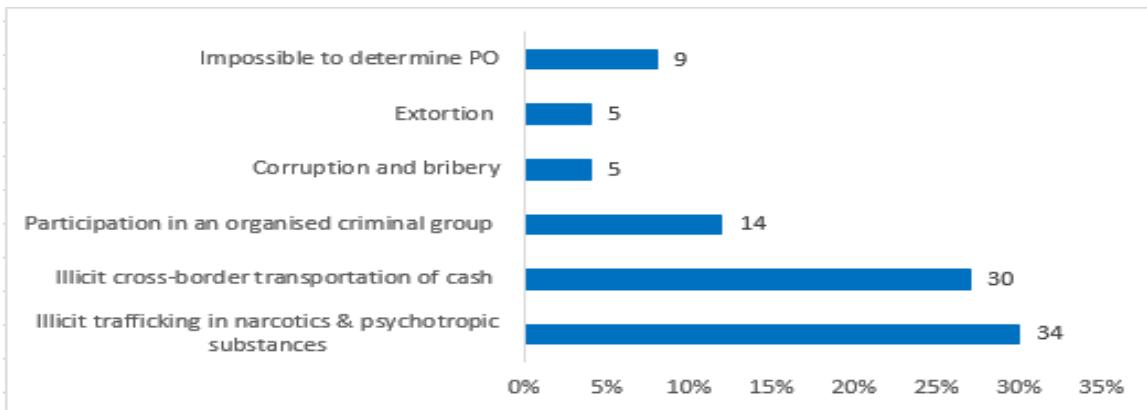
⁵⁸ Cash and currency: Includes cash, whether in national currency or other.

Vehicles: Includes all the categories of motor vehicles, such as light vehicles, transport and cargo vehicles, among others.

Real Estate: Includes houses, country houses, plots, land, and related property.

Other personal property: Includes different types of personal property, such as electronics, telecommunication devices, vehicle spare parts, among others.

⁵⁹ The category "Impossible to determine PO" includes convictions for ML where the predicate offence could not be identified. Generally speaking, these convictions refer to the possession or acquisition of assets with unjustified origin or other reason. Annex 6 includes a specification by country.



Source: Prepared based on the 93 convictions for ML reported by the different GAFILAT member countries.

*This category groups the following predicate offences: racketeering, tax crimes (direct and indirect taxes), fraud, illicit arms trafficking, misuse of confidential or insider information, smuggling (including taxes and custom charges), illicit trafficking in stolen and other goods, migrant smuggling and trafficking in human beings.

130. To commit the offence of illicit trafficking in narcotic drugs, typologies such as front men are preferably used accounting for 43% (12), followed by legal persons and arrangements, and smurfing. Real estate companies and banking institutions are the most vulnerable financial sectors, accounting for 21% (11) each, followed by notaries and automotive companies. Meanwhile, as to the products used, the use of cash prevails with 51% (28), bank accounts and financial loans. In respect of the types of assets confiscated, they are mainly cash and currency with 29% (21), followed by real estate, vehicles, narcotics and drugs.

131. To commit the offences of illicit cross-border transportation of cash and participation in organised criminal groups, asset launderers preferably use the typology of legal persons and arrangements. Additionally, these three types of offences have similarities regarding the product used and the types of assets confiscated. This is because they intensively use cash as means and the confiscation of cash and currency prevails.

132. In the case of illicit trafficking in narcotic drugs, the ML schemes are generally carried out at a national level (62%). However, the offences of illicit cross-border transportation of cash and participation in an organised criminal group are generally carried out at an international level (71% and 58%, respectively).

133. The main difference in terms of how illicit proceeds of these three predicate offences are laundered lies in the vulnerable financial sectors, where real estate companies along with banks prevail in the case of trafficking in narcotic drugs, followed by airlines and the commercial sector in illicit transportation of cash and participation in an organised criminal group, respectively.

134. It is important to highlight that the situation is different in the sub-region of Mexico, Central America and the Caribbean due to the fact that the most frequently identified predicate offence is illicit cross-border transportation of cash, accounting for 41% (28).

