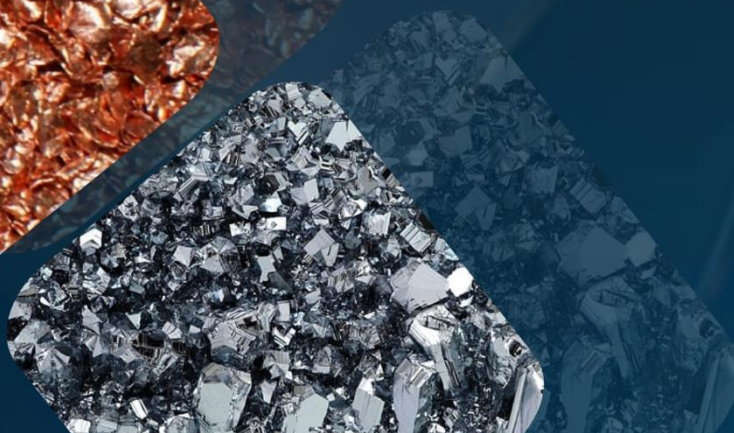
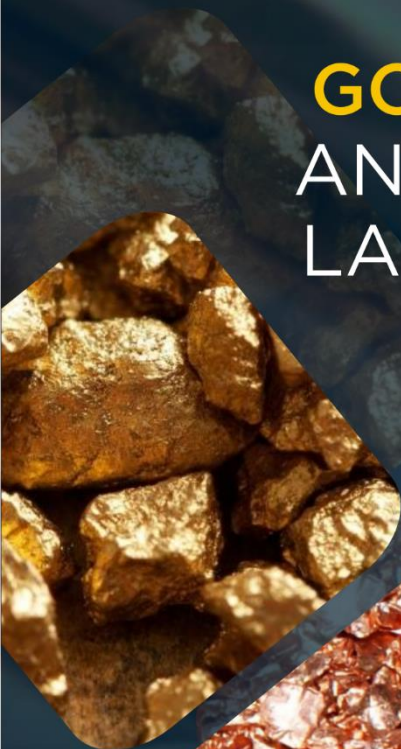


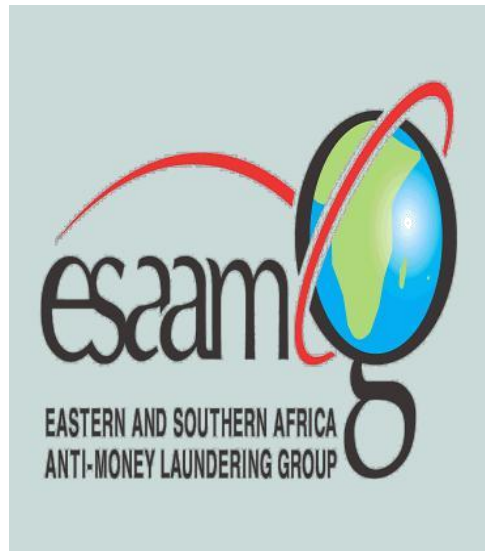


REPORT

ILLICIT DEALINGS IN **GOLD, DIAMOND, RUBIES** AND ASSOCIATED MONEY LAUNDERING/TERRORIST FINANCING IN THE **ESAAMLG REGION**



2022



Illicit Dealings in Gold, Diamond, Rubies and Associated Money Laundering and Terrorist Financing in the ESAAMLG Region

September 2022



The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 20 countries and also includes a number of regional and international observers such as AUSTRAC, COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, GIZ, IMF, SADC, United Kingdom, United Nations, UNODC, United States of America, World Bank and World Customs Organization.

ESAAMLG members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism and proliferation, in particular the FATF Recommendations.

For more information about the ESAAMLG, please visit the website: www.esaamlg.org

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ACRONYMS

AI	Accountable Institutions
AML	Anti-Money Laundering
ANB	Anti- Narcotics Bureau
ARINSA	Asset Recovery Inter-Agency of Southern Africa
CA	Competent Authorities
CFT	Countering the Financing of Terrorism
CPF	Countering Proliferation Financing
DCI	Director of Criminal Investigations
DNFBPs	Designated Non-Financial Businesses and Professions
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FCIU	Financial Crimes Investigations Unit
FIA	Financial Intelligence Authority
FIC	Financial Intelligence Centre
FIU	Financial Intelligence Unit
KPCS	Kimberly Process Certification Scheme
LEA	Law Enforcement Agency
MER	Mutual Evaluation Report
ML	Money Laundering
MLA	Mutual Legal Assistance
MoU	Memorandum of Understanding
NRA	National Risk Assessment
PF	Proliferation Financing
PMS	Precious Metals and Stones
RBA	Risk Based Approach
RI	Reporting Institutions
RILO ESA	Regional Intelligence Liaison Office for Eastern and Southern Africa
RSA	Republic of South Africa
STR	Suspicious Transaction Report
TF	Terrorist Financing
TZS	Tanzania Shillings
UAE	United Arab Emirates
USD	United States of America
WCO	World Customs Organisation

EXECUTIVE SUMMARY

1. The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) region remains one of the key producer and exporter of diamonds with Angola, Botswana, Namibia and South Africa amongst the top four diamond mining countries in Africa.¹ Coloured stones including ruby, emerald, sapphire and tourmaline are mined in Ethiopia, Kenya, Mozambique, Madagascar, Namibia, Tanzania and Zambia.² The region is also endowed with other minerals like gold, platinum, and uranium mined in Ethiopia³, Namibia, South Africa⁴, Tanzania, Uganda⁵, Zambia and Zimbabwe.⁶ This makes the region a key contributor to the global market for precious metals and stones (PMS), with the key drivers for the region's contribution being gold and diamonds.⁷
2. As key drivers of the PMS sector in the region, diamond and gold were chosen to be the study's area of attention. The choice of the two minerals is especially relevant as most countries in the region produce and export gold while 11 out of 18 are diamond mining countries. The value of diamond exports from the five main producing countries in ESAAMLG region is estimated to be USD 9,65 billion annually⁸. Gold from Africa is equally significant in global trade contributing to 21% of the world production and accounting for 60% of the world's gold resources⁹. With regards to rubies, the stones were chosen due to the interest that they generated due to their connection to the terrorist activities in Mozambique. This concern related to rubies was also highlighted by Hunter & Lawson (2020) in their study. They argued that illicit dealing of rubies in Mozambique can be linked to the financing of terrorism that is experienced in the country.
3. Evidence shows that the Thai coloured stone industry is heavily dependent on the African coloured stones. Mozambique is estimated to contribute about 70-80% of rubies entering

¹ Mc Kechnie W.F Diamond Exploration and Mining in Southern Africa: Some Thoughts on past, current and possible future trends, (The Journal of the Southern African Institute of Mining and Metallurgy) February 2019, vol119 pg 123.

² Hunter M and Lawson L, A Rough Cut Trade: Africa's Coloured Gems Flow to Asia, a Research Report by the Global Initiative Against Transnational Organised Crime (July 2020), pg 4

³ Ethiopia Extractive Industries and Transparency Initiative for the year ended 7 July 207 (August 2019) pg 20 (accessed at https://eiti.org/es/implementing_country/48) on 9 April 2021)

⁴ Digging Beneath the Surface: A Exploration of the Net Benefits of Mining in Southern Africa (2019) World Bank pg 17

⁵ Eastern African Committee Investment Promotion and Private Sector Development (accessed at <https://www.eac.int/investment/why-east-africa/investment-opportunities/mining> on 1 April 2021

⁶ Digging Beneath the Surface: A Exploration of the Net Benefits of Mining in Southern Africa (2019) World Bank pg 9

⁷ Hunter M and Lawson L, A Rough Cut Trade: Africa's Coloured Gems Flow to Asia, a Research Report by the Global Initiative Against Transnational Organised Crime (July 2020), pg 4.

⁸ NS Energy Top Five Diamond Mining Countries of Africa Profiled (9 March 2020) (accessed at <https://www.nsenergybusiness.com/news/top-five-diamond-mining-africa/#> on 18 February 2021).

⁹ Mathias E and Feys B, Implementing AML/CFT Measures in the Precious Minerals Sector: Preventing Crime While Increasing Revenue, A paper by the International Monetary Fund (August 2014) pg 4-5

Thailand¹⁰ while most of the blue sapphires are smuggled from Madagascar through Sri Lanka.¹¹ Dubai has provided a vibrant destination and market for informally mined and illegal diamonds and gold. Gold mined in Madagascar and South Africa, for example, has been intercepted at the OR Tambo International Airport en route to Dubai. In the past five years, South Africa has made five sets of arrests of people smuggling gold into or from Dubai at the OR Tambo International Airport.¹² On 4 January 2021 South African Police Service arrested three suspects from Madagascar destined for Dubai carrying 73,5kg gold in their hand luggage valued at R67,5 Million.¹³ In October 2020, a PEP was caught trying to smuggle fourteen bars of gold weighing 6.9kg out of Zimbabwe on a flight to Dubai. The gold was valued between USD 300, 000 and USD 400, 000.¹⁴ Dubai is a transit centre between the source in Africa and the market in Europe, made favourable by its free trade zones where the precious stones are re-valued for re-export, increasing the illegal value of the commodities to over 50%.¹⁵

4. Though some of the ESAAMLG countries are important contributors to the global natural resources market, very few are reaping the benefits of the natural resources to their full potential. Literature review indicates that the region may be losing some of its wealth through illicit dealing in PMS. The ESAAMLG region sought to understand the value of PMS lost through illicit dealing activities in the region as well as the associated money laundering and terrorist financing risks. The study was led by Eswatini and Zambia as co-chairs and supported by Angola, Botswana, Namibia, Tanzania, South Africa, Zimbabwe and the United Nations Office on Drugs and Crime (UNODC).
5. The research culminated into a paper with seven chapters. **Chapter 1** of the paper details the objectives of the study. This chapter discussed the research methodology, and the limitations faced during the research process. **Chapter 2** discusses the legal framework by exploring how

¹⁰ Hunter M and Lawson L, A Rough Cut Trade: Africa's Coloured Gems Flow to Asia, a Research Report by the Global Initiative Against Transnational Organised Crime (July 2020), pg 33

¹¹ Hunter M and Lawson L, A Rough Cut Trade: Africa's Coloured Gems Flow to Asia, a Research Report by the Global Initiative Against Transnational Organised Crime (July 2020), pg 27

¹² Dolley C, The Daily Maverick, Dubai to crack down on gold smugglers travelling to the Emirate State via South Africa (11 February 2021) (accessed at <https://www.dailymaverick.co.za/article/2021-02-11-dubai-to-crack-down-on-gold-smugglers-travelling-to-the-emirate-state-via-south-africa/> on 16 February 2021)

¹³ Dolley C, The Daily Maverick, Madagascar eyes 73.5kg of 'smuggled' gold seized in hand luggage at OR Tambo, (12 January 2021) (accessed at <https://www.dailymaverick.co.za/article/2021-01-12-madagascar-eyes-73-5kg-of-smuggled-gold-seized-in-hand-luggage-at-or-tambo/> on 18 February 2021). The USD 1 is equivalent to R14.59 as at 18 February 2021.

¹⁴ <https://www.thetimes.co.uk> <https://www.thetimes.co.uk/article/zimbabwe-ruling-family-suspected-of-stealing-gold-from-state>

¹⁵ Diamond: Precious Stones, but for who? Africa Europe Faith and Justice Network (assessed at <http://aefjn.org/en/diamonds-precious-stones-but-for-who/> on 16 February 2020)

the region criminalises the crime of illicit dealing in PMS and the resultant money laundering and terrorist financing. The chapter determines whether the region has put in place proportionate and dissuasive penalties for committing the crimes. It further identifies the money laundering and terrorist financing risks as well as the mitigation controls put in place by the region.

