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**TYPOLOGIES PROJECT REPORT ON THE VULNERABILITIES
OF MONEY LAUNDERING RELATED TO TRAFFICKING IN
PERSONS IN THE ESAAMLG REGION**

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ABBREVIATIONS & ACRONYMS

AML	Anti-Money Laundering
CDD	Customer Due Diligence
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group: Botswana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Uganda, Union of Comoros, Tanzania, Zambia and Zimbabwe
FATF	Financial Action Task Force on Money Laundering
FIU	Financial Intelligence Unit
LEAs	Law Enforcement Agencies
NGOs	Non-Government Organisations
SARPCCO	Southern African Regional Police Chiefs Cooperation Organisation
The report	Typology Report
The region	ESAAMLG
UNCTOC	United Nations Convention against Transnational Organised Crime
UN Protocol on Trafficking in Person	United Nation Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

EXECUTIVE SUMMARY

The purpose of this report is to present the research findings on the vulnerabilities of money laundering related to trafficking in persons in the ESAAMLG region. The conclusions of the report are based on analysis of questionnaire responses received from the member countries and literature on trafficking in persons in general.

Trafficking in persons is a growing global socio-economic problem as its criminality negatively affects communities. In 2008, the UNODC estimated global trafficking in persons to be the third largest profitable criminal activity (USD 32 billion, of which sexual exploitation accounted for one-third of the amount) after drugs and arms trafficking.

The member countries of ESAAMLG are experiencing the negative effects of trafficking in persons perpetrated by either nationals of the region or foreign criminal networks. It is clear from the findings that the ESAAMLG region is a source, transit and destination for trafficking in persons. East African countries and South Africa are noted as the predominant transit and destination countries, respectively. Although trafficking is largely a cross-border activity, there is growing evidence that internal trafficking particularly of young women from rural areas to the major cities is on the rise. The main factors contributing to the increasing international and domestic prevalence of trafficking in persons include; low socio-economic development, political instability and disparities in income levels within the member countries.

Further, this report observed that all ESAAMLG member countries signed and ratified the United Nations Convention Against Organised Crime's Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children. Nonetheless, most member countries have not enacted specific national legislation criminalising trafficking in persons in a manner consistent with the international instruments. Additionally, charges, investigations and prosecutions relating to offences of trafficking in persons are conducted under various national criminal legislations which the study found to be insufficient to effectively combat the problem. As a result, the institutions and resources to deal with this problem are generally inadequate. This has in turn made trafficking in persons a low-risk but high-profit making criminal activity, promoted by the lack of appropriate legislation and institutional capacity.

(II)

Despite fourteen (14) out of fifteen (15) member countries with AML laws criminalising money laundering and mandating the reporting of related suspicious

transactions, the general level of implementation remains low. Therefore the vulnerability of money laundering as a result of trafficking in persons in the ESAAMLG region is further exacerbated by a lack of specific legislation criminalising trafficking in persons, as only six (6) member countries in the region have enacted legislation criminalising trafficking in persons. Further, the study revealed that there is very little formal or informal coordination and cooperation amongst member countries on trafficking in persons. Based on the member countries responses, it was evident that little to no empirical data on cases of trafficking in persons, such as statistics and case studies, exist in the region.

The literature review indicates that trafficking in persons affects all countries around the world irrespective of whether a country is the source, transit and/or destination, and therefore places international cooperation and sharing of information at the epicentre of any programmes implemented to combat this problem.

This report notes the lack of substantiated findings from ESAAMLG members in regard to money laundering from the trafficking in persons. However, literature supports the irrefutable fact that member countries are vulnerable to syndicate/organised criminal groups involved in trafficking in persons. It is known that the main routes/corridors are through Namibia, Zambia and Tanzania into Malawi, Mozambique, Zimbabwe, Swaziland and then into South Africa as either the final destination or transit to Europe. It is conclusive that the lack of trafficking prosecutions coupled with insufficient AML law implementation continues to leave the region vulnerable to the continued problem of trafficking in persons and possible laundering of the proceeds.

(III)

SECTION I: INTRODUCTION

a) Nature of Problem

1. Trafficking in persons is a growing global criminal activity and affects all countries irrespective of whether a country is a source, transit, or destination of human trafficking, or a combination of all three. The member countries of the ESAAMLG are no exception. Unfortunately, there is no reliable data and information on trafficking in persons in the region, due to various factors, including; lack of LEAs awareness, the clandestine nature of its operation and the paucity of prosecutions.
2. There is global consensus that trafficking in persons is a lucrative illegal activity generating large sums of illicit proceeds for the benefit of the traffickers. The profitability of trafficking in persons is rated third after drugs and arms trafficking in the world. In 2008, the UNODC estimated that illicit business of trafficking in persons generated US\$32 billion dollars per annum. One-third of this total value is derived from sexual exploitation. This supports the UNODC Global Report on Trafficking in Persons (2009) which reported that about 80 percent of trafficking in persons is for sexual exploitation purposes.
3. Although there is anecdotal and limited empirical evidence of the existence of trafficking in persons in the ESAAMLG region, to date there has been no typology study looking at how the illicit proceeds are being laundered in the region. This report endeavours to assess money laundering vulnerabilities arising from trafficking in persons taking place in the ESAAMLG region.

b). Definition of Trafficking In Person

4. The typology study uses the definition of Trafficking in Persons provided in the UN Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime, 2000, which is as follows:

UN Protocol To Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime, 2000

The purposes of the Protocol, as set out in Article 2, are:

- ✓ *To prevent and combat trafficking in persons, paying particular attention to women and children;*
- ✓ *To protect and assist the victims of such trafficking, with full respect for their human rights; and*
- ✓ *To promote cooperation among State Parties in order to meet the objectives of the Protocol.*

The most important contribution of the Protocol is in Article 3 (a) which defines "Trafficking in Persons" as:

(a) "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for purpose of exploitation. Exploitation shall include, at minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". It goes further to state in:

(b) "The consent of a victim of trafficking in person to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) "the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article";

(d) *“Child” shall mean any person under eighteen years of age.*

5. The definition is important as it distinguishes between trafficking in persons and smuggling of migrants¹.

c). Aims and objectives

Aims

- To examine international best practices and obstacles to successfully enact preventative and repressive policies in trafficking in persons; and
- To obtain case study examples of how money is laundered by criminals or criminal organisations, involved in trafficking in persons in the ESAAMLG region.