Whereas in the Andean and Southern Cone sub-regions, illicit trafficking in narcotic drugs prevails with 39% (13) and 50% (5), respectively.



**ML THREATS IDENTIFIED
BY GAFLAT MEMBER
COUNTRIES**

135. In 2015-2016 period, 15 countries have started or completed their ML/TF NRAs, and two were in progress. To carry out this analysis, information reported by the countries during the NRA Workshop held in the City of Heredia, Costa Rica, from 28 to 30 September 2016, as well as information directly supplied by member countries was used.

136. Thus, based on the information analysed, 71 different ML threats were identified by the countries, which have been grouped according to the categories of predicate offences defined by the FATF⁶⁰.

137. The main ML predicate offences identified by GAFILAT member countries as ML threats through their NRAs are: *illicit trafficking in narcotic drugs and psychotropic substances, corruption and bribery, smuggling (including in relation to customs and excise duties and taxes) and trafficking in human beings and migrant smuggling*. The above mentioned offences (5) account for 52.3% of the frequency of threats in the region (81). The percentages for the other predicate offences are detailed herein below.

Table 3: ML Threats identified by GAFILAT Member Countries

Category of predicate offence	Frequency	%
Illicit trafficking in narcotic drugs and psychotropic substances	29	19.0%
Corruption and bribery	17	11.1%
Smuggling (including in relation to customs and excise duties and taxes)	15	9.8%
Trafficking in human beings and migrant smuggling	11	7.2%
Extortion	8	5.2%
Participation in an organised criminal group	8	5.2%
Environmental crime	7	4.6%
Sexual exploitation (including minors)	6	3.9%
Illicit arms trafficking	6	3.9%
Counterfeiting and piracy of products	6	3.9%
Illicit trafficking in stolen and other goods	5	3.3%
Tax crimes (direct and indirect taxes)	5	3.3%
Illicit cross-border transportation of cash:	4	2.6%
Insider trading and market manipulation	4	2.6%
Kidnapping, illegal restraint and hostage-taking	4	2.6%
Fraud	3	2.0%
Murder, grievous bodily injury	3	2.0%
Counterfeiting currency	1	0.7%
Robbery or theft	1	0.7%
Racketeering	1	0.7%

⁶⁰ Detailed in Annex No. 5.

Category of predicate offence	Frequency	%
Other predicate offences	9	5.9%
TOTAL	153	100%

Source: Prepared based on the information from the NRA Workshop (City of Heredia, Costa Rica; from 28 to 30 September 2016) and information provided by GAFILAT Member countries.

MEXICO, CENTRAL AMERICA AND THE CARIBBEAN SUB-REGION

138. Based on the analysis of ML/TF NRAs of this sub-region, the most identified threat is illicit trafficking in narcotic drugs and psychotropic substances, followed by corruption and bribery, other predicate offences or threats, smuggling, trafficking in human beings and migrant smuggling, and participation in an organised criminal group or racketeering. The above mentioned offences (6) account for 30% of the predicate offences, and for 57.8% of the frequency of threats associated thereto (59). The remaining 70% of the offences (14) account for 42.2% of the frequency of threats (43).

139. Illicit trafficking in narcotic drugs and psychotropic substances is a cross-cutting offence, since all the countries of the sub-region identified associated threats, which accounts for 15.7% of the frequency of the identified threats. The remaining offences are of non-cross-cutting nature, since the threats associated thereto are present in one or more countries but not in all the jurisdictions that make up the sub-region.

ANDEAN SUB-REGION

140. Based on the analysis of the ML/TF NRAs of this sub-region, the most identified threat is illicit trafficking in narcotic drugs and psychotropic substances, followed by smuggling, corruption and bribery, and environmental crime. The above mentioned offences (4) account for 40% of the predicate offences, and for 68% of the associated threats (17). The remaining 60% of the predicate offences account for 32% of the associated threats.

141. In the Andean Sub-Region, cross-cutting predicate offences are illicit trafficking in narcotic drugs and psychotropic substances, and smuggling, since both crimes have associated threats in all the countries that make up the sub-region. Both offences account for 44% of the frequency of their associated threats.