6. **Chapter 3** discusses the role of Financial Intelligence Units in the cycle of addressing illicit dealing in PMS, their challenges as well as the trends and typologies identified in the region. **Chapter 4** discusses the institutional framework, investigative powers of LEAs, and investigations conducted relating to illicit dealing in PMS. The chapter further notes that LEAs in most instances, investigate the predicate offences only despite there being adequate legal and institutional frameworks to pursue financial benefits out of such crimes through parallel financial investigations, or ML investigations. Case studies are used as illustrations. **Chapter 5** considers the role of gatekeepers, including customs officials in intercepting the illicit minerals that leave the region to international markets. This chapter gives an understanding of how the minerals are transported and their regional and international destinations. **Chapter 6** considers whether the region has mechanisms for facilitating international cooperation in tracing its minerals and holding accountable the criminals involved. The last chapter concludes by summarising the key findings and makes recommendations on how the region can strengthen their institutional and legal frameworks, build capacity of FIUs and LEAs to mitigate illicit dealing in PMS and associated money laundering and terrorist financing.

CHAPTER 1: INTRODUCTION

8. Member countries in the ESAAMLG Region have and continue to discover a wide range of PMS. Though some of the ESAAMLG countries are important contributors to the global natural resources market, very few are reaping the benefits of the natural resources to their full potential. This can be attributed to PMS being linked to illicit financial flows, corruption which masks and facilitates smuggling, promoting of barter trade and diversification into drug trafficking, arms trafficking, and source for the financing of terrorism.¹⁶
9. In a quest to better understand the phenomenon related to illegal activities linked to PMS, this study will seek to establish the link between PMS and money laundering and terrorist financing activities. This will be done with the intention of understanding the responsiveness of existing legal and institutional frameworks, vis-a-vis the methods that are used to launder funds generated from the trade in PMS and related criminal activities. In addition, the study will seek to identify key players in the illegal trade of PMS and the sectors that are predominantly used to launder the acquired proceeds. The study hopes to build an enhanced understanding of the illegitimate side of the PMS sector in the Region and possible policy interventions that can be adopted to curb vulnerabilities and thus strengthen controls in the sector.

1.1 Problem Statement

10. The lucrative returns associated with illicit dealing in PMS have made the criminal activity an attractive vehicle for laundering money and financing terrorists. Illicit dealing in PMS provides a mechanism for organised crime groups to convert illicit cash into a stable, anonymous and easily exchangeable asset to realise or invest the profits from their criminal activities.¹⁷ Precious metals and stones have been used as an alternative currency to purchase prohibited or restricted goods, such as gold for cocaine, and diamonds for weapons, or as a means to store wealth generated by illegal activity which is not easily traceable for criminal processes such as seizures and confiscations.¹⁸ PMS have been smuggled from source to consumer countries, including to finance armed conflicts.¹⁹ Additionally, the high value of PMS may lead officials from relevant

¹⁶ Mathias E and Feys B, Implementing AML/CFT Measures in the Precious Minerals Sector: Preventing Crime While Increasing Revenue, A paper by the International Monetary Fund (August 2014) pg 4

¹⁷ Mathias E and Feys B, Implementing AML/CFT Measures in the Precious Minerals Sector: Preventing Crime While Increasing Revenue, A paper by the International Monetary Fund (August 2014) pg 3.

¹⁸ Mathias E and Feys B, Implementing AML/CFT Measures in the Precious Minerals Sector: Preventing Crime While Increasing Revenue, A paper by the International Monetary Fund (August 2014) pg 3.

¹⁹ Mathias E and Feys B, Implementing AML/CFT Measures in the Precious Minerals Sector: Preventing Crime While Increasing Revenue, A paper by the International Monetary Fund (August 2014) pg 3

competent authorities to demand or accept bribes at every stage of the extraction and trade process.²⁰ If the use of PMS in illegal activities remains unabated in the ESAAMLG region it can pose serious threats to the economies and political stability of the region (if consideration is made of the situation in Eastern DRC²¹ and rising of terror groups in the Northern Province of Cabo Delgado of Mozambique²² which are both rich in metals and precious stones). This has led to jurisdictions undertaking intensive efforts to protect the sector from the risk of being abused by criminals. In the quest to have effective responses, it is imperative for the region to better understand the nature of these crimes as they relate to the region's specific characteristics.

1.2 Scope and Objectives

11. The scope of the study is limited to the illegal trafficking and trade activities of PMS and associated money laundering and terrorist financing. It does not extend to the illegal mining and extraction of the minerals because at the time of initiating the study, FATF was conducting research on Money Laundering from Environmental Crime, including illegal mining and extraction of minerals²³. Therefore, illicit dealing in PMS in the context of the study refers to the trafficking and trade activity of PMS.
12. The study was conducted amongst 18²⁴ member states of ESAAMLG which are: Angola, Botswana, Eswatini, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. Of these 18, Kenya did not respond which limited the findings to responses from only 17 countries.
13. The main objectives of this project are to:
 - Determine the extent of illicit dealings in gold, diamond and rubies in the ESAAMLG Region: how it happens and is organised, establish who is involved, where the crimes are most concentrated and the factors that give a conducive environment for the crimes to thrive, assess who is benefiting from the illicit dealings, particularly from cases provided.

²⁰ Mathias E and Feys B, Implementing AML/CFT Measures in the Precious Minerals Sector: Preventing Crime While Increasing Revenue, A paper by the International Monetary Fund (August 2014) pg 3.

²¹ Security Council renews arms embargo and sanctions in DR Congo -<https://news.un.org/en/story/2011/11/396632>

²² <https://globalinitiative.net/wp-content/uploads/2022/02/GITOC-ESAObs-Insurgency-illicit-markets-and-corruption-The-Cabo-Delgado-conflict-and-its-regional-implications.pdf> pg 32

²³ <https://www.fatf-gafi.org/media/fatf/documents/reports/money-laundering-from-environmental-crime.pdf> - FATF REPORT Money Laundering from Environmental Crime July 2021

²⁴ Eritrea application for membership was still under review at the time of the study.

- Determine the extent of illicit financial flows arising from illicit dealings in PMS and how these interact from the flows in goods.
- Determine the capacity of Member Countries in identifying and tracing the proceeds of illicit dealings in PMS; and whether there has been an effective confiscation/forfeiture regime for these crimes.
- Understand whether the trade in PMS is used as a way to launder the proceeds of other crimes or to finance terrorism.
- Determine the adequacy of control measures (legal and institutional frameworks) and implementation in preventing and suppressing illicit dealings in PMS.
- Formulate recommendations to address deficiencies identified and augment the regulatory, supervisory and enforcement framework already existing in ESAAMLG member countries and as a Region.

1.3 Methodology

14. In sourcing data for the study, questionnaires were disseminated to all member countries. The questionnaires were used to source information related to the legislative and institutional framework, statistics related to PMS and money laundering/terrorist financing activities. Furthermore, members were requested to provide case studies to illustrate the effectiveness of their regimes.
15. The data collected through the use of questionnaires was subjected to interpretative analysis with the intention of gaining further knowledge and understanding the status quo in the region in relation to PMS and money laundering. To supplement the information received from member states, the project team relied on open-source information and previous studies undertaken relating to PMS.

1.4 Limitations of the Study

16. During the data collection process, some member states provided limited information as they did not respond to all questions in the questionnaire. Furthermore, there was lack of information on TF risks related to rubies despite some open sources mentioning of the existence of such risks²⁵. Lastly, there was insufficient information to draw general conclusions on the ML/TF risks related to illicit dealings in PMS.

²⁵ <https://globalinitiative.net/wp-content/uploads/2022/02/GITOC-ESAObs-Insurgency-illicit-markets-and-corruption-The-Cabo-Delgado-conflict-and-its-regional-implications.pdf> pg 32

CHAPTER 2: CURRENT LEGAL FRAMEWORK AND PREVENTATIVE MEASURES

17. To form a basis for enhanced understanding of the present situation in the region, it is important to present the institutional legal framework related to the regulation of dealing in precious metals and stones. This refers to the laws that are applicable in the region to prohibit illicit dealing in precious metals and stones (PMS). It also includes the legal framework put in place to regulate and supervise legal dealings in PMS.

2.1 Criminalization and the Statutory Definition of Illicit Dealing in Precious Metals and Stones

18. The criminalisation of illicit dealing in PMS is particularly important in the region because the mining sector plays a critical role in the economies of ESAAMLG member states. The study found that all the responding member states have criminalised illicit dealing in PMS. It is the use of licenses or permits that gives effect to this criminalisation as all laws in the region require that dealers in PMS should be in possession of a valid permit or license issued by the regulator to trade in PMS. This permit requirement extends to anyone in possession of PMS regardless of the reason of possession, be it, by donation or through a trade activity.

19. Furthermore, from all the responses received, member countries have a clear appreciation of what constitutes illicit dealing in precious metals and stones. Some member states have explicitly provided for these in their legislation by giving a definition and a scope of activities that constitute illicit dealing in PMS. The laws in the region define illicit dealing in PMS by referring to the entire mining value chain from extraction, processing, transportation and selling to include both exporting and importing of the PMS. The member states that have not explicitly defined illicit dealing in PMS nonetheless have legislation that covers this as a criminal activity in their laws.

2.2 Penalties

20. The responses show that countries have substantial dissuasive penalties in relation to money laundering and terrorist financing. The countries that responded indicated that their legislation provide for both fines and imprisonment. In terms of fines, most countries have fixed fines while two countries indicated that their fines are determined based on the value of the confiscated product and escalate as the value of the confiscated product increases. One jurisdiction indicated that the penalty is calculated using a penalty units' system. Despite the differences in the systems

used, the study found that the penalties meted against crimes related to illicit dealing in precious metals and stones are dissuasive, with the exception of one jurisdiction.

21. The imprisonment terms also vary per jurisdiction. Except for one country where the imprisonment term should not exceed two years, the imprisonment term in the region ranges from a minimum of five years and not exceeding 15 years. Likewise, the term of imprisonment is linked to the value of the product involved in the criminal act and is applied in escalation.
22. It is the finding of the study that, the majority of jurisdictions in the region have dissuasive penalties for the money laundering, terrorist financing and illicit dealing in PMS.

2.3 Compliance with FATF Recommendations related to dealers in PMS.

23. The FATF Recommendations prescribe standards that must be implemented if the system is to curb or deter the use of the PMS sector for money laundering or terrorist financing purposes. The report will detail the preventative measures put in place by member countries for the implementation of these requirements.

2.3.1 Understanding of ML/TF Risks associated with PMS.

24. Recommendation 1 requires that jurisdictions should adopt a risk-based approach (RBA) when developing their AML/CFT regimes and implementing them. In line with this recommendation, jurisdictions should assess and understand the risks posed by dealers in precious metals and stones. In implementing this standard, jurisdictions could undertake National Risk Assessments (NRA) and sectoral risk assessments to have an appreciation of the money laundering and terrorist financing risks posed by PMS. Eleven out of the seventeen countries that responded conducted National Risk Assessments from 2016 to 2019. The NRAs conducted in the ESAAMLG region contains a discussion on PMS. Three countries had conducted sectoral risk assessments on PMS by March 2022. From the eleven countries that conducted NRAs, the study established that ML risk for the PMS sector in the region ranged from a rating of **Medium** to **High**, except for one country that found the risk to be low.
25. From the country responses, the study found that illicit dealing in PMS was done by both licensed and unlicensed entities. One licensed dealer in Madagascar exported about 73.5 kgs of gold through South Africa enroute to United Arab Emirates and India but did not repatriate the export

proceeds. In Uganda, licensed dealers in PMS under declared the value of gold exports in 2016/17 resulting in losses of USD 16,95 million for the country. In 2019, Tanzanian authorities arrested a licensed dealer in gold who had formed a syndicate that was smuggling gold bought from small miners in the black market. This businessman was arrested with 8 police officers who were facilitating the smuggling of the gold worth USD 30 million to Rwanda, Kenya and eventually to Dubai. The certificate of origin for the gold smuggled from Tanzania was said to be from the transit countries resulting in depleted profits for Tanzani.. Mauritius reported to have arrested two Malagasy nationals in 2019 for possession of undeclared foreign currencies and gold bars valued at USD 1,1 million without any authentication certificates and currency declaration form. Some jurisdictions indicated that jewelry and gold artefacts were stolen with the artefacts being sold to refineries, some falsified documentation to legitimize products (minerals) obtained from illegal sources, and licensed dealers were over-invoicing and under-invoicing the minerals sold to cheat the governments of taxes. Namibia indicated that an employee of a dealer in PMS stole diamonds and sold them in neighboring South Africa and further laundered the proceeds by making large deposits of the South African Rand in his bank account in a remote town.