Objectives:

- To make an assessment of the characteristics of money laundering associated with trafficking in persons in the region and to assess whether such characteristics are distinct from other types of money laundering activities; and
- To examine/explore if significant regional differences exist in money laundering related to human trafficking.

d) Scope and methodology

Scope of the study

¹ The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Persons being trafficked, on the other hand, have either never consented or, if they initially did, that consent has been rendered meaningless by the coercive, deceptive or abuse actions of the traffickers.

Another major difference is that smuggling ends with the arrival of the migrants at their destination, whereas trafficking in persons involves the ongoing exploitation of the trafficked person in some manner to generate illicit profits for the traffickers. From a practical standpoint, trafficked persons also tend to be more severely affected and in greater need of protection from re-victimisation and other forms of further abuse than are smuggled migrants.

Lastly, smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.

6. The study included all fourteen (14) ESAAMLG member countries². A project team was set up and consisted of four (4) core project members from different member countries. It was tasked to research and compile a report on the vulnerabilities of money laundering in relation to trafficking in persons within the ESAAMLG region. The ESAAMLG Typologies Working Group oversaw the work of the core project team and reported to the ESAAMLG Task Force of Senior Officials on progress made.

Methodology

7. The project was conducted in the following phases:
 - (i) The first phase involved adoption of the research proposal and terms of reference including an agreed timetable for the project to guide the work of the project team.
 - (ii) The second phase was to conduct a literature survey which formed the basis for trafficking in persons' questionnaire. This was used to collect relevant data and information from the member countries.
 - (iii) The third phase involved the analysis of responses received. These included case studies and in the absence of case studies, incidental information such as media reports. The information was used to illustrate the modes, schemes and trends of trafficking in persons in relation to money laundering within the ESAAMLG region; and
 - (iv) The last phase involved the drafting, adoption and publication of this report.

e) Structure of the report

8. The report is presented as follows:
 - **Section I** - introduces the aims and the methodology for assessing money laundering vulnerabilities relating to trafficking in persons.
 - **Section II** - discusses the literature review on the prevalence of trafficking in person and its illegal proceeds with specific reference to the ESAAMLG region.
 - **Section III** - provides the outcome of the analysis of the questionnaire responses submitted by the member countries.

² The Union of Comoros was an observer to ESAAMLG at the start of the project and was therefore not included. The country became a full member in September 2010.

- **Section IV** – provides issues for consideration on operational and policy issues, and the conclusion.

SECTION II: LITERATURE REVIEW

9. Extensive global studies³ on trafficking in persons have been conducted to understand the nature and extent of the problem to inform national policy-making and implementation. The most notable studies were undertaken by the Financial Action Task Force (FATF), MONEYVAL⁴, the United Nations agencies such as the UNODC and the International Organisation on Migration (IOM). Some of these studies specifically covered trafficking in persons in the region. Below are the major observations:-

- All major forms of trafficking in persons (e.g. forced labour, forced child labour, child soldier, women and children trafficking for sexual exploitation and prostitution, child sex tourism, debt bondage and involuntary domestic service as well as body parts for sale or rituals) are prevalent in the region;
- Countries in East Africa including Kenya, Tanzania, and Uganda are noted as source and transit jurisdictions for young girls/women destined to other countries in the ESAAMLG region, Asia and Western Europe. In particular Ethiopian women are trafficked through Tanzania and Kenya to Europe and the Gulf States for prostitution - the victims are lured via promises of marriage, better education, employment and scholarships. Kenya was noted as a destination jurisdiction for young girls and women trafficked from East Africa, Asia and Europe. There is also notable trafficking of Kenyan girls/young women carried out by Japanese traffickers for the European market. The same group is trafficking girls/young women from India and parts of South Asia for the Kenyan sex industry.

³ Adepoju, A. 2005. Review of Research and Data on Human Trafficking in sub-Saharan Africa. International Organisation on Migration Vol. 43(1/2).

UNODC & SADC (2007). Situational assessment of human trafficking. A 2005 situational assessment of human trafficking in the SADC region: A survey of South Africa, Zimbabwe and Mozambique

UNODC & SADC (2007). Combating Trafficking in Persons. A 2005 Assessment of the Laws and Measures Relevant to Human Trafficking in selected SADC countries.

Allias, C (2006). An Overview of Human Trafficking in Sub-Saharan Africa. 4-6 July 2006 Johannesburg Regional Labour Conference

IOM. 2003. Seduction, Sale & Slavery: Trafficking in Women & Children for Sexual Exploitation in Southern Africa. 3rd edition. Regional Office for Southern Africa

⁴ Committee of experts on the evaluation of Anti-Money Laundering measures A report by the Workshop 5 Project Team following the joint FATF-MONEYVAL typologies meeting held in Moscow from 6 to 8 December 2004(2005)7

- Countries which are either in conflict or in post-conflict situations are vulnerable to syndicate/organised criminal groups involved in trafficking in persons. These include Angola, the Democratic Republic of Congo, Somalia, Zimbabwe (*whilst not in conflict was included in the literature reviewed*), countries in the Great Lakes Region and further north of the East Africa region. The recruitment takes place in the country of origin of the persons being trafficked or in the country of refuge-residence. The main route/corridor is through Namibia, Zambia and Tanzania into Malawi, Mozambique and then into South Africa as either the final destination or transit to Europe.
- In the Southern Africa region, the relatively better socio-economic situation and geographical position of South Africa makes the country the source, transit and destination for trafficking in persons. Women and children are trafficked for sexual exploitation and forced labour mainly to Eastern Asia (e.g. China, India and Thailand), Eastern Europe (e.g. Russia and Bulgaria), Western Europe (e.g. United Kingdom, the Netherlands and Germany) and Latin America (e.g. Brazil).
- Lesotho, Malawi, Mozambique, South Africa and Zambia are recording increasing proportions of trafficking in persons in Southern Africa, especially of women and children for sexual and labour exploitation. Women, especially young girls from the region are trafficked to South Africa to become “wives” or “brides” to miners residing in predominantly mining male hostels.
- The emergence of sex tourism in tourist hotspots such as Cape Town, Zanzibar, Lake Malawi, Mombasa, Victoria Falls and Livingstone are advantageous to traffickers operating in the following countries: the Kingdom of Lesotho, Mozambique, the Kingdom of Swaziland, Zambia, Zimbabwe, Malawi, Kenya, Uganda, Ethiopia, Cameroon, Senegal and Tanzania
- The tourists often use gifts and cash to lure under-age girls and boys to participate in sexual activities. This sometimes occurs with the consent of their parents for an agreed fee. The traffickers are also taking advantage of the growing sex tourism to traffic young girls/women and boys to the major cities in the region.
- Long distance trucks, minivans and taxi drivers in the region are either the preferred mode of transport for trafficking in persons or part of organised crime trafficking networks operating in the region. This include street

children trafficked by long-distance truck drivers for sexual exploitation on their routes to and from many ESAAMLG member countries.