SOUTHERN CONE SUB-REGION

142. Based on the analysis of ML/TF NRAs of this sub-region, the most identified threat is illicit trafficking in narcotic drugs and psychotropic substances, followed by illicit trafficking in stolen and other goods, trafficking in human beings and migrant smuggling, and counterfeiting and piracy of products. The above mentioned predicate offences (4) account for 30.8% of the predicate offences, and for 52.6% of the associated threats. The remaining 69.1% of the predicate offences (9) account for 47.4% of the associated threats.

143. In the Southern Cone Sub-Region, cross-cutting predicate offences are illicit trafficking in narcotic drugs and psychotropic substances, smuggling and corruption and bribery, since these threats are identified in all the countries that make up the sub-region. Said offences account for 46.2% of the frequency of their associated threats.



CONCLUSIONS

144. The development of the “*ML Threats in Latin America and the Caribbean*”⁶¹ index, based on the ML predicate offences identified both in ML detection and sanctioning stages enables to determine six regional threats categorised as existing threats. This way, the first six threats are determined based on their frequency in ML detection and sanctioning stages in the region.

145. When countries identify a threat in their NRAs and it has low or no presence in the detection and sanctioning stages, an emerging threat is set.

146. Thus, 7 ML threats have been identified in the region: 6 existing threats and 1 emerging threat, as detailed herein below:

Table 4. ML threats in the region.

ML predicate offences	Type of threat
Illicit trafficking in narcotic drugs and psychotropic substances	Existing
Illicit cross-border transportation of cash	Existing
Tax Crimes (direct and indirect taxes)	Existing
Participation in an organised criminal group	Existing
Smuggling (including taxes and custom charges)	Existing
Corruption and bribery	Existing
Trafficking in human beings and migrant smuggling	Emerging

Source: Prepared by GAFILAT

EXISTING THREATS

1. ILLICIT TRAFFICKING IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

147. This threat is present in a cross-cutting manner throughout the region. According to the analysis, this predicate offence is the most frequent, both in the ML detection and sanctioning processes, as evidenced in the study of ML typologies and convictions, respectively. Moreover, it is the only ML predicate offence identified as a threat by all the countries of the region, according to the analysis of the NRAs.

⁶¹ Calculation methodology available in Annex No. 4.

148. As regards trafficking in narcotic drugs, the regional analysis shows that the prevailing typologies are the use of front men, smurfing and legal persons and arrangements, where schemes are preferably developed at a national level.

149. Against this background, it should be pointed out that the most vulnerable financial sectors are real estate companies and banking institutions where cash is mainly used, along with bank accounts and credit loans.

150. By means of their ML/TF NRAs, countries of the region have reported that they are prone to this threat, whether as producing countries or for being neighbours to any such countries, since they play a strategic role in transit, storage and distribution of substances.

151. As described in UNODC´s World Drug Report 2016, geographic location plays a role in shaping the relevance of this threat in the region. This is because this factor provides the conditions needed for production of raw materials, used as inputs to prepare different illicit substances.

152. Thus, the region reports bulk production of illicit substances, such as coca cultivation, cannabis and opium poppy, among others. The market of these substances has different levels of intensity according to the countries' idiosyncrasies.

153. Thus, the southern area of the region is characterised by cocaine production and seizures, while Central America generally acts as narcotic drugs stockpiling and transit destined to the north and other regions of the world.

2. ILLICIT CROSS-BORDER TRANSPORTATION OF CASH

154. This phenomenon characterises certain areas of the region which have identified illicit cross-border transportation of cash as a ML predicate offence. According to the analysis, this is a frequent threat in the ML detection and sanctioning stages, as evidenced in the study of ML typologies and convictions, respectively⁶².

155. Regarding illicit cross-border transportation of cash, the regional analysis shows that the prevailing typology is the use of legal persons and arrangements, where schemes are mostly developed at an international level.

156. The vulnerable financial sectors are airlines, banking institutions and public administration institutions, where cash is mainly used.