26. The risk was further heightened by the vulnerabilities in the sector. Trade is through the use of cash payments in the sector, making it difficult to trace the funds used and the products sold due to insufficient record keeping. This creates a fertile environment for smuggling the proceeds of illicit dealing out of the country or laundering them in the domestic economy. The perpetrators of laundering proceeds from illicit dealing in PMS include locals and foreigners. The study found that drug traffickers launder funds through the jewelry sector. Illicit dealers in PMS launder the proceeds in the real estate sector; mining sector; automotive industry; construction industry and tourism sector. In the financial sector, banks, foreign exchange bureaus, mobile money service providers and investment companies are used to launder the proceeds of illicit dealing in PMS. Only one country indicated that the receipt of cash by dealers was prohibited in the trade of diamond, with only electronic payments accepted.
27. AML/CFT supervision for the sector was relatively at infancy stage in the region. This was mainly because in some jurisdictions, the principal legislation lacked AML/CFT provisions. The Financial Intelligence Units were supervisors for AML/CFT purposes in other jurisdictions. However, the jurisdictions had newly introduced supervision for the sector. The accountable institutions lacked Customer Due Diligence procedures and they had difficulty in tracing records.

As a result, the accountable institutions rarely submit suspicious transaction reports to the Financial Intelligence Units.

28. The terrorist financing risks related to illicit dealing in PMS in the ESAAMLG region is not conclusively confirmed except for the case of Uganda. In the 2017 NRA, Uganda noted that some terrorist organizations, such as the Allied Democratic Forces, (ADF) operating from within that region, funded themselves through the smuggling of gold.²⁶ While Tanzania has conducted a terrorist financing risk assessment, there was no evidence to confirm the allegations that gold and precious stones from Tanzania are smuggled to Dubai and other parts of the world to finance terrorism.²⁷ The 2021 Mutual Evaluation Report of Mozambique highlights that the northern part of Mozambique, the region of Cabo Delgado, is flanked with a lot of unrest linked to terror related activities. It further states that this area is prone to illegal precious stone dealers that smuggle the precious stones out of Mozambique. Though researchers suggest that there is evidence indicating that there is a strong link between the illicit trade of rubies and terrorist financing in Mozambique²⁸, there was no information that was submitted in support or to oppose these assertions.

2.3.2 Prudential Regulation of Dealers in PMS

29. FATF identifies dealers in precious metals and stones as part of the Designated Non-Financial Businesses and Professions (DNFBPs) and as such are expected to exercise due diligence, as prescribed by Recommendation 22 when engaging in cash transactions beyond the stipulated cash threshold and report suspicious transactions to authorities as provided for by Recommendation 23. Jurisdictions are therefore not only expected to designate dealers as accountable institutions but should, as required by Recommendation 28, subject them to regulation and monitoring for compliance with AML/CFT requirements.
30. The study revealed that all countries have regulatory authorities responsible for providing oversight in the PMS sector. The regulatory bodies in the region are empowered to issue and cancel licenses and permits; monitoring compliance; imposing sanctions on non-compliant entities; and assay precious metals and grading of diamonds – in Uganda, Mauritius and Mozambique. Dealers in PMS in the region are issued with permits or licenses to import and export minerals. Other licenses and permits allow PMS dealers to polish, convey, supply, trade,

²⁶ Uganda National Risk Assessment Report, 2017, pg xxxi.

²⁷ Tanzania Terrorist Financing and Hawala Risk Assessment Report, 2022.

²⁸ Hunter M and Lawson L, A Rough Cut Trade: Africa's Coloured Gems Flow to Asia, a Research Report by the Global Initiative Against Transnational Organised Crime (July 2020), pg 35.

dispose and sell minerals. In addition, dealers in diamonds are issued with licenses to deal, cut, make tools and conduct research.

31. The regulatory functions of the ESAAMLG member countries are hinged on the Kimberly Process framework. Some countries like Mozambique, Uganda and Mauritius have embedded and structured their regulatory functions according to the principles of the Kimberly Process by extending the standards to the regulation of all PMS and not limiting them to only diamond. This approach has strengthened their regulatory regimes.
32. The Kimberly Process is a voluntary export or import control regime supported by the United Nations and focused on stopping the illicit trade in rough diamond to finance armed conflict.²⁹ The core of this regime is the Kimberley Process Certification Scheme (KPCS) under which States implement safeguards on shipments of rough diamonds and certify them as “conflict free”.³⁰ Whilst the Kimberly Process is not legally enforceable, compliance with it stems from the national implementation legislation in the participating countries. 11 of the 17 responding countries³¹ are participating in the Kimberly Processing, giving assurance that they generally have robust legal frameworks for regulating PMS. However, the Mutual Evaluation Report of Angola, 2012 found that the Kimberly certification process can be compromised through the method of mixing parcels of licit and illicit diamonds.³² This was equally true for Tanzania where licensed companies/permit holders mine the precious metals and stones legally but end up selling them illegally.³³

2.3.3 AML/CFT Supervision and Risk Mitigation

All respondents indicated that they had designated dealers in PMS as accountable institutions. In most countries, the dealers in PMS are supervised for AML/CFT purposes by either the Financial Intelligence Unit (FIU), or the sector regulator. In South Africa, the Financial Intelligence Centre has designated Krugerrand dealers as accountable institutions. South Africa submitted that Krugerrand dealers are required to file cash threshold reports for transactions above R25 000 (Twenty-Five Thousand Rands), report suspicious transactions and terrorist property as well as screen customers against the United Nations Sanctions lists. The Krugerrand dealers and all other

²⁹ <https://www.kimberleyprocess.com/en/what-kp>. (accessed 03 August 2022).

³⁰ <https://www.kimberleyprocess.com/en/what-kp>. (accessed 03 August 2022).

³¹ These countries include Angola, Botswana, Eswatini, Lesotho, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Zimbabwe.

³² Angola Mutual Evaluation Report, October 2012, pg. 20.

³³ Tanzania Terrorist Financing and Hawala Risk Assessment Report, 2022.

dealers in PMS do not have to be licensed and they do not have a licensing authority that can act as a supervisory body.³⁴

33. Nine out of seventeen respondents confirmed that accountable institutions in their jurisdictions identify and mitigate ML/TF risks. In the case of Malawi, the AML/CFT compliance for the sector is just being developed. Furthermore, the sector has a low level of maturity in the submission of suspicious transaction reports. As discussed more fully in section three below, eleven jurisdictions confirmed that they receive suspicious transaction reports, but the reporting levels were very low.

2.3.4 Enforcement and Sanctions

34. Recommendation 34 of the FATF Standards requires that supervisors and competent authorities give PMS dealers and their supervisors guidelines and feedback in their implementation of the standards. All the responding countries have sanctions for non-compliance with AML/CFT Requirements in their legislation. However, there was no indication of these sanctions being imposed on entities in the PMS sector that do not comply with AML/CFT obligations.
35. Overall, the study established that there is regulation for dealers in PMS in the ESAAMLG region. While the ESAAMLG region has taken strides in understanding the ML/TF risks in the sector, the countries could benefit more from sectorial risks assessments. The NRAs that were conducted by member countries had a number of weaknesses as some key stakeholders did not participate in the risk assessments. The low level of supervision for AML/CFT purposes in the sector has exposed the region to ML/TF vulnerabilities.

³⁴ South Africa Sector Risk Assessment: Kruger Rand Dealers, February 2022, pg. 5.

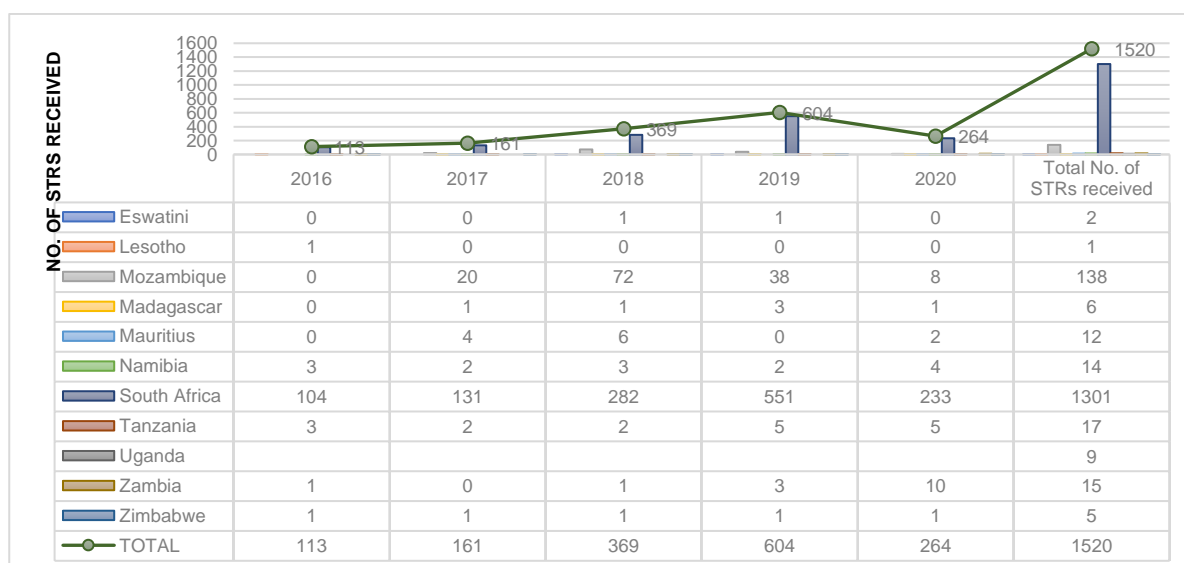
CHAPTER 3: FINANCIAL INTELLIGENCE UNITS

36. The primary objective of the Financial Intelligence Units (FIUs) is to coordinate their countries' Anti-Money Laundering, Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) frameworks. In the advancement of such object, the FIUs work with relevant stakeholders such as regulatory and supervisory bodies, private sector, Law Enforcement Authorities (LEAs) and the Office of the Prosecutor General, amongst others. In furtherance of this, the FIUs receive and analyse data, which is used to identify proceeds of predicate offences to ML/TF and PF. The outcomes of each FIU's analytical work are availed to Competent Authorities (CA) in the form of intelligence disclosures. Such are used in investigations, and asset forfeiture activities relating to ML/TF and PF. As a supervisory body, the FIUs also play a significant role in presenting trends, case studies and guidelines to Accountable Institutions to enhance the managing of emerging risks.

3.1 Suspicious Transaction Reports related to Illicit Dealing in Gold, Diamond and Rubies

37. Out of the seventeen jurisdictions which responded to the questionnaire, six jurisdictions indicated not to have received any STRs relating to illicit dealings in gold, diamonds and rubies and associated ML/TF for the past five (5) years (2016 to 2020). Eswatini, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe have received STRs relating to illicit dealings in either gold, diamonds, or rubies and associated ML/TF.