- Well-known foreign organised criminal groups also operate in the region. Trade-linked Chinese or Taiwanese agents recruit Chinese women into the region, especially into South Africa, by promising work in Chinese-owned businesses only to end up working in the sex industry. The main route used into South Africa is the land border entry posts from the Kingdom of Lesotho, Mozambique and the Kingdom of Swaziland.

Russian and Bulgarian mafias traffic Russian and other Eastern European women to work in upmarket brothels in the region as waitress, dancers, strippers and sex workers and are often debt bonded for around US\$2000 per month.

- LEAs responsible for the border control of persons entering or leaving their respective jurisdictions have been compromised by traffickers to facilitate and sustain trafficking in persons operations in the region.
- The FATF typology study on human trafficking⁵ revealed that trafficking in persons is a very lucrative business with transactions being predominantly cash-based and the proceeds are laundered in cash-intensive business. Further the study indicated that there are low arrests and prosecutions and vague statistics relating to offences on trafficking in persons.

According to MONEYVAL, it is estimated that US10 billion dollars a year is generated by the facilitation of trafficking and illegal migration. Further it alluded that there is limited knowledge about the methods being used by criminal organisations to launder illegal proceeds related to trafficking in persons and illegal migration.

10. The literature review indicates that trafficking in persons affects all countries around the world irrespective of whether a country is the source, transit and/or destination, and therefore places international cooperation and sharing of information at the epicentre of any programmes implemented to combat this problem.

⁵ FATF Human trafficking typology study, 2011

SECTION III: ANALYSIS OF QUESTIONNAIRE – FINDINGS

11. The findings of the report are largely based on analysis of questionnaire responses, case examples and literature review on trafficking in persons and money laundering. The questionnaire focused on measures in place in all member countries to counter trafficking of persons and to determine whether there are money laundering vulnerabilities associated with it.

a) Legal systems

12. The majority of ESAAMLG members are party to several multilateral conventions/protocols on trafficking in persons. These include the UN Protocol on Trafficking in Persons, African Charter on the Rights and Welfare of the Child (1990), and the Protocol on the African Charter on Human and People's Rights on the Rights of Women in Africa (2003).
13. However, as noted above, **most member countries have not domesticated any of the international instruments on trafficking in persons. In the absence of specific legislation which criminalises trafficking in persons in a manner consistent with the UN Protocol on Trafficking in Persons, the member countries apply various national laws to combat trafficking in persons.**
14. The disadvantage of this situation is that, instead of charging the traffickers with the offence of trafficking in persons, the member countries normally charge for the following:-
- i) **Botswana:**
- "Abduction", "kidnapping", "slave trafficking and the buying of women and girls for commercial sex" under the Penal Code of 1964 to investigate and prosecute cases.
- ii) **Kingdom of Lesotho:**
- The Sexual Offences Act No. 29 of 2003, and the Labour Code Act No. 24 of 1992 covers offences relating to "child abduction and stealing" and "sexual abuse" as well as "trafficking for sexual exploitation and forced labour". Three sexual exploitation convictions were recorded in 2005.

iii) Malawi:

- Cases related to “abduction, kidnapping, child stealing”, “maintaining brothel” and “trafficking for sexual exploitation and forced labour” were reported. About ten (10) convictions were secured including six (6) Malawians who were convicted in Malawi for organ removal.

iv) Mauritius:

- Investigations and prosecutions undertaken so far were based on “soliciting for immoral purposes”, “brothel keeping”, “and prostitution “and “debauchery” offences. About 100 cases under these offences were investigated since 2003.

v) Namibia:

- “Kidnapping”, “child labour”, “enticing a woman to a brothel for purposes of prostitution” and other related offences can be prosecuted under other national criminal legislation such as the Prevention of Organised Crime Act.

vi) South Africa:

- The Prevention of Organised Crime Act, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 serves as the Law for prosecuting acts of trafficking of persons as well as sexual exploitation, while the Children’s Act 2005 is used for child trafficking cases.

vii) Uganda:

- “Child stealing”, “child abduction” and “child kidnapping” offences are used to investigate and prosecute some forms of child trafficking. About 168 cases of child stealing and abduction were recorded in 2006.

viii) Zimbabwe

- The Sexual Offences Act and Penal Code deal with offences related to sexual exploitation of minors and kidnapping. The Immigration Act

deals with matters related to violations of entry into and exit from the country.

15. However the following **ESAAMLG member countries have enacted specific legislation criminalising trafficking in persons**, Tanzania (Anti-Trafficking in Persons Act No. 6 of 2008), Mozambique (Anti-Human Trafficking Act No. 6 of 2008), The Kingdom of Swaziland (People Trafficking and People Smuggling (Prohibition) Act, 2009), and Zambia (Anti-Human Trafficking Act No. 11 of 2008), Kenya (Counter Trafficking in Persons Act, 2010) and Mauritius (The Combating of Trafficking in Persons Act, 2009)
16. **Anti-money laundering initiatives in the region are relatively new and effectiveness of counter-measures remains low.** While fourteen (14) of the fifteen (15) member countries have enacted AML legislation, the level of implementation remains low. It should be noted the national AML laws place obligations on reporting entities to identify and report suspicious transactions relating to proceeds of crime, currently this is under reported.

b) Institutional Arrangements

17. The questionnaire responses relating to this section intended at establishing which Government Institutions or agencies are responsible for combating trafficking in persons, related money laundering activities and their level of involvement in such matters. The questionnaire responses indicate that the **Police** (identification and investigation), **Prosecuting Authorities** (prosecution of offenders), **Asset Forfeiture Units** (freezing and confiscation of property), **Immigration** (control of entry and exit of travellers), **Welfare Departments** (victims support) and **Intelligence Services** (collection and analysis of intelligence) **are the main Government Institutions responsible for crimes related to trafficking in persons.**
18. With regard to FIUs, **there was no evidence indicating suspicious transactions reported by reporting entities involving proceeds from trafficking in persons.** However, the responses revealed one instance in relation to a request for information sent to an FIU by a LEA, seeking assistance to identify proceeds connected to trafficking in persons. **The absence of fully operational FIUs in most of the member countries inhibits cooperation between the FIUs and LEAs in relation to identification of proceeds of trafficking in persons.** A few FIUs have agreements such as MOUs for information exchange or cooperation purposes with local LEAs specifically for cases relating to trafficking in persons.