157. Criminal organisations use the financial system and the physical movement of cash through couriers to disguise their activities, taking advantage of the complexity of foreign

⁶² Some countries of the region have criminalised this threat as a ML predicate offence. In this regard, this criminalisation may generate distortions in relation to other countries where illicit cross-border transportation of cash not declared is an administrative failure instead of an offence.

exchange and trading transactions, the co-mingling of legitimate and illicit funds and the limited resources of customs agencies for control purposes⁶³.

158. Thus, illicit transportation of cash allows the elimination or complication of the tracing of the origin of the funds. This makes it more difficult for authorities and financial institutions of the destination country to effectively implement the control activities and, if necessary coordination channels do not exist, further difficulties may arise⁶⁴.

159. In this regard, by carrying out the illicit cross-border transportation of cash criminals seek to collect, transport, store and use cash in the destination countries. These actions or methods are executed regardless of the ML scheme or motivations⁶⁵.

160. Thus, criminals seek to move cash across borders because they perceive that the destination regime has weaker ML controls. Therefore, introduction of a significant amount of cash into the financial system will attract less attention than it would in the originating country⁶⁶.

3. TAX CRIMES (DIRECT AND INDIRECT TAXES)

161. According to the analysis, tax crimes are a frequent threat in the ML detection and sanctioning stages, as evidenced in the study of ML typologies and convictions, respectively.

162. Political, strategic and economic interests of the countries are threatened by tax and financial crimes. They also undermine citizens' confidence in their governments' ability to get taxpayers to pay their taxes and may deprive governments of revenues needed for sustainable development⁶⁷.

163. The typologies mainly used to launder the proceeds of this predicate offence are the frequent use of legal persons and arrangements, smurfing and, to a lesser extent, the use front men, and ML schemes at an international level prevail.

164. The main vulnerable financial sectors are the banking sector, money transfer companies, real estate companies and international trade-related companies, where the most frequently used product or means is the international money transfer.

165. It is worth mentioning that tax evasion widens social inequality while it produces a division between privileged and non-privileged citizens. This is because people who can siphon their income into foreign banks or jurisdictions are better-off. As a result, tax evaders are in effect placing a greater burden on those who eventually pay off the effective

⁶³ Miller, Rosen & Jackson. 2016. Trade-Based money laundering: Overview and policy issues. Congressional Research Service.

⁶⁴ Taken from *Money laundering through the physical transportation of cash*, prepared by the FATF in October 2015.

⁶⁵ Idem.

⁶⁶ Idem.

⁶⁷ Information taken from OECD web site: <http://www.oecd.org/ctp/crime/about-tax-and-crime.htm>

costs of taxation, who are in their majority members of the lower and middle parts of the income distribution⁶⁸.

4. PARTICIPATION IN AN ORGANISED CRIMINAL GROUP

166. This threat is present both in the ML detection and sanctioning stages, as evidenced in the study of ML typologies and convictions, respectively.

167. According to the analysis, this predicate offence is contemplated because in the region, as around the world, organised crime is constantly diversifying its offences and methods; for example, through trafficking in narcotic drugs, arms and through links to corruption⁶⁹.

168. Under this complex scheme, organised criminal groups in the region seek to hide and conceal flows of illicit assets, preferably through legal persons and arrangements and, to a lesser extent, through front men and smurfing.

169. In this regard, it should be mentioned that the most vulnerable financial sectors are those related to trade, along with banking institutions, where the main means are cash and bank accounts.

170. Finally, organised criminal groups use ML schemes, preferably at an international level, which evidences the cross-national nature of this predicate offence.

5. SMUGGLING

171. According to the analysis, this threat is present both in the ML detection and sanctioning stages, as evidenced in the study of ML typologies and convictions, respectively.

172. It should be mentioned that all the countries of the Southern Cone and Andean sub-regions identified smuggling as a threat in their ML/TF NRAs.

173. This predicate offence has been observed in the region as a phenomenon related to the development of international trade. This implies fraudulent business practices, such as over and under-invoicing, multiple invoicing or falsely described goods and services, among others.

174. In cases reported with this predicate offence, legal persons and arrangements, along with front men have been preferably used as methods to hide or conceal illicit proceeds.