Chart 1: Number of STRs received by member countries per annum



38. Half of the STRs were submitted by Financial Institutions and less than 1.25% was submitted by dealers in precious metals and stones and other accountable institutions. The low number of reports from dealers in precious metals and stones can be partially explained by an earlier finding on the lack of controlling measures present at accountable institutions.

3.2 Financial intelligence reports and feedback from Law Enforcement Agencies (LEAs)

39. From the STR statistics received, the general finding is that countries analyse and disseminate intelligence reports to LEAs. Despite a high number of STRs received, South Africa disseminated only eight out of the one thousand three hundred and one STRs received because it applies a prioritization and selection method due to the high volume of STRs that are received. This selection method does not place priority on PMS related STRs as their NRA did not identify them as a high-risk sector. The analysis of the data of the ten jurisdictions excluding South Africa shows that 28% of all STRs were referred to the Law Enforcement Agencies.
40. Out of the eleven jurisdictions that received STRs and disseminated intelligence reports to LEAs, eight jurisdictions have been receiving feedback from LEAs. Most of the financial intelligence resulted in investigations, with three reports at the level of prosecution and for one report (Lesotho), the suspect was arrested, and an amount estimated to an equivalent of USD 59 000 (Fifty-Nine Thousand USD) together with vehicles were confiscated.³⁵ No convictions had been made at the time of the study.

3.3 Information Sharing

41. FIUs generally have a common mandate, serving as a national centre for the collection, analysis, and dissemination of information regarding money laundering and the financing of terrorism. Despite this common mandate, the analysis revealed that 12 FIUs had not exchanged information relating to illicit dealings in PMS and the associated ML/TF with other agencies. The analysis further revealed that the other 5 jurisdictions indicated unknown status (N/A) with regards to exchange of such information. No reason has been established to explain the failure of FIUs to exchange information relating to illicit PMS.

³⁵ This report is detailed further in STR3 case study in the Trends and Typologies section.

42. With regards to the procedures followed when requesting for information from agencies within various jurisdictions on money laundering and terrorist financing relating to illicit dealing in gold, diamond and rubies cases, the analysis showed that 90% of the jurisdictions used or followed various procedures when requesting such information.

43. The table below indicates the common methodologies followed by various jurisdictions as per information provided:

Table 2: Sharing of Information Methodologies

Method 1	Method 2	Method 3
The request can be submitted using goAML or to a dedicated email address.	Issue a letter of request for information or an email to the relevant authorities.	For cases of requests for information from the Financial Intelligence Unit, or for money laundering related to trafficking in gold or mineral resources, an official request should be made to the Chief Executive Officer.
Requests for information are submitted manually or through the goAML	A formal letter of request is made to the Director, who then refers it to the Analysis department for processing.	All requests and responses are subject to strict authorization by the Head of FIU. The requests are made formally in writing, directly between the respective Heads of FIU's. The requests and responses are channelled through the Egmont Secure Web. In situations where the ESW is not applicable, the requests and responses are channelled through official encrypted email.

Source: Questionnaires

44. Finally, the findings revealed that only three (3) FIUs received requests from agencies and other jurisdictions. The highest number of requests of one hundred and seventy (170), were made to the South African FIU while five (5) and three (3) were requests made to Mauritius and Uganda FIUs, respectively. Thirteen (13) FIUs did not receive requests to share information pertaining to money laundering and terrorist financing relating to illicit dealing in gold, diamond and rubies either from local agencies or other jurisdictions.

3.4 Trends and Typologies

45. Trends and typology reports play an important role when it comes to understanding and communicating the various ways in which the PMS sector can be used for ML/TF. The extent to which an FIU is able to produce such reports impacts the effectiveness of key stakeholders' ability to understand and combat ML/TF within the PMS sector.

46. From the findings, ten (10) jurisdictions indicated that they had not identified any trends connected with illicit dealings in gold, diamonds, and rubies. This comes as no surprise as six (6) of the jurisdictions indicated not having received **any** STRs relating to the said PMS and most of those that did, had minimal reports received in comparison to the jurisdiction with the highest submissions. From those that had identified trends/methods and submitted sanitized STRs, the following were captured.

STR 1: Trading in PMS Without Permits

The FIC Zambia analysed STRs on suspected illegal mining and trade in precious metals involving prominent influential persons (PIPs) holding positions in a public institution and a political party. Members of the local community were induced to illegally mine precious metals by these individuals. The PIPs would then transport the illegally mined precious metals and sell them locally to Zambians and foreign nationals. Analysis further revealed that over USD 8 Million was realized. It was observed that the subjects acquired property which included land, buildings, motor vehicles and houses. The analysis further showed that some of the proceeds were invested in fixed term deposit accounts and in liquor store businesses or transferred through mobile money service providers.

STR 2: The use of motor vehicles to smuggle PMS.

The FIC Zambia received a STR report which indicated that the subjects buy several luxury motor vehicles in cash. These vehicles will be registered into the name of several people that are not linked to the syndicate. The beneficial owner of these vehicles will be the syndicate members. The vehicles were used to smuggle gold in hidden fitted compartments. The syndicate member will be the owners of several second-hand shops dealing in jewellery.

STR 3: The selling of both genuine and fake diamonds through a legitimate enterprise

In 2016, the Financial Intelligence Unit (FIU) Lesotho embarked on an awareness campaign which was aimed at sensitizing members of the public about its mandate and to also plead with the public to partake in the fight against ML/TF. The campaign was conducted through Radio Stations and a telephone number was provided for whistleblowing.

Owing to that, the Monitoring and Analysis Personnel received a call from unidentified Caller. The Caller disclosed to the Analysts the activities that were carried out by Z. Following the tipoff, the FIU used its powers as contained under Section 15(1) of MLPCA of 2008 as amended and requested financial records of Z from different Banks. On analysis of the bank statements, majority of funds were noticed coming from South Africa. It was further established that the funds were for purchase of diamonds and most buyers were based in South Africa. Z was selling genuine diamonds as well as fictitious ones to different people who were not sure of genuine diamonds.

The funds obtained out of that were used to buy vehicles, establish a butchery and a public bar while some were self-laundered. That is the extent to which the analysis could expose.

The financial intelligence report was duly shared with the Directorate on Corruption and Economic Offences which in turn initiated investigations. Ultimately Z was arrested but later released on bail. The investigators were able to seize the assets which valued to plus M1million three vehicles included. The case was still pending in Court at the time of writing the report.

47. In addition to the above case studies, Zimbabwe reported that smugglers move gold and diamonds across jurisdictions, and proceeds are either deposited directly into banks or used to purchase fast moving consumer goods for resale (in USD). Subjects make use of preloaded bank cards to be used by syndicate members. The syndicate will use local unlicensed refineries to smelt the gold and second-hand jewellery. Individuals with companies in the mineral sector, use their personal accounts to transact to the detriment of their company business accounts and send proceeds abroad to tax havens.
48. The jurisdictions that were able to produce typology reports stated that the typologies were related to illicit dealings in PMS or addressed it as a portion but were not entirely about illicit dealings in PMS. The exception is Madagascar which stated the existence of a typology on “*ML through proceeds generated from illicit dealings in gold and virtual assets*”.³⁶ This implies that a huge gap exists in the region’s ability to identify methods used by criminal syndicates when illicitly dealing in PMS and therefore a possible hindrance in understanding the vulnerabilities at hand and applying commensurate control measures.

3.5 Challenges Faced by FIUs

49. FIUs face several challenges most of which relate to the receipt and availability of information from stakeholders. A significant number of FIUs indicated having not received any STRs relating to illicit dealings in PMS as a result of inadequate, or no reports, or other information being escalated to the FIU. One jurisdiction (Zimbabwe) noted that the lack of use of financial intermediaries to conduct business transactions resulted in the absence of bank records relating to gold dealers. This contributed to the low number of STRs submitted by financial institutions, thus presenting a major hindrance in the FIUs’ ability to execute their duties of providing relevant competent authorities with quality financial intelligence and other information to enable effective combating of illicit dealing in PMS and associated ML/TF, as well as getting an understanding of the extent of illicit dealing in PMS in the jurisdiction.
50. There is a general prevalence of inadequate coordination and cooperation between domestic agencies, part of which is attributed to the existence of several legislations which are enforced by different LEAs. Without proper coordination amongst these different entities, the effective policing of illicit trade in PMS is significantly hindered. Other challenges facing most of the FIUs

³⁶ Source: 2021 Annual Report of SAMIFIN

include the transnational nature of illicit dealing in PMS, as well as inadequate expertise and training in understanding PMS trends.

51. It is imperative that jurisdictions increase stakeholder collaboration to be able to feed the FIUs with relevant STR data. The nature of FIUs as report receiving entities means that they can only be really effective when provided with relevant reports and information and as it stands, almost half of the FIUs are not receiving PMS related STRs. This however does not imply the absence of illicit trade in PMS but rather could be an indicator of a significant lack of reporting from both private and public sector stakeholders. The lack of STR data is a huge contributing factor to the lack of typology reports relating to illicit dealings in PMS, which if available, would significantly improve the region's overall containment of financial crimes associated with gold, diamonds and rubies.

CHAPTER 4: INVESTIGATIONS AND LAW ENFORCEMENT

52. All respondents in the region have units that investigate ML and associated predicate offences including cases involving illicit dealing in PMS. The existence of such units is a step in the right direction as this will ensure that financial investigations are thoroughly conducted in ML/TF and its associated predicate offences.
53. Law Enforcement Authorities (LEAs) in the ESAAMLG member countries have adequate investigative powers to conduct investigations on cases relating to the illicit dealings in PMS and to conduct financial investigations. In addition, competent authorities that are key stakeholders in the investigation of PMS are involved in the process in all the jurisdictions. However, despite LEAs having adequate investigate powers to conduct financial investigations, the study showed that most LEAs do not have adequate capacity to identify and investigate cases involving illicit dealing in PMS and this was mainly attributed to lack of training. Further, it was noted that LEAs in most jurisdictions focus more on investigating predicate offences and do not conduct parallel financial investigations for them to identify the extent of criminal networks, identify and trace the proceeds of crime that are, or may become, subject to confiscation; and further to develop evidence which can be used in criminal proceedings.

4.1 Identification of cases on illicit dealing in PMS

54. The general response from jurisdictions is that they obtain intelligence on illicit dealing in PMS from various sources e.g., the public and from various institutions, including government departments at national and international level. They also utilize both mainstream and social media platforms to obtain information.

4.2 Case investigations/Prosecutions

55. Responses from three jurisdictions namely Botswana, Tanzania and South Africa showed that the said countries have investigated and secured convictions in illicit dealing in unwrought gold. Other respondent jurisdictions indicated that they had investigated cases to do with the offence of unlawful possession of unwrought gold. Further, analysis of the responses received from member countries showed that Zimbabwe, Botswana, South Africa, Namibia, Tanzania and Angola have investigated cases involving illicit dealings in Diamonds with South Africa, Namibia, Tanzania and Botswana securing convictions in some of the cases prosecuted. It was also noted that out of

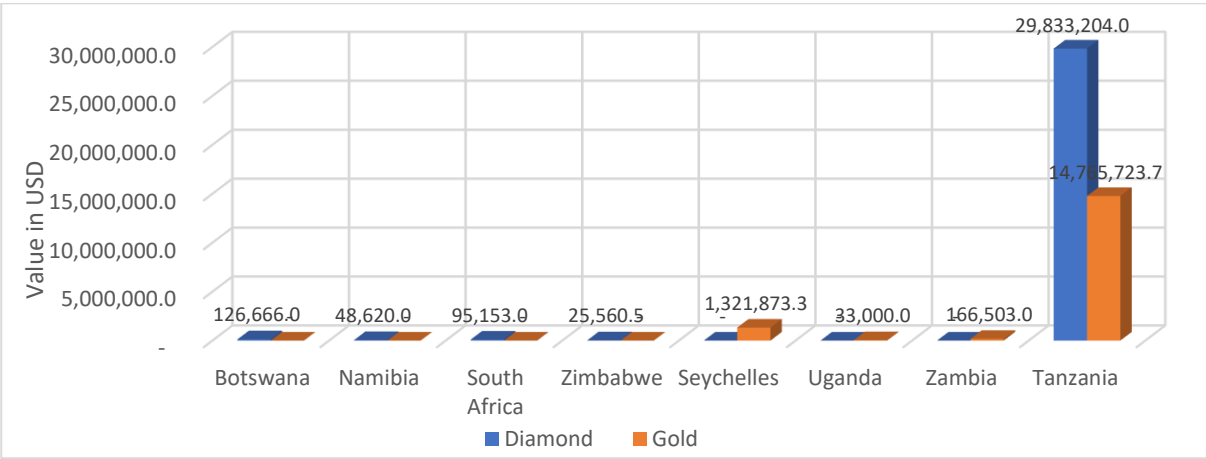
the seventeen countries that responded to the questionnaire, only five countries included ML charges, while other jurisdictions charged for the predicate offences only.