19. In addition, most AML legislation in the region places the FIUs at the centre of ensuring anti-money laundering obligations applicable to financial institutions and other businesses are complied with. These measures are vital in the identification of proceeds from trafficking in persons and other related crimes. The obligations include CDD, reporting of suspicious transactions; issuing of regulations and guidelines on AML; conducting awareness raising programmes on anti-money laundering and also providing for regulatory bodies and FIUs to share intelligence for law enforcement purposes. **Analysis of mutual evaluation reports of the member countries indicate low levels of implementation of the AML obligations, including reporting of transactions related to proceeds of crime in general, when measured against the FATF Recommendations⁶.**
20. In terms of institutional capacity, the responses show that **resources (human, financial, technical and otherwise) allocated to LEAs responsible for combating trafficking in persons are inadequate. There is a shortage of skills in detecting, investigating and prosecuting trafficking in persons cases and related money laundering offences.**
21. **Collection and storage of information and statistics relating to trafficking in persons is vague in all member countries.** The most used techniques for gathering of information include “interviewing”, “interrogation”, “covert operations” and “information from the public”. The information is stored either manually using filing registry or electronically in a database. However in all member countries there is no centralised database with readily available information and other case examples for use by the LEAs. As a result these agencies operate in isolation thereby making it easier for the offenders to escape arrest and possible prosecution due to lack of effective coordinated operations by LEAs.
22. Despite the above, **there is limited evidence of domestic cooperation amongst law enforcement agencies at national level.** The mechanisms used to exchange information and promote cooperation include MOUs, special task teams and inter-agencies liaison officers.
23. In order to identify the indicators of trafficking in persons, LEAs use the following **profiling techniques:**
- Intelligence alerts;

⁶ ESAALMG 10 Year Report 2009

- Scrutiny of bio data and genuine documents; and
 - Searches on National Population Register.
24. LEAs also utilise the following **risk indicators (“red flags”)** to identify potential trafficking in persons’ activities:-
- Use of unchartered and suspicious routing;
 - False travelling documents;
 - Group travel for conferences, seminars and study tours;
 - Tickets bought with cash or suspected stolen credit cards;
 - Group travel of persons within same age group and sex;
 - Lack of own financial means at disposal for the travel;
 - Minors with no direct relationship to the accompanying adult;
 - Group of young girls accompanied by one or more men;
 - Body language of the person such as excessive blinking or nervousness, abundant perspiring or obvious shivering;
 - Lack of knowledge of the destination;
 - Evasive, inaccurate or contradictory answers upon being questioned;
 - Person holds a passport from a country that is neither the country of embarkation or disembarkation;
 - Person with a specific type of visa and no supporting documentation; and
 - The person is a known criminal or is a suspected criminal.
25. **The study further revealed other significant predicate crimes are linked to individuals or groups involved in trafficking in persons, such as forgery of travel documents, crowning, narcotics, small arms smuggling, theft and fraud.**
26. **Member countries recognize that the region is vulnerable to trafficking in persons, citing factors such as:-**
- Lack of specific legislation on trafficking in persons in most member countries;
 - Length and porous borders which pose a challenge for the member countries to effectively patrol and monitor;
 - Unstable neighbouring countries;
 - Lack of well developed infrastructures;
 - Corruption within Government Departments and Private Institutions⁷ that assist traffickers in forging travel documents; and

⁷ Some member countries indicated the involvement of private institution via bogus recruitment agencies, orphanages’ and children's homes, travel agencies acting as fronts and long distance truck drivers are reported to be involved in facilitating movement of victims.

- Capacity constraints by LEAs, due to inadequate formalized information sharing and coordination systems between agencies.

The above factors render the ESAAMLG region vulnerable to trafficking in persons and consequently the ESAAMLG region is gradually vulnerable to money laundering activities.

27. **The most commonly used forms of transportation of the victims of trafficking in persons are by land (trucks and buses) and by air.**
28. **There is evidence linking the network between brothel owners and trafficking in persons, facilitated by the collaboration between some government officials, members of the public and human traffickers in the trafficking process.**
29. **Traffickers are also operating legal businesses which are used as fronts to hide the illicit proceeds of trafficking in persons. These businesses are usually cash based like taverns (informal pubs), lodges, real estate, restaurants, transportation, tour operators and car dealership. This indicates the co-mingling money laundering techniques used to hide proceeds from trafficking in persons.**
30. **According to the responses, there were cases where traffickers were identified, however, could not be prosecuted for trafficking in persons due to lack of legislation, alternatively charges for contravention of Immigration Laws were raised.**

c) International cooperation

31. **Even though the study revealed a paucity of information sharing among LEAs internationally in relation to trafficking in persons, there are substantive indications that various LEAs within member countries have mechanisms in place for information sharing in other related crimes both nationally and internationally.** They use international structures such as INTERPOL, SARPCCO and bilateral MOUs to share information.

Case Studies

Unfortunately only case studies 1 and 2 (of 11) highlight the money laundering aspects of trafficking in persons.

CASE 1 – Domestic Trafficking

Offence	Sexual exploitation of minors Human Trafficking
Customer	Men (individuals)
Industry	Tavern (informal pub) Lodge
Mode of payment	Cash
Jurisdiction	Free State Province, South Africa
Criminal activity	Prostitution Brothel Tax evasion
Instrument	Business Bank account
Red Flags	-Limited cash deposits from a cash based business (tavern) -Business Bank account operated by 5 signatories not relative to size of deposits -Business account operated for an illegal business -Lack of customer due diligence to operate business account for a cash based (illegal) business

32. Seven (7) minor girls were required to supply sex to various men via a tavern operating as a front for a brothel at a rate of R350.00 (USD 50) per night per client in one of the provinces of Free State in South Africa. The victims came from small towns in the province of the Northern Cape, South Africa and were recruited by women with promises of employment in a club.