⁶⁸ "Relationship between money laundering, tax evasion and tax heavens". Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) 2012-2013. January 2013. Link: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/crim/dv/tavares_ml/_tavares_ml_en.pdf

⁶⁹ Extracted from the official web site of the United Nations Office on Drugs and Crime (UNODC), available at <https://www.unodc.org/unodc/en/organized-crime/index.html>

175. Along this line, the most vulnerable financial sectors are banking institutions, international trade and real estate companies. In this regard, the most commonly used products or means are bank accounts, followed by international money transfers.

176. Finally, smuggling has been mentioned as a threat by all the countries of the Andean and Southern Cone sub-regions in their ML/TF NRAs.

6. CORRUPTION AND BRIBERY

177. According to the analysis, corruption and bribery are present both in the ML detection and sanctioning stages, being ranked in the sixth position based on the study of ML typologies and convictions, respectively.

178. In general terms, the countries of the region stand out for a high corruption perception, according to the *Transparency International report* 2016. Nevertheless, only 13 out of 17 countries of the region (76.5%) identified this predicate offence as a threat, according to the analysis of NRAs, and only the Southern Cone sub-region identified it as a threat to all its member countries.

179. As regards corruption and bribery, the regional analysis shows that the prevailing typologies are the use of front men and legal persons and arrangements, where schemes are preferably developed at an international level.

180. Against this background, it is worth mentioning that the most vulnerable financial sectors are banking institutions, real estate companies, notaries and automotive companies, where cash is mainly used, along with bank accounts and money transfers.

181. In this regard, the relationship between corruption and political funding occurs by buying economic favours through campaign donations. Thus, elected officials can influence engagements, loans, inspections, concessions, among others, even the implementation of policies that jeopardize public interest so as to benefit third parties related to any such donations.

EMERGING THREAT

TRAFFICKING IN HUMAN BEINGS AND MIGRANT SMUGGLING

182. According to the UNODC 2016 Report, no country in the world is immune from trafficking in persons and migrant smuggling.

183. At a regional level, trafficking in human beings in Central America is mainly committed for sexual exploitation purposes, and most of the victims are children. In South

America, victims are also mostly trafficked for sexual exploitation, but they are mainly adults⁷⁰.

184. Although human trafficking and migrant smuggling have not been relevant threats identified in either the ML detection or the sanctioning stages, 8 out of 17 GAFILAT member countries (47%) have mentioned these crimes as ML threats.

185. This could reflect that GAFILAT member countries AML systems are still unable to detect, investigate and sanction illicit proceeds from the perpetration of this predicate offence.

⁷⁰ UNODC 2016. Global Report on Trafficking in Persons 2016. Available at https://www.unodc.org/documents/lpo-brazil//Topics_TIP/Publicacoes/2016_Global_Report_on_Trafficking_in_Persons.pdf.



ANNEXES

ANNEX NO. 1: GENERIC NATIONAL ANTI-MONEY LAUNDERING SYSTEM, BASED ON THE FATF 40 RECOMMENDATIONS

In general terms, an AML/CFT system consists of three major stages:

Figure 2. Generic AML/CFT system.



Source: Prepared based on the FATF 40 Recommendations.

DETECTION: FATF Recommendation 29 makes reference to this stage for which the FIUs shall be responsible, serving as a central agency for the receipt and analysis of suspicious transactions reports, as well as other information relevant to ML, associated predicate offences and TF, and for the dissemination of the results of said analysis. Moreover, the FIUs should be able to obtain additional information from reporting entities, and should have access to financial, administrative and law enforcement information on a timely basis.

Subsequently, with all the information obtained by the FIU, it should conduct an operational and a strategic analysis that enable, on the one hand, to identify specific targets to follow the trail of particular transactions, determine links between those targets and possible proceeds of crime, ML, predicate offences and terrorist financing, and, on the other hand, to identify ML/FT related trends and patterns.

PROSECUTION: FATF Recommendation 30 makes law enforcement and investigative authorities responsible for the development of ML/TF investigations, which should include the development of a pro-active parallel financial investigation when pursuing ML, associated predicate offences and TF. In turn, they should expeditiously identify, trace and initiate actions to freeze and seize property that is, or may become, subject to confiscation, or that are suspected of being proceeds of crime. Additionally, they should use, when necessary, permanent or temporary multi-disciplinary groups specialised in financial or asset investigations. They should also conduct cooperative investigations with appropriate competent authorities in other countries. Meanwhile, FATF Recommendation 31 establishes the powers of law enforcement and investigative authorities.