56. Statistical information above indicates that law enforcement in the member countries’ focus is essentially on predicate offences of either dealing or unlawful possession of PMS to the exclusion of ML/TF. It was noted that investigative authorities in the region are comfortable with the traditional policing offences and are therefore slow to change to the relatively new phenomenon of ML/TF. No country has provided information on TF related to PMS despite literature review showing that Mozambique has witnessed horrific attacks by terrorists, which left dozens of people dead, thousands displaced from their homes and a massive gas project being put on hold in Cabo Delgado. Research further showed that the attacks were linked to an Islamic militant group operating in East Africa. Northern Mozambique is renowned for the mining of rubies, the region where Cabo Delgado is found. In spite of the foregoing, no information on cases regarding rubies and associated TF was received from Mozambican authorities.

4.3 Seizures

57. In the period under review, eight countries made seizures of proceeds amounting to USD 46,326,304.00. The table below shows the seizures made by countries relating to Gold, and Diamonds. There were no seizures relating to rubies that were reported.

Chart 2: Seizures relating to Diamond and Gold per Count

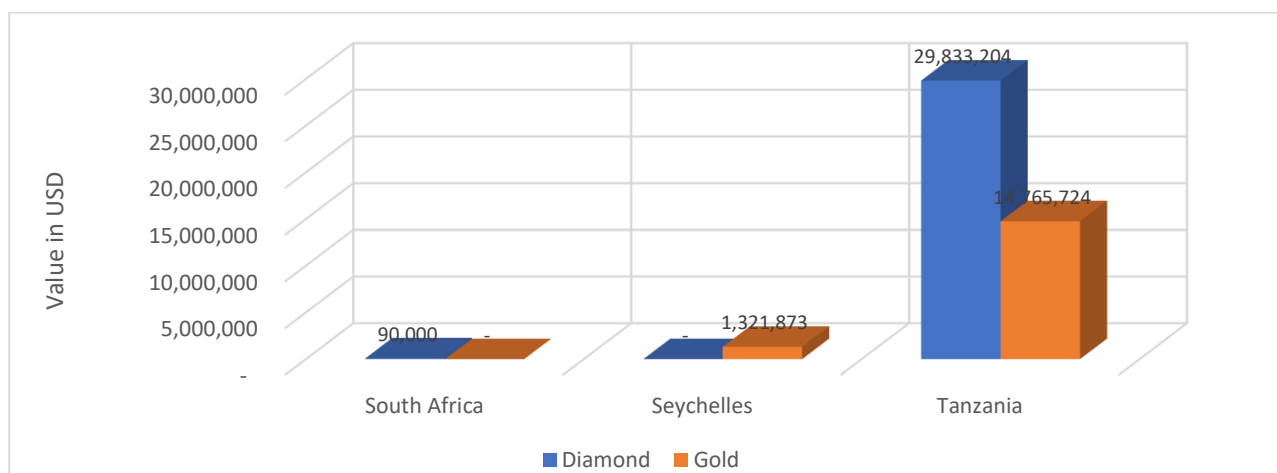


Source: Questionnaires

4.4 Confiscation

58. In the period under review, three (3) countries confiscated proceeds which were seized following conclusion of court proceedings. The total amounts confiscated in cases which were concluded amounted to USD 29,923,204 and USD 16,087,597 relating to Diamonds and Gold, respectively. There were no confiscations relating to rubies that were reported which is consistent with the finding that there were no seizures reported for rubies. The table below shows the confiscations made by three member countries.

Chart 3: Confiscations related to Diamonds and Gold



Source: Questionnaires

59. Most countries that responded to the questionnaire indicated that both domestic and foreign nationals are involved in illicit dealing in PMS. It is further noted that the prevalence is high amongst the locals who are leading in the commission of illicit dealing in gold and diamonds. No cases relating to rubies were reported.
60. Analysis of the case studies from respondent jurisdictions showed that despite there being adequate legal and institutional framework to investigate ML and its associated predicate offences, LEAs in most jurisdictions were not pursuing ML investigations and as a result, offenders were in most instances charged for the predicate offences only. Below are sanitized case studies from three jurisdictions.

CASE STUDY (THREE CASE STUDIES FROM BOTSWANA)

Case study: A

On 31/07/2020 a foreign female national aged 43 years was arrested by the police in possession of unwrought precious metals. The precious metals were two pieces and some powder. They were wrapped in two transparent plastic bags and contained in a handbag she was carrying. The suspect was arrested subsequent to a tip off that she was offering gold for sale. Upon questioning the accused alleged that she got the unwrought gold from another foreign national she could not name.

The two gold pieces and powder were sent to Botswana Geoscience Institute for examination by a government geologist and were all confirmed to be unwrought gold. One piece weighed 1.4616g valued at an estimated equivalent of USD 8 while the other weighed 1.3227g and valued at an estimated equivalent of USD 9. The powder weighed 1.6271g and valued at an estimated equivalent of USD 9. The total value being an estimated equivalent of USD 25

The accused was charged with unlawful possession of unwrought precious gold contrary to section 3 of the Unwrought Precious Metals Act (Cap 20:03), Laws of Botswana. The case was registered with a Magistrate Court where she was convicted on her own unequivocal plea of guilt.

She was sentenced to a fine of an estimated equivalent of USD 195 or imprisonment for 12 months in default.

61. While financial investigations were not conducted, the jurisdiction considers illicit possession in PMS as a serious offence. The legislation prescribes that the maximum fine for the sanction is an equivalent of USD 390. The accused was fined 50% of the maximum penalty applicable despite the negligible value of the gold in her possession.

Case Study: B

On the 16/10/19 two Botswana males aged 40 and 45 years and a foreign male aged 43 were arrested for unlawful possession of rough diamonds. The first suspect was arrested at a shopping mall in Palapye following a tip-off that he was in possession of some diamonds and is offering them for sale. Upon search he voluntarily handed to the police a black wallet with a small clear plastic sachet containing sixty-six (66) small black/greyish stones all suspected to be rough diamonds. He implicated the other two suspects during interview.

The stones were taken for analysis and a geologist confirmed all 59 of the 66 stones to be rough diamonds valued at USD 90 weighing 17.51 carats whilst the seven were confirmed to be non-diamonds. The accused persons were charged for unlawful possession of rough/ uncut diamonds contrary to Section 6 (3) of the Precious and Semi-Precious Stones (Protection) Act (Cap 66:03), Laws of Botswana.

Accused number 1 was convicted on his plea of guilty and was sentenced to five years imprisonment. The other two accused persons pleaded not guilty and the case proceeded to trial.

Case Study: C

On 29/08/19 a Botswana male aged 49 years was arrested at Ramatlabama Border (shared with RSA) by the police acting on a tip off that he has some diamonds in his possession and he was on his way to sell them in South Africa. Upon searching him four (4) shiny stones suspected to be rough/ uncut diamonds were retrieved from his pockets. The four shiny stones were tested by a geologist and all confirmed to be rough/uncut diamonds weighing 28.22 carats valued at an estimated equivalent of USD 4300.

The accused was charged for unlawful possession of rough/uncut diamonds contrary to Section 6 (3) of the Precious and Semi-Precious Stones (Protection) Act (Cap 66:03), Laws of Botswana.

Case completed before court; accused found guilty and sentenced to 5 years imprisonment, 3 years suspended.

CASE STUDY: 2 (TWO CASE STUDIES FROM UNITED REPUBLIC OF TANZANIA)

CASE STUDY: E

An insurance company received a complaint by an international logistics company acting on behalf of a buyer from a Mid-Eastern country A, concerning the sudden turn-around of their life insurance agent handling the policy premiums for shipment of gold to Europe. Almost half of the funds from a European country were immediately wired back (round-tripping) from a newly opened bank account jointly managed by a Ugandan national with global investment expertise, and a national from a Mid-Eastern country B later reported to have an extremist organisation funded by country A, using gold smuggled through Uganda. The proof of purpose provided by the entities involved in the transaction, was found to lack credibility. The case involved a total amount of an estimated equivalent USD 65,518.50 and is still under investigations. An estimated equivalent of USD 33,000 has been seized.

Case Study: D

FIU Tanzania received a suspicious transaction report from Bank E alleging individual who holds a Chinese national passport Mr A, has a banking relationship with Bank E since Dec 2009. Mr A had two accounts in TZS and USD accounts.

Bank E stated that Mr A indicated that he expected income of an estimated equivalent of USD 8,620 per month from his employer as salary. However, on reviewing of Mr A's account revealed that he frequently deposited cash directly into his accounts (TZS & USD) and also had several other third parties (individuals and companies) deposit funds on his behalf on different dates which ranged from an estimated equivalent of USD 20,000. 00 to USD 84,000 within a period of four months (between May 2018 and September 2018) without apparent cause. The turnover of Mr A's TZS & USD accounts raised a red flag, and Bank E filed STR

Analysis suspected that the accounts were being used for business purposes under the business name HHK Limited, a company owned by one Mr B, based in Belgium. Open source indicated that Mr B has several cases on smuggling of Precious Metal.

Mr A, who had obtained a license to export gold from Tanzania was buying precious stone such as Ruby, Diamond and Emerald from unlicensed individuals and shipping it to Mr Y in Belgium through United Arab of Emirates (UAE). Investigation in respect of the third parties' deposits revealed that some of the individuals/companies deposited money into the account of Mr A on behalf of individuals based in Belgium.

FIU restricted the accounts and disseminated Intelligence Report to the Director of Criminal Investigations (DCI).

Feedback from DCI stated that in the course of investigation, the subject Mr. A was charged for smuggling precious metals and other charges including Money Laundering and now he is in jail facing for X years, and funds in his accounts and two cars were confiscated.

CASE STUDY: 3 (SEYCHELLES)

Case study: F

In October 2021, a pleasure boat which was in transit in Seychelles was boarded by Customs and the Anti-Narcotics Bureau of the Seychelles Police (ANB) and upon searching, 22 pieces all of which were later confirmed to be 23ct of pure gold all weighing 23.5kgs were found. The boat had come from Madagascar and the owner of the boat claimed that he had permission to be in possession of the gold. Madagascar was contacted to verify the information and a request for mutual legal assistance was sent in this regard. In their response, Seychelles was informed that there was an active prohibition on the exportation of gold from Madagascar. The FCIU seized the gold and pursued an application for civil confiscation under Section 3 of the Proceeds of Crime (Civil Confiscation) Act, 2008 which was granted in a ruling delivered on the 18th of January, 2022.