33. Further investigation revealed that five (5) men were the owners of the tavern (informal pub). Apart from the female recruiter there were also three other accused who assisted with the operations, two of them who used to manage the brothel and collected the income and the other was transporting the victims from the Northern Cape to the Free State. The main accused in this case was also the owner of another tavern as well as a Lodge.

34. The Police found three receipt books on the one premise that was searched. The accused had a bank account in the name of a legitimate business, i.e. the tavern. Bank statements reflected limited deposits. It was clear that the illegal operations (prostitution) were much more profitable since thousands of rands in cash were seized from the premises, much more than the amount reflected in the bank account. It was also clear that the business was just a front as no legitimate businesses were carried out at the Taverns and Lodge. Furthermore, the books reflected amounts for rental of rooms varying from R75 per hour to R300 per night per room. An inference was therefore made that the tavern was in actual fact a brothel, as rooms were rented out hourly instead of daily. After the accused were released on bail the police received information that they still continuing with their illegal activities from the other tavern and the lodge.

Action taken: Accused were arrested and released; One Mercedes Benz was seized and plans to forfeit the tavern are underway; and charges raised amongst others in Money Laundering Investigations continue.

CASE 2 – International Trafficking

Offence	Sexual exploitation Human Trafficking
Customer	Men (individuals)
Industry	Strip club
Mode of payment	Cash
Jurisdictions	South Africa Guernsey, UK United States

Criminal Activity	Prostitution Accept and exchange foreign currency. Tax Evasion
Instrument	Credit cards Foreign Exchange Overseas investments Off-shore banking Foreign jurisdiction bank accounts
Red flags	- Unusually high foreign currency deposits for business sector Credit card transaction patterns not usual for business sector - Various foreign based bank accounts used for credit card repayments - Large funds from foreign jurisdictions, for new investments.

35. An investigation into the financial affairs of a prominent brothel owner linked to human trafficking was conducted in South Africa. The victims were trafficked from the Ukraine, Romania and Bulgaria to work in a strip club which was used as a front for the brothel.
36. It emerged that the subject operated a largely cash based brothel, however the cash was never banked, credit card transactions provided some insights into the amount of profits made. In addition the subject would accept and exchange foreign currency not being an authorised dealer in foreign currency. The subject owns off-shore investments, i.e. one anonymous investment set up under the front of a trust in Guernsey (the account had more than £40 million in it made from running the brothel) from where funds were transferred to South Africa to set up new enterprises. In addition the subject also had two (2) bank accounts in the USA.

Action taken: Investigation in progress

Trafficking in persons non-AML typologies

The cases below highlight the factors that contribute to either combating of or facilitation of trafficking in persons

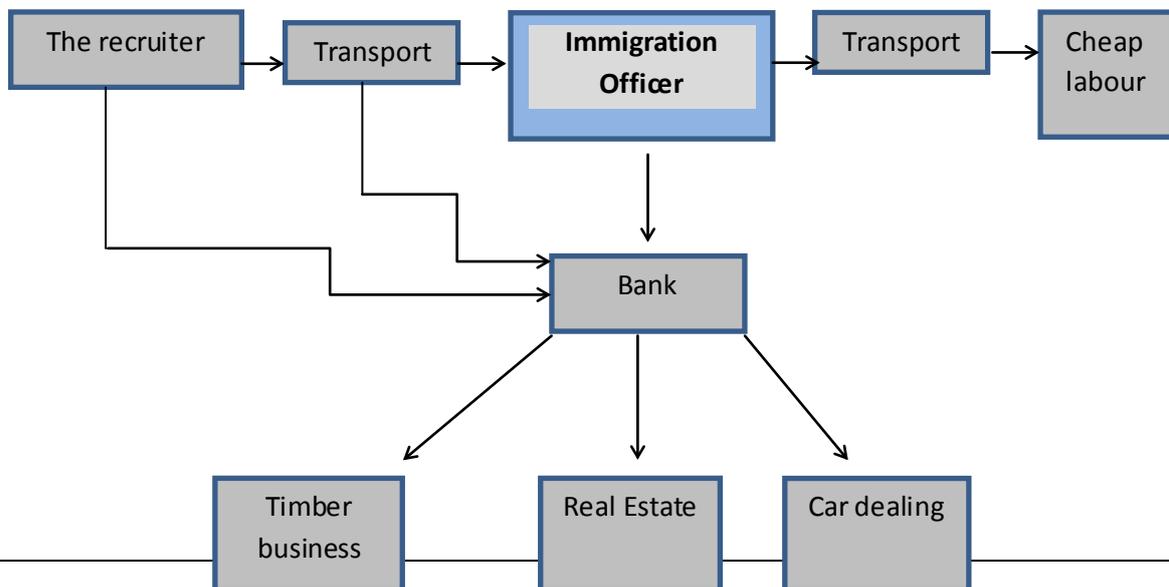
CASE 1 (Joint Operations)

During the Joint Immigration operation with the Police, Investigations in one city within the region in February, 2010, led to the arrest of 5 suspected traffickers who were suspected of trafficking 96 Ethiopians. They were prosecuted and convicted and sentenced to 8 months with hard labour by the Magistrate Court. They were prosecuted for the offence of aiding illegal entry since there is no specific human trafficking legislation

Key finding: the above case highlights the existence of mechanisms for joint operations amongst law enforcement agencies.

CASE STUDY 2 (Corruption)

In this case study, Immigration Officers in Malawi were suspected of colluding with traffickers in facilitating the transit of victims. The officers were arrested and are awaiting prosecution. In view of this, the Department embarked on a corruption sensitization campaign with the Anti-Corruption body aimed at orienting Immigration Officers on the dangers of engaging in corrupt practices. The Department has also developed an Anti-corruption policy with the technical assistance from the Anti-Corruption body. The policy sets out the various strategies for combatting corruption by and amongst Immigration Officials.



CASE STUDY 3 (method of transportation)

In 2007, 60 Ethiopian nationals were arrested at Mwanza Border Post in Malawi hidden in an empty petrol tanker, being transported to South Africa. The Driver of the Tanker was prosecuted by the Police.

Key finding: the above cases highlight the fact that government officials and private persons facilitate in acts of trafficking in persons.

CASE STUDY 4 (Related crimes)

In South Africa, an investigation identified a trafficker was involved in tax offences, stolen/fraudulent Department of Home Affairs stamps, permits and fabricated national passports. The trafficker was also connected to a project in United Kingdom Coptine project on human trafficking and Human Smuggling. The project has exposed the existence of International Networks on trafficking in persons.