SANCTION: FATF Recommendation 3 points out that countries should ensure that effective, proportionate and dissuasive criminal sanctions are applied to natural persons convicted of money laundering. Likewise, it states that criminal liability and sanctions, and, where that is not possible (due to fundamental principles of domestic law), civil or administrative liability and sanctions, should apply to legal persons.

Each country can adopt different organizational schemes to configure an AML/CFT System. This generic model seeks to illustrate the basic functions an AML/CFT System should perform.

ANNEX NO. 2: CATEGORIES OF ML PREDICATE OFFENCES

Category of predicate offences	Source
Participation in an organised criminal group	
Racketeering	
Trafficking in human beings and migrant smuggling	
Sexual exploitation (including minors)	
Illicit trafficking in narcotic drugs and psychotropic substances	
Illicit arms trafficking	
Illicit trafficking in stolen and other goods	
Corruption and bribery	
Fraud	
Counterfeiting currency	
Counterfeiting and piracy of products	
Environmental crime	
Murder, grievous bodily injury	
Kidnapping, illegal restraint and hostage-taking	
Robbery or theft	
Smuggling (including in relation to customs and excise duties and taxes)	
Tax Crimes (direct and indirect taxes)	
Extortion	
Insider trading	
Market manipulation	
Terrorism (including financing)	
Illicit cross-border transportation of cash	It is incorporated as a category since in the analysis of convictions it is identified as a predicate offence ⁷¹ .

Source: Prepared by GAFILAT

⁷¹ Some countries of the region have criminalised this threat as a ML predicate offence. In this regard, this criminalisation may generate distortions in relation to other countries where illicit cross-border transportation of cash not declared is an administrative failure instead of an offence.

ANNEX NO. 3: DETAILED REGIONAL THREAT INDEX CALCULATION

In the 2015-2016 period, 93 ML convictions and 29 cases of typologies were systematised – as from the “*Compilation of Regional Typologies of GAFILAT 2009-2016*”-, which provide information on predicate offences, vulnerable financial sectors, typologies identified and financial products used, among others.

It is considered in this document that the convictions reported by the countries of the region are all the convictions between 2015 and 2016 in these countries. Thus, they represent the overall population to the considered, representative of the countries of the region for the above mentioned period⁷².

Regarding inputs from regional typologies reports during 2015 - 2016, in terms of variables gathered, the information obtained is similar to that of convictions.

The predicate offence is identified in 23 out of the 29 cases analysed (79.3%)⁷³, while the predicate offence is identified in 84 out of the 93 convictions (90.3%).

Data transformation is made through the "min max" method, converting the data value into a range from 0 to 1, which are determined based on the range of variation of the values, where 1 is the maximum score to be assigned, equal to the maximum value of the variable, keeping their initial hierarchical order.

Data is transformed using the following formula:⁷⁴

$$X_i^* = \frac{X_i - X_{\min}}{X_{\max} - X_{\min}}$$

Where,

X_i^* : Standardised value.

X_i : Effective value (frequency of predicate offence i).

X_{\min} : Lowest value that the variable might get (least frequent predicate offence).

X_{\max} : Highest value that the variable might get (most frequent predicate offence).

⁷² Except for countries that reported little or no information about convictions, such as Brazil, Mexico and Uruguay.

⁷³ Along this line, cases analysed in this stage have been particularly selected (not all the existing cases) to that end by the FIUs of each country because, at their criteria, they presented certain interesting features to set out and analyse.

⁷⁴ For example, the convictions show that that most frequent predicate offence is “Illicit trafficking in narcotic drugs and psychotropic substances”, present in 34 out of 84 convictions. The highest value to be obtained in this case would be 84, indicating that this predicate offence is present in all the convictions. The lowest value would be 1, indicating that it is present in one conviction and the range width would be equal to 83.