22 pieces of gold weighing 23.5kgs, all 23ct worth approximately; USD 1,321,873.29

4.5 Coordination Mechanisms (Joint investigations)

62. National and international coordination mechanisms are of paramount importance in all investigation processes. They are necessary when conducting investigations requiring the input and expertise of various stakeholders, whether law enforcement or not. Stakeholder roles should be clearly defined for the purposes of accountability and monitoring. Criminal justice system is a value chain that starts from identification and investigation of an offence and ends with a judicial process. A weak link at any stage of the system would lead to below par results or a complete failure. A coordination mechanism in the form of task forces at both a strategic and operational level has worked in many jurisdictions.
63. The study shows that most of member countries in the ESAAMLG region have coordination mechanisms in place. From the seventeen countries that responded to the questionnaire, eight countries responded that they have national and international coordination mechanisms in investigating cases including illicit dealings in PMS and related ML/TF. Three countries responded that they do not have such mechanisms and five countries did not respond to the question.
64. The study has established that member countries conduct joint investigations with domestic and international counterparts. Eight countries stated that they had conducted joint investigations with domestic agencies and, five countries did not conduct domestic joint investigations during the reporting period. Regarding joint investigations with international counterparts only four countries conducted such operations.

The table below depicts the country responses on joint investigations:

Table 5: Joint Investigations Conducted with Domestic and International Counterparts

Country	Joint investigation with domestic agencies	Joint investigation with international counterparts
Angola	Yes	None
Botswana	Yes	None
Lesotho	Yes	Yes
Rwanda	Yes	Yes
South Africa	Yes	Yes
Tanzania	Yes	Yes
Uganda	Yes	Yes
Zimbabwe	Yes	None

Source: Questionnaires

4.6 Challenges faced by LEAs during investigations

65. Countries reported various challenges encountered by LEAs and other competent authorities when executing their duties in combating ML/TF related to illicit dealings in gold, diamond and rubies. The recurring challenges in order of frequency are as follows:

- Inadequate or no reports and other information being escalated to investigators concerning illicit dealings in PMS activities;
- Inadequate training and expertise;
- Inadequate financial resources; and
- Difficulty in bringing kingpins to book.

66. It is noted that capacity building in terms of expertise and logistical support is inadequate. Respondent member countries who have conducted National Risk Assessments in the region and have not identified illicit dealing in PMS as one of the top proceed generating predicate offence indicated that resources were channelled to top priority offences as identified by the NRA in the respective jurisdiction. The difficulty in bringing kingpins to book is another significant challenge in dealing with PMS cases. It is not clear from the responses as to whether LEAs focus on mules or are not adequately trained to identify kingpins. The continual prosecution of mules instead of kingpins is not an appropriate approach against organised crime. Covert investigative techniques like interception of communications and controlled delivery can be helpful to identify kingpins. However, despite LEAs in some jurisdictions having adequate laws to investigate ML and its associated predicate offences, they were not effectively making use of the wide range of investigative powers provided in the Laws. It was further noted that in some jurisdictions, the laws does not provide for some investigative powers such as controlled delivery.

CHAPTER 5: GATEKEEPERS INCLUDING CUSTOMS' ROLE

67. International standards relating to customs matters require that all goods, including means of transport that enter or leave the customs territory are subject to customs control. In compliance with these standards, all respondents indicated that they have adequate powers to enforce border controls.

68. Responding jurisdictions indicated that customs have powers to detain imported or exported illicit PMS. These powers allow customs to search, seize, control and detain both goods and persons, for referral to LEAs for criminal investigations and prosecutions.

5.1 The Control Measures in Place for Customs Officials

69. In carrying out their mandate, customs officials employ different techniques which include to the following: non-intrusive inspections using scanners, sniffer dogs, roadblocks, customs patrols, physical inspection of goods and passengers, use of hidden cameras, recorders, recruitment of sources of information, and conducting guided interviews with the police assistance whenever necessary to ascertain the material truth.

5.2 Trends in the majority of cases

70. Only three (3) member states namely: Madagascar, South Africa and Zambia adequately specified such trends. The common trend used by criminals in Madagascar to smuggle PMS was in the form of Jewelry packages. South Africa indicated that criminals smuggle PMS through their luggage when crossing borders ³⁷and through international mail.

5.3 Destination Jurisdictions and Mode of Transport

71. The study revealed that most of the illicit dealers in PMS undertake this activity with foreign countries as their destinations. In the region, the destination³⁸ countries were listed as South Africa, Botswana, Uganda, Tanzania, Zambia, and Mozambique. The United Arab Emirates, China, Russia, Belgium, India, and USA were the commonly stated destination countries outside the region. The preferred modes of moving these commodities were by road for the countries in the region, and by air and sea for those outside the region.

³⁷ Borders are entry and exit point for people, goods and means of transport. These may be physical or artificial line that separates geographic areas, namely: land, air, sea, river and rail borders.

³⁸ It cannot be confirmed whether the destinations listed were final destinations or transit points.

5.4 Information Sharing

72. The responses received from the member countries indicated that Customs authorities share information relating to illicit dealings in PMS with other agencies such as criminal investigation services, police, FIU, Ministry of Mines and Energy and also Central Bank. Angola and Namibia have indicated that they also share such information with the World Customs Organization (WCO), The Regional Intelligence Liaison Office for Eastern and Southern Africa (RILO ESA), while Uganda indicated that they only share such information with their local Central Bank when it involves Gold only.
73. From the findings, only six jurisdictions provided statistics on information shared by Customs officials with other agencies during the review period of 2016 to 2021, namely Angola, Mauritius, Namibia, South Africa, Zambia and Zimbabwe. Records show that the information was mostly shared with the country's local police and FIU's. A significant volume of information related to illicit dealings in PMS was shared by South Africa and Zambia Customs with their local police.

CHAPTER 6: INTERNATIONAL COOPERATION

74. International co-operation is an essential component for effective prevention and enforcement of ML/TF and sharing of confiscated assets. Countries are expected to provide assistance to other jurisdictions in relation to cross border investigations. Both formal and informal information exchange are crucial to the investigations. FATF Standards require countries to have laws and mechanism in place to facilitate a wide range of international co-operation that enable competent authorities to fight against transnational organized crime.
75. The study indicated that most of the jurisdictions have legal frameworks that establish and empower competent authorities to co-ordinate with different agencies domestically to facilitate mutual legal assistance when there is a need to request or when information is requested by counterparts. It was further noted that nine (9) jurisdictions among the seventeen (17) respondents indicated to have mechanisms in place that facilitate sharing of information including information relating to illicit dealing in PMS. However, some of the jurisdictions did not respond to the question. Countries indicated that the information sharing was done through the use of various mechanism which included but were not limited to Mutual Legal Assistance (MLA), I – 24/7 INTERPOL system, the Egmont Secure Web (FIU/FIA), MoUs and Asset Recovery Inter-Agency of Southern Africa (ARINSA). In addition, other jurisdictions indicated that they also share information through World Customs Organisation (WCO) and Regional Intelligence Liaison Office for Eastern and Southern Africa (RILO ESA)
76. Most of the countries in the region indicated they have robust mechanisms to share information. However, only three countries reported to have sent to or received requests related to predicate offences of illicit dealing in PMS with counterparts.
77. However, there are no statistics to indicate that there was any informal request to or from a counterpart to assist with any investigation of predicate offence or money laundering. This connotes that there is limited application of joint investigations when LEAs pursue illicit dealing in PMS cases.
78. Requests made by Botswana, Lesotho, Tanzania and Mauritius were based on the exchange of information to assist in the investigation and sometimes sought to conduct joint investigations. The evidence submitted indicates that there is sufficient co-operation in cases where requests for information were made, with most of the requests sent or received, responded to as shown in the table hereunder.

Table 6: Information Sharing with Foreign Counterparts

		2016		2017		2018		2019		2020	
		Sent	Received	Sent	Received	Sent	Received	Sent	Received	Sent	Received
Botswana	Gold	0	1	0	0	0	0	0	0	0	0
	Diamond	1	1	2	0	6	6	2	2	6	6
	Rubies	1	1	0	0	0	0	2	0	0	0
Lesotho	Gold	0	0	0	0	0	0	0	0	0	0
	Diamond	1	1	4	4	5	5	5	5	5	5
	Rubies	0	0	0	0	0	0	0	0	0	0
Tanzania	Gold	0	0	0	0	0	0	1	0	0	2
	Diamond	0	0	0	0	0	0	0	0	0	0
	Rubies	0	0	0	0	0	0	0	0	0	0
Mauritius	Gold	0	0	0	0	0	0	2	1	0	0
	Diamond	0	0	0	0	0	0	1	1	0	0
	Rubies	0	0	0	0	0	0	0	0	0	0

Source: Questionnaires

79. It is important to note that not all requests made were responded to. Mauritius indicated that a request sent to Madagascar was not responded to and Botswana as evidenced in the table, showed that in 2017, they sent two (2) requests which were also not responded to. Therefore, there is a need for member states to renew their international co-operation strategies to increase information exchange effectiveness and timely provision of feedback.

CHAPTER 7: FINDINGS AND RECOMMENDATIONS

80. The study concludes with a summary of the findings and makes recommendations to ESAAMLG member countries on the best approach to mitigate illicit dealings in PMS and associated ML/TF risk.

7.1 Findings

81. The study revealed that the destination of the illicitly traded PMS is within the region, and/or outside the continent. In the region, the destination countries were listed as South Africa, Botswana, Uganda, Tanzania, Zambia, and Mozambique and that these were in most instances used as transit destinations. The United Arab Emirates, China, Russia, Thailand, Belgium, USA and India were the commonly cited countries outside the region. The preferred mode of moving PMS was by road, for the countries in the region and by air and sea for those outside the region.

82. The proceeds are laundered in the domestic economy through the real estate sector; mining sector; automotive industry; construction industry, tourism sector and the financial sector and its related industries. Although some countries have indicated that proceeds were laundered in these sectors, we could not establish the value of the laundered proceeds. Furthermore, there was no information provided on case studies to support this finding.

83. Although the study has not conclusively confirmed a linkage between TF and proceeds of illicit dealing in PMS in the ESAAMLG region and in particular rubies in Northern Mozambique, the possibility cannot completely be ruled out as there are other studies by various researchers who have drawn linkages between rubies and TF. No information was provided by Mozambique that could have helped in establishing a link or none thereof between the illicit dealing in PMS and TF activities.

84. While some jurisdictions have identified the ML/TF risks associated with the PMS sector, the measures applied are not commensurate to the risk that has been identified. The sector is well regulated for prudential regulation but supervision for AML/CFT purposes was still at infancy stage and in other jurisdictions it has not commenced.

85. Over the review period, the FIUs received very few suspicious transaction reports related to illicit dealing in PMS. The financial sector submitted half of the STRs received by FIUs in the period under review while the PMS sector filed less than 1.25% of the STRs. As a result, the region has

inadequate or no reports and other information being escalated to other competent authorities concerning illicit dealings in gold, diamond, and rubies and other related predicate offences. The study found that only Madagascar issued a typology report specifically on illicit dealings in gold.

86. The study found that member countries in the Region have Units that investigate ML /TF associated with PMS. However, the extent of illicit financial flows arising from illicit dealings in PMS could not be established because member countries did not pursue ML investigations. As a result, offenders were in most instances charged for the predicate offences only. Therefore, the extent of illicit financial flows arising in illicit dealing in PMS could not be established and LEAs could not trace and seize proceeds generated from illicit dealing in PMS.
87. All the countries that responded to the questionnaire indicated that border control authorities have adequate powers to handle matters related to illicit dealing in gold, diamond and rubies. However, the study found that most countries in the region have porous borders and this has resulted in them being vulnerable to the vice of illicit dealing in PMS.
88. Respondent Countries highlighted the issues on corruption of public officials who man the entry and exit points as one of the challenges being faced when dealing with cases of illicit dealing in PMS. However, no jurisdiction explicitly gave a case study where a public official was arrested for corrupt practices while handling such cases.
89. Some countries in the region do not have national and international coordination mechanisms in investigating cases of illicit dealings in PMS and related ML/TF. Records show that customs authorities share information with other agencies such as the local police and FIUs. In addition, two countries indicated that they also share such information with the World Customs Organization (WCO) as well the Regional Intelligence Liaison Office for Eastern and Southern Africa (RILO ESA).
90. Most respondent countries have a legal framework that establish an authority with powers to facilitate Mutual Legal Assistance (MLA) and they have other mechanisms of information sharing. Despite the availability of frameworks to facilitate international cooperation, the statistics submitted by the member countries indicate that majority of the respondents had not engaged in international cooperation with respect to illicit dealings in PMS.
91. Member countries provided insufficient information to draw general conclusions on the ML/TF risks related to illicit dealing in PMS.