A Zimbabwean woman was killed in Kenya when she was enroute to Europe where she had been promised a lucrative job. The woman is believed to have been killed by the traffickers when she wanted out after realizing that she had been misled about the job offer.

Key finding: the above cases highlight the fact that human traffickers are also involved in other serious crimes.

Trafficking in Persons Convictions

1. This case involves a Kenyan (seller) national who lured his friend who has albinism (also from Kenya) to travel to Tanzania with a promise of finding him a better paying job. In the meantime the national with albinism was to be sold and his body parts used for rituals for Tanzanian Shilling equivalent to USD 266,667. The seller was arrested, charged for trafficking in persons.

Convicted and sentenced: 17 years or a fine equivalent to USD53,333.00.

2. On 7 December 2009, a trafficker was arrested for trafficking seven (7) Indian nationals for labour purposes. The victims were rescued from a lodge at which they had been kept for 10 days without food and their passports confiscated from them. The trafficker appeared in court and was sentenced to 10 years imprisonment with hard labour. The victims were recruited from India using the employment recruiting agents.

3. On 27 March 2010, two (2) East African nationals were arrested in Lusaka for smuggling and trafficking of eleven (11) Somali nationals. They appeared in court and were convicted of trafficking in persons. Currently they are awaiting sentencing.

4. On 24th May 2010, a Congolese male was arrested in Chingola Copperbelt for smuggling and trafficking ten (10) female Congolese. The trafficker recruited the victims from Democratic Republic of Congo with promises of decent Jobs. He appeared in court and was sentenced to 18 years imprisonment with hard labour.

Key findings: the above-mentioned cases highlight the benefit of having legislation on trafficking in persons.

SECTION IV: ISSUES FOR CONSIDERATION AND CONCLUSIONS

a) Issues for consideration

37. The findings of the report indicate the presence of a number of operational and policy issues that should be undertaken by the member countries to combat the scourge of trafficking in persons. These include the following:-
- I. Member countries which have not enacted a specific legislation addressing trafficking in persons should do so in a manner consistent with international and regional protocols to address the current deficiency of charging traffickers with lesser offences. Additionally, it should be noted that trafficking in persons is one of the designated predicate offences to money laundering under the FATF Standards. Comprehensive legislation in this regard would be in line with member countries to meet their obligations under the standards. This will also give certainty to reporting institutions to identify illicit proceeds related to trafficking in persons and the reporting of related suspicious transactions.
 - II. LEAs such as the Police, Prosecutions and Social Welfare should be allocated adequate resources to ensure that they can effectively combat trafficking in persons, identify and seize the proceeds generated and to ensure that the victims of trafficking in persons are provided with the necessary protection and rehabilitation.
 - III. Since most ESAAMLG member countries are still in the process of establishing or operationalizing their FIUs, the process of reporting transactions suspected of containing proceeds from crime in general and in particular trafficking in persons is very limited. In addition, FIUs in the region are responsible for other FIU/AML obligations which are necessary to detect illicit proceeds and money laundering threats. It is therefore essential that member countries urgently undertake the necessary measures to put in place operationally effective FIUs, with the necessary capacity to effectively discharge their functions to relevant LEAs nationally and exchange information with similar bodies globally.
 - IV. While the questionnaire responses and literature review indicate a variety of methods of trafficking in the region, reliable statistics in this area remain elusive. In order for the member countries to comprehensively understand the nature and extent of the money laundering typologies associated with trafficking in persons, there is urgent need for development of integrated databases accessible to relevant LEA authorities. The databases should consist of; cases reported, investigated, prosecuted and convictions. This information

will assist the member countries to gain better knowledge on the trends and typologies of the crime of trafficking in persons, the proceeds and the laundering, thereof. Further, the member countries could use this information to conduct reviews on the effectiveness of the measures in place to combat trafficking in persons and other related crimes.

- V. Given the evidence that cash-intensive sectors are the main targets for criminals intending to disguise their illicit proceeds from trafficking in persons, it is critical that member countries bring these vulnerable sectors into the AML environment and undertake effective AML programmes to sensitise them on their obligations. In particular the member countries should focus on the designated non-financial businesses and professions (DNFBPs) e.g. real estate, motor vehicle dealers and taverns, whilst often licensed or registered are not adequately regulated. It is worth noting that the ESAAMLG mutual evaluation reports indicate that some member countries have not included some of the DNFBPs within the scope of AML obligations as required under the FATF Standards, and where they are included, the level of compliance is very low.
- VI. There is also a cited need for cross-border cooperation and information exchange at various relevant levels among the ESAAMLG member countries especially as all member countries fall into source, transit and destination or combination of any of the three categories.
- VII. It is clear from the challenges facing member countries in combating trafficking in persons and simultaneously protecting their financial systems from illicit proceeds, that adoption and implementation of an integrated approach is vital. For ESAAMLG member countries, effective implementation of the findings and recommendations contained in their mutual evaluation reports cannot be over emphasised. In particular, the member countries should promptly implement the recommendations identified under the “Key and Core FATF Recommendations”, within the context of the ESAAMLG Post-Evaluation and Monitoring Process. These include criminalisation of money laundering, preventative measures such as reporting of suspicious transactions, having an effective FIU to analyse and disseminate financial intelligence reports and create effective national and international cooperation frameworks for the sharing of information with global counterparts.

b). Conclusion

38. It is evident that the crime of trafficking in persons will continue as long as the necessary countermeasures, particularly legislative, institutional and information sharing are not put in place and implemented effectively. The project team highlights the vulnerabilities within cash-intensive DNFBP sectors, given that they are the main destination for the illicit proceeds from trafficking in persons. This is amplified by the fact that the majority of transactions in the region are undertaken on a cash basis and are not receipted, therefore adding a particular complexity to identify the illicit proceeds from the legitimate.
 39. It is envisaged that the research findings will be useful in developing policy measures directed at addressing the vulnerabilities of money laundering in relation to trafficking in persons in the ESAAMLG region.
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ANNEXURE A

Human Trafficking Indicators & Red Flags for Law Enforcement Agencies (LEAs)**General Indicators:**

- Live on or near work premises
- Restricted or controlled communication/transportation
- Frequently moved by traffickers
- Large number of occupants for living space
- Lack of private space/ personal possessions/ financial records
- Limited knowledge about how to get around in a community