As for weighting, a simple average was used (or 50%-50% weighting), so as not to provide a higher preponderance to any input, i.e., ML detection and sanctioning data are assessed with the same level of importance. Finally, the indicator is obtained by multiplying the standardised values by the respective weighting.

$$I_i = \alpha X_i^* + \beta X_i^{**}$$

Where,

I_i : Predicate offence indicator i

X_i^* : Standardised value of predicate offence i, from convictions

X_i^{**} : Standardised value of predicate offence i, from typologies reports

α, β : Weightings (in this case, both values are equal to 0.5)

Initially, the main predicate offences are considered, taken from the convictions and from the typologies report, as per the following table:

Table 5: Five main predicate offences identified in the convictions and typologies sections.

Convictions	Frequency	Typologies	Frequency
Illicit trafficking in narcotic drugs and psychotropic substances	34	Illicit trafficking in narcotic drugs and psychotropic substances	7
Illicit cross-border transportation of cash	30	Tax Crimes (direct and indirect taxes)	6
Participation in an organised criminal group	14	Smuggling (including in relation to customs and excise duties and taxes)	6
Corruption and bribery	5	Corruption and bribery	3
Extortion	5	Participation in an organised criminal group	3
Minimum	1	Minimum	1
Maximum	84	Maximum	23

Source: Prepared by GAFILAT

The following table shows the result of the aggregation and transformation of data relevant to predicate offences identified both in the convictions and typologies reports:

Table 6: Aggregation and standardised values of predicate offences.

Predicate offences	Standardisation
Illicit trafficking in narcotic drugs and psychotropic substances	0.335

Illicit cross-border transportation of cash	0.197
Tax Crimes (direct and indirect taxes)	0.126
Participation in an organised criminal group	0.124
Smuggling (including in relation to customs and excise duties and taxes)	0.114
Corruption and bribery	0.070
Extortion	0.024
Market manipulation	0.023
Terrorism (including financing)	0.023
Racketeering	0.018
Fraud	0.012
Illicit arms trafficking	0.006
Trafficking in human beings and migrant smuggling	0.000
Insider trading	0.000
Counterfeiting and piracy of products	0.000
Illicit trafficking in stolen and other goods	0.000

Where V_i = standardised value

Source: Prepared by GAFILAT

ANNEX NO. 4: GROUP OF THREATS IDENTIFIED IN NRAS

The most representative ML predicate offences are *illicit trafficking in narcotic drugs and psychotropic substances, environmental crime, corruption and bribery, illicit trafficking in stolen and other goods, migrant smuggling and trafficking in human beings, and other predicate offences*. The above mentioned offences (5), which represent 25% of all the predicate offences identified in the region, account for 56% of all the associated threats (37); the remaining offences 73% (16) account for 47.9% of the threats (34).

Table 7. Threats identified in the NRAs of GAFILAT member countries.

Category of predicate offence	No. of offences/ associated threats	Standardisation %
Illicit trafficking in narcotic drugs and psychotropic substances	10	14.1%
Environmental crime	6	8.5%
Other predicate offences	9	12.7%
Corruption and bribery	5	7.0%
Illicit trafficking in stolen and other goods	5	7.0%
Trafficking in human beings and migrant smuggling	4	5.6%
Participation in an organised criminal group	5	7.0%
Illicit cross-border transportation of cash	4	5.6%
Insider trading and market manipulation	4	5.6%
Counterfeiting and piracy of products	3	4.2%
Fraud	3	4.2%
Smuggling (including in relation to customs and excise duties and taxes)	2	2.8%
Sexual exploitation (including minors)	2	2.8%
Tax Crimes (direct and indirect taxes)	2	2.8%
Murder, grievous bodily injury	2	2.8%
Extortion	1	1.4%
Illicit arms trafficking	1	1.4%
Kidnapping, illegal restraint and hostage-taking	1	1.4%
Robbery or theft	1	1.4%
Counterfeiting currency	1	1.4%
TOTAL	71	100%

Source: Prepared based on the information from the NRA Workshop (City of Heredia, Costa Rica; from 28 to 30 September 2016) and information provided by GAFILAT Member countries.