7.2 Recommendations

92. Member countries need to conduct sectoral risk assessment for ML/TF purposes and develop action plans to mitigate the deficiencies identified in the PMS sector. Further, the regulators/supervisors should begin to impose sanctions on the accountable institutions in the PMS sector that do not comply with AML/CFT obligations.
93. Member countries should prioritise capacity building through the provision of adequate financial resources and training of competent authorities for ML/TF related to PMS, including use of specialised investigative techniques. Member countries should establish and operationalise task forces to prevent and investigate ML/TF related to PMS and establish Public Private Partnerships between LEAs and FIUs. Law Enforcement Agencies should conduct parallel financial investigations related to illicit dealing in PMS to identify the extent of criminal networks and to identify and trace proceeds generated from the crime.
94. The member countries should implement measures aimed at preventing cross border smuggling of PMS and associated proceeds.
95. Member countries should maintain updated qualitative information and statistics and use them in the understanding of risk and trends related to ML/TF related to Illicit dealing in PMS.
96. Member countries should increase exploitation of international cooperation frameworks and networks in existence so as to effectively deal with the transnational nature of illicit dealing in PMS.

Annexure 1: Questionnaire



ESAAMLG TYPOLOGIES PROJECT ON ILLCIT DEALINGS IN GOLD, DIAMOND, RUBIES AND ASSOCIATED MONEY LAUNDERING/TERRORIST FINANCING IN THE ESAAMLG REGION

Initial Questionnaire

The Money Laundering (ML)/Terrorist Financing (TF) risks of any nation is strongly linked with proceeds generated from predicate offences prevalent in that jurisdiction. The predicate offences may include all or part of the twenty-one (21) predicate offences listed in the FATF Glossary.

Illicit Dealing in Precious Metals and Stones (PMS) in particular Gold, Diamond and Rubies continues to pose great concern in the ESAAMLG Region and globally. This questionnaire seeks to solicit information and data from member countries in relation to gold, diamond, rubies and associated ML/TF in the ESAAMLG region. The information will be analysed and used to compile a report.

The overall objective of the typology project is to determine the extent of illicit dealings in gold, diamond and rubies in the ESAAMLG Region³⁹; how it happens and is organised, establish who is involved, where the crimes are most concentrated and the factors that give a conducive environment for the crimes to thrive and assess who is benefiting from the illicit dealings. The typology aims to understand the resultant money laundering and terrorist financing from the associated crimes. It is

³⁹ In the context of the study, illicit dealings in PMS refers to the trafficking and illegal trade of PMS. This includes operating without a license or operating outside the defined conditions by the licensing authority.

expected that the recommendations made by typology report will be used by the member countries and other stakeholders to develop institutional capacity, policies, strategies and other measures against ML/TF arising from illicit dealings in Gold, Diamond and Rubies.

The information obtained through this questionnaire will assist the Project Team in carrying out the study.

The questionnaire is divided into the following sections:

- Section A:** General Information and Legal framework relating to illicit dealings in Precious Metals and Stones
- Section B:** Preventive measures
- Section C:** Financial Intelligence Unit
- Section D:** Law Enforcement and other Investigative Authorities
- Section F:** International Cooperation
- Section G:** Gatekeepers, including Customs' role

Respondents are requested to return their completed questionnaires by 01st November 2021 to the ESAAMLG Secretariat. To further assist in processing the responses, please indicate the following information in the subject heading of the e-mail transmitting the response(s): “RTMGTyp: illicit dealings in Gold, Diamond ,Rubies and Associated ML/TF [*name of responding country / jurisdiction/ contact person/ contact phone or cell number*]”.

THANK YOU FOR PARTICIPATING IN THE PROJECT.

September 2021

SECTION A: General Information and Legal framework relating to illicit dealings in Precious Metals and Stones

(This part should be completed by officials from the FIU/Ministry of Justice)

Serial No	Question	Response
1.	i) How is illicit dealing in Precious Metals and Stones defined in your jurisdiction? Define the scope of activities that are covered and or considered when defining Precious Metals and Stones?	
	ii) Does your jurisdiction criminalise illicit dealing in Precious Metals and Stones? Please, provide extracts of the relevant legislation (and supporting regulations) that provide for the criminalization of illicit dealing activities.	
	iii) How do you classify predicate offences for money laundering in your jurisdiction? Please, provide extracts of the relevant legislation (and supporting regulations) that provide for the criminalization of illicit dealing in PMS activities.	
	iv) Does your jurisdiction criminalise terrorist financing? Please, provide extracts of the relevant legislation (and supporting regulations).	
	v) What are the penalty provisions for these offences? a) Trafficking and illicit trade in PMS. b) money laundering c) terrorist financing	
	vi) Have you had any ML or TF cases involving illicit dealing in precious stones and metals?	

	<p>vii) If “Yes” to above, provide four cases for case studies i.e two (2) ML cases and two (2) TF cases. In relation to TF cases, may include those funded by legitimate sources from proceeds of precious metals and stones.</p>	
2.	Which sectors of the local economy are mostly used to launder proceeds generated from illicit dealing in PMS?	
3.	Are there indications as to whether the proceeds of illicit dealings in PMS finance local or international terrorist activities?	
4.	<p>What are the total proceeds generated from:</p> <p>i) Domestic illicit dealing activities?</p> <p>ii) Illicit dealing activities outside your jurisdiction?</p>	
5.	<p>Would you deem authorities in your jurisdiction to have an appreciation and understanding of the scale of illicit dealing in precious metals and stones, involving the following:</p> <ul style="list-style-type: none"> • licensed entities (including artisans), • unlicensed entities • potential buyers, 	
6.	i) If the metals are destined for foreign jurisdictions, please list the destination countries.	
	ii) Please list the mode of transport for the precious metals and stones to the destination countries.	
<p style="text-align: center;">SECTION B: Preventative Measures</p> <p style="text-align: center;">(This part should be completed by license issuer in conjunction with supervisors for AML/CFT in the sector)</p>		
7.	Does your jurisdiction have bodies that regulates and supervise dealings in precious metals?	

8.	What are the core functions of this regulator/supervisor and what are its powers?	
9.	Do dealers in gold, diamond and rubies have to be issued with permits and licenses? Please list the types of licenses and permits.	
10.	Has your jurisdiction taken measures to identify and understand ML/TF risks associated with dealing in precious metals and stones? If yes, what were the key findings of the risk assessment?	
11.	<ul style="list-style-type: none"> i) Are dealers in precious metals/ stones designated as accountable institutions? ii) Supervised for AML/CFT compliance? iii) Sanctioned for non-compliance with AML/CFT requirements? 	
12.	Do accountable institutions in your jurisdiction identify and mitigate risks related to dealing in gold, diamond and rubies?	
<p style="text-align: center;">SECTION C: Financial Intelligence Unit (This part should be completed by officials from the FIU)</p>		
13.	How many STRs are received per year relating to illicit dealings in gold, diamond and rubies as well as related ML/TF. Give figures for the past 5 years, (2016 to 2020)	
14.	Which reporting sector (s) have submitted STRs relating to dealing in precious metals and stones?	

15.	How many financial intelligence reports and other information arising from analysis of such STRs were referred to the LEAs?	
16.	i) Do Law Enforcement Agencies (LEAs) provide feedback on financial intelligence reports received from the FIU?	
	ii) If yes, how many of such financial intelligence resulted in identification, tracing, seizures, investigation, prosecution, convictions, confiscations and forfeiture of unlawful assets?	- Identification
		- Seizures
		- Investigations
		- Prosecutions
		- Convictions
		- Confiscations/ Forfeitures
17.	Can the FIU provide sanitized cases of STRS on money laundering/ terrorist financing related to PMS.	
18.	Does the FIU share information with other agencies (domestic and international) pertaining to money laundering and terrorist financing relating to illicit dealing in gold, diamond and rubies ?	
19.	What are the procedures followed when requesting for information from the FIU within your jurisdictions on money laundering and terrorist financing relating to illicit dealing in gold, diamond and rubies cases?	
20.	Has the FIU received requests to share information pertaining to money laundering and terrorist financing relating to illicit dealing in gold, diamond and rubies?	

	If yes, how many requests were from: i) local agencies ii) other jurisdictions (<i>Countries</i>)																							
21. .	Has the FIU been able to establish trends of suspected money laundering/terrorist financing based on the analysis of STRs connected with illicit dealings in gold, diamond and rubies?																							
22.	If yes, what are the trends?																							
23.	Does the FIU have a database for cases of illicit dealings in gold, diamond and rubies or related money laundering/terrorist financing?																							
24.	If yes, does the FIU use the data to develop typology reports relating to illicit dealing in gold, diamond and rubies or money laundering/terrorist financing of/using proceeds generated from the illicit dealings?																							
25.	How many typology reports have been issued/ produced in your jurisdiction relating to illicit dealing in gold, diamond and rubies and/or associated laundering or terrorist financing activities? <table border="1"> <thead> <tr> <th>Typology: Typology reports</th><th>Receiving Organization</th></tr> </thead> <tbody> <tr> <td>EXAMPLE: ML through proceeds generated from illicit dealings in gold</td><td>Police, Revenue/Customs Authority, Immigration, Ministry of Mines</td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>		Typology: Typology reports	Receiving Organization	EXAMPLE: ML through proceeds generated from illicit dealings in gold	Police, Revenue/Customs Authority, Immigration, Ministry of Mines																		
Typology: Typology reports	Receiving Organization																							
EXAMPLE: ML through proceeds generated from illicit dealings in gold	Police, Revenue/Customs Authority, Immigration, Ministry of Mines																							

26.	What challenges are encountered by the FIU when executing its duties in combating ML/TF related to illicit dealings in gold, diamond and rubies activities? (tick your answers in the box provided)	<input type="checkbox"/> Inadequate or no reports and other information being escalated to the FIU concerning smuggling activities - <input type="checkbox"/> Inadequate financial resources - <input type="checkbox"/> Inadequate coordination and cooperation between domestic agencies - <input type="checkbox"/> Inadequate coordination and cooperation with international stakeholders - <input type="checkbox"/> Transnational nature of the crime of smuggling - <input type="checkbox"/> Difficulty in bringing kingpins to book - <input type="checkbox"/> Interference of PEPs - <input type="checkbox"/> Inadequate special knowledge on the predicate offence of smuggling or ML/TF related to smuggling - <input type="checkbox"/> Inadequate training and expertise
27.	Please explain how the said challenges are hindering the FIU in executing its duties of providing relevant competent authorities with quality financial intelligence and other information to enable effective combating of illicit dealing in gold, diamond, rubies and associated ML/TF.	
<p align="center">SECTION D: Law Enforcement and Other Competent Authorities</p> <p align="center">(This part should be completed by LEAs and other Competent Authorities responsible for investigating ML,TF and Associated predicate offences)</p>		
28.	i) Does your jurisdiction have a specialized unit to investigate ML and TF cases? ii) Are there other law enforcement agencies, Supervisors and competent authorities involved in the investigation of PM S cases? Please list them.	