Travel Indicators:

- Use of unchartered and suspicious routing;
- False travelling documents;
- Group travel of persons within same age group and sex;
- Lack of own financial means at disposal for the travel;
- Minors with no direct relationship to the accompanying adult;
- Group of young girls accompanied by one or more men;
- Body language of the person such as excessive blinking or nervousness, abundant perspiring or obvious shivering;
- Lack of knowledge of the destination;
- Evasive, inaccurate or contradictory answers upon being questioned;
- Person holds a passport from a country that is neither the country of embarkation or disembarkation;
- Person with a specific type of visa and no supporting documentation; and

Physical Indicators:

- Injuries from beating or weapons
- Signs of torture (i.e. cigarette burns, etc)
- Brands or scarring indicating ownership (may be in form of tattoos on wrist or neck)
- Signs of malnourishment
- Female medical issues: multiple abortions, miscarriage, genital mutilation, etc.
- Untreated sickness/disease
- Reports of rape or sexual assault

Financial / Legal Indicators:

- Someone else has possession of legal/travel documents
- Existing unreasonable debt amounts and is working for employer to pay off debt
- One attorney claiming to represent multiple undocumented immigrants detained at different locations
- Third party who insists on translating
- Invalid work contracts, group travel for conferences, seminars and study tours.
- Tickets bought with cash or suspected stolen credit cards.

Brothel Indicators:

- Large amounts of cash and condoms
- Customer logbook or receipt book (aka. "trick book")
- Sparse rooms separate by curtains
- Men come and go frequently
- Poker chips, playing cards, etc used as proof of payment
- Multiple televisions with pornographic movies
- Egg timers in areas used to time sexual services
- Security Measures: tinted windows, buzz-in entrance, video cameras, etc.

Annexure B



ESAAMLG Typologies Working Group

17th Task Force of Senior Officials Meeting

30th March to 02 April 2009

Arusha International Conference Centre (AICC)

Arusha, Tanzania

Detailed Questionnaire on the

Vulnerabilities of money laundering related to human trafficking

Prepared by The Typologies Working Group

EASTERN AND SOUTHERN AFRICA ANTI-MONEY LAUNDERING GROUP**VULNERABILITIES OF MONEY LAUNDERING****RELATED TO****HUMAN TRAFFICKING****BACKGROUND**

The questionnaire has been compiled by the Typologies Project Team on Vulnerabilities of Money Laundering related to Human Trafficking for its use in research on money laundering typologies. The information gathered herein will be used to assess the current capacity of member states to address money laundering vulnerabilities related to drug trafficking.

Questionnaire Instructions

1. All Member States are requested to complete this questionnaire
2. Where a copy of legislation is requested, please provide a soft copy if possible.
3. Member States are expected to submit a completed questionnaire electronically to ESAAMLG Secretariat on or before **29th day of May 2009**.

Name of member state: _____

Date of completion: _____

Details of Coordinating Official:

Name	
Title/Position	
Organization	
Address	
Telephone	
Mobile	
Fax	
e-mail address	

Return the completed questionnaire via e-mail to the following addresses;

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LEGAL SYSTEMS

1. What multilateral conventions, treaties and agreements relating to ML/TF is your country a party to?
2. Has your country enacted legislation to combat money laundering and terrorist financing? When was it implemented?
3. Does your country have regional or bilateral agreements (such as MOU) relating to AML/CFT? If yes, what does it cover? Please provide a list of the countries involved.
4. What multilateral conventions, treaties and agreements relating to trafficking in persons is your country a party to?

5. Has your country enacted legislation to criminalising trafficking in persons? If not, what other national laws are in place to combat trafficking in persons.
6. Does your country have regional or bilateral agreement (such as MOU) relating to trafficking in persons?, If yes, what does it cover? Please provide a list of countries involved.
7. Which institutions/agencies are responsible for setting up of AML/CFT regulations/guidelines relating to trafficking in persons? Please provide the nature of involvement by each stakeholder?
8. Please specify financial institutions and non-financial institutions that are covered by AML/CFT laws and regulations in your country
9. Does your country have legislation for seizure, freezing and confiscation of instrumentalities and proceeds of trafficking in persons?
10. Please indicate which legal areas covering AML/CFT and trafficking in persons you would like your country to strengthen?

INSTITUTIONAL ARRANGEMENTS

1. Which government institutions/agencies are responsible for combating trafficking in persons and related money laundering activities? What is the nature of their involvement?
2. Which government institutions/agencies collect information on trafficking in persons?
3. Which government institutions/agencies, private organisations or non-governmental organisations record information on trafficking in persons?
4. How is the information relating to trafficking in persons received and stored?
5. What institutional arrangements exist in your country to ensure information sharing by law enforcement agencies such as Financial Intelligence Unit, Immigration and the Police for investigations and prosecution?
6. What mechanisms/channels are available in your country to facilitate information sharing by various law enforcement agencies involved in combating trafficking in persons?

7. Is there an established measure of policing your country's physical borders? Please specify the measures in place?
8. Describe patterns and trends observed your country relating to trafficking in persons and related money laundering activities covering areas such forms of recruitment, nationality, gender, age, modes of transportation, and country of origin, transit, destination or combination of the three.

Financial Intelligence Unit

Member countries are required to provide case studies in the responses

1. Do you have an FIU?
2. Do you have mandate to issue regulations and guidelines relating to the implementation of AML/CFT laws.
3. Do you receive Suspicious Transaction Reports (STRs) on proceeds relating to trafficking in persons?
4. How many STRs have you received in the last four years and what is the monetary value thereof?
5. From which reporting institutions do you receive STRs?
6. Do you conduct analysis that could be used to identify proceeds relating to trafficking in persons for purposes of investigations and prosecutions? If so, please provide case studies.
7. Do you have adequate capacity (financial, human and technical resources) to receive, analysis and disseminate information? If not, what kind of assistance can you require?
8. To which law enforcement agencies/intelligence agencies do you disseminate your information?
9. Do you have mechanism that allows for information sharing with foreign competent authorities such as FIU? If yes, please provide details.

Immigration

Member countries are required to provide case studies in the responses

1. Are you empowered to carry out law enforcement functions relating to trafficking in persons? If not, please specify the competent authority that carries out such functions.
2. Do you conduct profiling to identify activities relating to trafficking in persons?
3. What kind of information do you use to perform profiling?

4. Please provide a list of (“red flags”) risk indicators for identification of potential trafficking in persons’ activities.
5. Do you share information relating to trafficking in persons with other domestic and foreign law enforcement agencies? If so, please specify such agencies and the nature of information being shared.
6. How do you deal with the victims of trafficking in persons in your country?
7. What actions do you take regarding illegal items found on the victims? Please specify the kind of items found.
8. Has your information led to specific investigations and subsequent prosecutions on trafficking in persons? **Please provide case studies**
9. Do you have adequate capacity (financial, human and technical resources) to counter trafficking in person cases? Please specify the counter measures. If not, what kind of assistance can you require?
10. Do you have corruption incidences of immigration officers in your country involved in facilitating trafficking in persons, if so, to what extent are they involved and what dissuasive measures have been taken against such officers? **Please provide case studies.**
11. To what extent are private organisations/institutions (e.g. NGOs and clearing agents) in facilitating trafficking in persons. What is the nature of their involvement? **Please provide case studies.**
12. Were the individual or groups involved in trafficking of persons also involved in other types of criminal activities. Please specify the nature of the criminal activities.
13. Do you consider your country vulnerable to trafficking in persons activities or related money laundering activities? Please give the nature and extent of the vulnerability?
14. Is there an established method of policing your country’s physical borders, please specify the measures in place?

Customs Agencies

Member countries are required to provide case studies

1. Are you empowered to carry out law enforcement functions relating to trafficking in persons and related money laundering activities? If not, please specify the competent authority that carries out such functions.
2. Do you conduct profiling to identify activities relating to trafficking in persons and related money laundering activities?
3. What kind of information do you use to perform profiling?

4. Please provide a list of (“red flags”) risk indicators for identification of potential trafficking in persons’ activities.
5. Do you share information relating to trafficking in persons with domestic and foreign law enforcement agencies? If so, please specify such agencies and the nature of information being shared.
6. Has your information led to specific investigations and subsequent prosecutions on trafficking in persons? **Please provide case studies**
7. Do you have adequate capacity (financial, human and technical resources) to deal with trafficking in person cases? If not, what kind of assistance can you require?
8. Do you have corruption incidences of customs officers in your country involved in facilitating trafficking in persons, if so, to what extent are they involved and what dissuasive measures have been taken against such officers? **Please provide case studies.**
9. To what extent are private organisations/institutions (e.g. clearing agents) in facilitating trafficking in persons. What is the nature of their involvement? **Please provide case studies.**
10. Were the individual or groups involved in trafficking of persons also involved in other types of criminal activities. Please specify the nature of the criminal activities.
11. Were the individuals or groups involved in trafficking of persons also involved in other types of legitimate business activities? Please specify the business sectors involved.
12. What kind of illegal items do you seize from victims of trafficking in persons? What do you do with such seized items?
13. Does your country use private customs inspection firms to facilitate handling of cargo containers?
14. Do you consider your country vulnerable to trafficking in persons activities or related money laundering activities? Please give the nature and extent of the vulnerability?

The Police

Member countries are required to provide case studies

1. Are you empowered to carry out law enforcement functions relating to trafficking in persons? Please specify the nature of your role? If not, please specify the competent authority that carries out such functions.

2. Do you conduct profiling to identify activities relating to trafficking in persons and related money laundering activities?
3. What kind of information do you use to perform profiling?
4. Please provide a list of (“red flags”) risk indicators for identification of potential trafficking in persons’ activities.
5. Do you share information relating to trafficking in persons with domestic and foreign law enforcement agencies? If so, please specify such agencies and the nature of information being shared.
6. Were the individual or groups involved in trafficking of persons also involved in other types of criminal activities. Please specify the nature of the criminal activities.
7. Were the individuals or groups involved in trafficking of persons also involved in other types of legitimate business activities? Please specify the business sectors involved.
8. Do you have corruption incidences of police officers in your country involved in facilitating trafficking in persons, if so, to what extent are they involved and what dissuasive measures have been taken against such officers? **Please provide case studies.**
9. Have you had cases where traffickers were identified? If so, what kind of actions was taken to prosecute the trafficker?
10. What kind of traffickers have you encountered?
11. What kind of items do you seize from victims of trafficking in persons? What do you do with such seized items?
12. Do you have adequate capacity (financial, human and technical resources) to deal with trafficking in person cases? If not, what kind of assistance can you require?
13. Please describe any impediments that you have encountered in carrying in investigations relating to trafficking in persons.
14. Do you consider your country vulnerable to trafficking in persons activities or related money laundering activities? Please give the nature and extent of the vulnerability?

Social Welfare Department

1. Are you empowered to investigate matters relating to human trafficking, please specify the nature of role in detail?

2. Have you come across information which relates to offences of human trafficking, if so what did you do with such information? Do you share information relating to trafficking in persons with domestic and foreign law enforcement agencies, if so please specify such agencies and the nature of information shared?
3. Have you dealt with victims of (or any other person involved in) trafficking in persons, if so please state in detail action taken and also provide details of whether such victims(persons) were also involved in other crimes and in what capacity? If such victims were used as witnesses and if such persons involved in trafficking of persons were prosecuted please provide details thereof?
4. Do you have adequate capacity (financial, human and technical resources) to deal with cases of trafficking in persons, if not what kind of assistance do you require?
5. Please describe any impediments that you have encountered in handling matters of trafficking in persons?
6. Do you consider your country vulnerable to trafficking in persons activities or related money-laundering activities? Please give the nature and extent of such vulnerabilities? Please further provide detailed statistics and case studies in this regard?

Tax Authorities

1. Do you perform analysis that could be used to identify, investigate and prosecute trafficking in persons and related money laundering cases?
2. Are you mandate to look for money laundering activities in the course of conducting tax assessments on individuals and organisations? Please specify.

Banking/Financial Supervisory Authorities

1. Do you have the mandate required to supervise regulated institutions, inter alia, to i) conduct customer due diligence, ii) file suspicious transaction reports to competent authority, iii) conduct AML/CFT inspections, iv) issue regulations and guidelines on AML/CFT, and v) conduct awareness raising programmes on AML/CFT.

2. Do you share information gathered through AML/CFT inspections with other law enforcement authorities for money laundering investigations. Please specify the type of information shared?
3. What kind of dissuasive measures are in place to deal with supervised/regulated institutions for failure to comply with AML/CFT requirements? Do you have cases where such measures were applied for non-compliance?