	iii) What investigative powers do Law Enforcement Agencies, Supervisors and other competent authorities have when carrying out investigations on PMS cases?						
	iv) Do these powers include investigation of ML/TF as well as parallel financial investigations?						
	v) Does your jurisdiction have a specialized unit to investigate ML and TF cases?						
29.	<p>Have LEAs or any of the competent authorities ever investigated cases related to illicit trade and trafficking in Gold, Diamond and Rubies? Or cases related to ML/TF linked to proceeds of illicit trade and trafficking in Gold, Diamond or Rubies?</p> <p>What were the amounts involved? Did the cases result in seizures, prosecutions or confiscations? Use table below: 2016 to 2020 period.</p>						
	Year And case number	Illicit dealer's particulars: Nationality, citizenship, business, age, status/PEP, frequently travelled destinations or any other intelligence information about the dealers (Sanitize)	Nature of case:(indicate whether it was treated as general illicit dealing in PMS case or the case was treated as money laundering or terrorist financing case or both and how it was concluded)		Value/ Product dealt (In USD)	Value laundered/TF (In USD)	Value of seized proceeds (In USD)
			General illicit dealing in PMS case (please specify the metal/stone concerned)	ML/TF or both indicate please			
	2020:						
	Case 1						
	case 2						
	Case 3 up to 20						

	2019:								
	Case 1								
	Case 2 up to 20								
	2018:								
	Case 1								
	Case 2 up to 20								
	2017:								
	Case 1								
	Case 2 up to 20								
	2016:								
	Case 1								
	Case 2 up to 20								
30.	Has any of the investigations involved extra-territorial issues/investigations? Indicate cases and nature of investigation assistance required.								
31.	Have there been cases where the gold, diamond and rubies involved originated from other jurisdictions? If so, please give details below (Jurisdictions and counts)								
32.	From investigations carried out on illicit dealings in gold, diamond and rubies or associated ML/TF cases, are there indications/evidence of small or large criminal organized groups? If yes on any of the groups, please cite cases.								
33.	Which borders are more vulnerable to trafficking activities in your jurisdiction and which jurisdictions do you share the border with?								

34.	<p>Do investigators have a case management system to monitor the trends of:</p> <p>i) Illicit dealings in general (to gauge whether they are increasing or decreasing, the perpetrators, are there any changes in the M.O, minerals involved, or any other intelligence information)</p> <p>ii) Laundering of proceeds generated from illicit trade and trafficking in Gold, Diamond and Rubies.</p> <p>iii) Financing of terrorist activities from proceeds generated in illicit trade of gold, diamond and rubies.</p>																						
35.	<p>Do the LEAs study the trends and methods related to illicit trade and trafficking in Gold, Diamond and Rubies and associated ML/TF</p>																						
36.	<p>Who are the main perpetrators of illicit trade and trafficking in Gold, Diamond and Rubies and associated ML/TF in your jurisdiction?</p> <p>- Locals</p> <p>- Foreigners</p> <p>- Both locals and Foreigners</p> <p>- Not known</p>																						
37.	<p>Are there national and international coordination mechanisms in investigating cases of illicit dealings in gold, diamond and rubies and related ML/TF?</p> <table><tr><th>Year</th><th colspan="3">Joint Investigations with domestic agencies</th><th colspan="3">Joint investigations with international counterparts</th></tr><tr><td></td><td>Gold</td><td>Diamond</td><td>Rubies</td><td>Gold</td><td>Diamond</td><td>Rubies</td></tr><tr><td>2016</td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>		Year	Joint Investigations with domestic agencies			Joint investigations with international counterparts				Gold	Diamond	Rubies	Gold	Diamond	Rubies	2016						
Year	Joint Investigations with domestic agencies			Joint investigations with international counterparts																			
	Gold	Diamond	Rubies	Gold	Diamond	Rubies																	
2016																							

	2017						
	2018						
	2019						
	2020						
38.	What are the sources of information and which institutions do investigators use to seek information at national and international level?						
39.	What kind of information is usually requested?						
40.	What challenges are encountered by Law enforcement Agencies and Competent Authorities when executing their duties in combating ML/TF related to illicit dealings in gold, diamond and rubies activities. E.g. (tick your answers in the box provided)			<div style="display: flex; flex-direction: column; gap: 10px;"> <div> <input type="checkbox"/> Inadequate or no reports and other information being escalated to Investigators and LEAs concerning illicit dealings in PMS activities </div> <div> <input type="checkbox"/> Inadequate financial resources </div> <div> <input type="checkbox"/> Inadequate coordination and cooperation between domestic agencies </div> <div> <input type="checkbox"/> Inadequate coordination and cooperation with international stakeholders </div> <div> <input type="checkbox"/> Transnational nature of the crime of dealing and smuggling of PMS </div> <div> <input type="checkbox"/> Difficulty in bringing kingpins to book </div> <div> <input type="checkbox"/> Interference by PEPs </div> <div> <input type="checkbox"/> Inadequate training and expertise </div> <div> <input type="checkbox"/> Control and enforcement of laws on no man's land between borders. </div> </div>			

		<input type="checkbox"/> Corruption by other government officials <input type="checkbox"/> Statutory laws deterring other institutions from sharing information. <input type="checkbox"/> Inadequate legal provisions Others (Specify)
<p style="text-align: center;">SECTION E: International Cooperation (This section should be completed by Law Enforcement Agencies and Ministry of Justice)</p>		
41.	Does your jurisdiction have mechanisms in place to assist other jurisdictions in investigations of illicit dealings in gold, diamond and rubies:	
42.	i) Describe the mechanisms available for assisting other jurisdictions	
	ii) Which institution in your country is responsible for coordinating international requests?	
43.	Have competent authorities, including LEAs sent or received requests for information to/from foreign counterparts related to the predicate offence of illicit dealings in gold, diamond and rubies . If yes, please provide number of requests by year.	

	YEAR	TOTAL NUMBER OF REQUESTS SENT			TOTAL NUMBER OF REQUESTS RECEIVED		
		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						

44.	From requests sent, how many did you get responses?						
	YEAR	TOTAL NUMBER OF REQUESTS SENT			TOTAL NUMBER OF RESPONSES RECEIVED		
		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						

45.	From requests received, how many did you respond?						
	YEAR	TOTAL NUMBER OF REQUESTS RECEIVED			TOTAL NUMBER OF REQUESTS RESPONDED		

		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						

46. Have competent authorities, including LEAs sent or received requests for information to/from foreign counterparts' parallel financial investigations **for money laundering** relating to illicit dealings in gold, diamond and rubies. If yes, please provide number of requests by year.

YEAR	TOTAL NUMBER REQUESTS SENT			TOTAL NUMBER REQUESTS RECEIVED		
	Gold	Diamond	Rubies	Gold	Diamond	Rubies
2020						
2019						
2018						
2017						
2016						

47. From requests sent, how many did you get responses?

YEAR	TOTAL NUMBER OF REQUESTS SENT			TOTAL NUMBER OF RESPONSES RECEIVED		
	Gold	Diamond	Rubies	Gold	Diamond	Rubies
2020						
2019						

	2018						
	2017						
	2016						
48.	From requests received, how many did you respond?						
	YEAR	TOTAL NUMBER OF REQUESTS RECEIVED			TOTAL NUMBER OF REQUESTS RESPONDED		
		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						
49.	Have competent authorities, including LEAs sent or received requests for information to/from foreign counterparts on parallel financial investigations for terrorist financing relating to illicit dealings in gold, diamond and rubies. If yes, please provide number of requests by year.						
	YEAR	TOTAL NUMBER OF REQUESTS SENT			TOTAL NUMBER OF REQUESTS RECEIVED		
		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						

50.	From requests sent for information on terrorist financing, how many did you get responses?						
	YEAR	TOTAL NUMBER OF REQUESTS SENT			TOTAL NUMBER OF RESPONSES RECEIVED		
		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						
51.	From requests received for information on terrorist financing, how many did you respond?						
	YEAR	TOTAL NUMBER OF REQUESTS RECEIVED			TOTAL NUMBER OF REQUESTS RESPONDED		
		Gold	Diamond	Rubies	Gold	Diamond	Rubies
	2020						
	2019						
	2018						
	2017						
	2016						

	handling matters of illicit dealing in gold, diamond and rubies?																																											
56.	i) Describe the control measures in place for customs officials and other LEAs entrusted with combating illicit dealings in diamond, gold and rubies as well as border control?																																											
	ii) Do they have powers to use special investigative techniques and have such powers been used to assist with investigations? If yes, which types of special investigative techniques have been used?																																											
57.	Do customs officials keep records of all illicit dealings in gold, diamond and rubies cases recorded?																																											
58.	<p>If yes, provide smuggling statistics for years 2016 to 2020 in the table below?</p> <table border="1"> <thead> <tr> <th>Year</th><th>A</th><th>B</th><th>C</th><th>D</th><th>E</th></tr> <tr> <th></th><th>Number of cases(<i>All cases dealt with by customs and revenue Authorities</i>)</th><th>Number of Convictions (<i>those that were fined or paid the duty required</i>)</th><th>Amount Involved (USD)</th><th>Amount of proceeds seized (USD)</th><th>Amount of proceeds confiscated (USD)</th></tr> </thead> <tbody> <tr> <td>2016</td><td>EXAMPLE: 11000</td><td>9000</td><td>20 million</td><td>17 million</td><td>17 million</td></tr> <tr> <td>2017</td><td></td><td></td><td></td><td></td><td></td></tr> <tr> <td>2018</td><td></td><td></td><td></td><td></td><td></td></tr> <tr> <td>2019</td><td></td><td></td><td></td><td></td><td></td></tr> <tr> <td>2020</td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>		Year	A	B	C	D	E		Number of cases (<i>All cases dealt with by customs and revenue Authorities</i>)	Number of Convictions (<i>those that were fined or paid the duty required</i>)	Amount Involved (USD)	Amount of proceeds seized (USD)	Amount of proceeds confiscated (USD)	2016	EXAMPLE: 11000	9000	20 million	17 million	17 million	2017						2018						2019						2020					
Year	A	B	C	D	E																																							
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2016	EXAMPLE: 11000	9000	20 million	17 million	17 million																																							
2017																																												
2018																																												
2019																																												
2020																																												

	total																													
59.	Briefly explain the trends in the majority of cases for each year.		- 2016 - 2017 - 2018 - 2019 - 2020																											
60.	Do the Customs officials share information relating to illicit dealings in gold, diamond and rubies with other agencies? If yes, which agencies receive this information?		-																											
61.	What are the statistics of information shared with these agencies in the years 2016 - 2021? <table border="1" data-bbox="430 900 1771 1241"> <thead> <tr> <th>Year</th> <th>Agency</th> <th>Type of mineral involved (gold, diamond, rubies)</th> <th>Statistics of information</th> </tr> </thead> <tbody> <tr> <td>Eg:2016</td> <td>Police</td> <td>Gold</td> <td>25</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						Year	Agency	Type of mineral involved (gold, diamond, rubies)	Statistics of information	Eg:2016	Police	Gold	25																
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GENERAL GLOSSARY

Terms

Definitions

Competent Authorities

Competent authorities refers to all public authorities (including financial supervisors established as independent non- governmental authorities with statutory powers) designated for combating money laundering and/or terrorist financing. In particular, this includes the FIU; the authorities that have the function of investigating and/or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency & BNIs; and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and DNFBPs with AML/CFT requirements. Self-Regulatory Bodies (SRBs) are not to be regarded as competent authorities.

Confiscation

The term confiscation, which includes forfeiture where applicable, means the permanent deprivation of funds or other assets by order of a competent authority or a court. 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 law.

Criminal activity

Criminal activity refers to: (a) all criminal acts that would constitute a predicate offence for money laundering in the country; or (b) at a minimum to those offences that would constitute a predicate offence as required by Recommendation 3 of the FATF recommendations.

Foreign counterparts

Foreign counterparts refers to foreign competent authorities that exercise similar responsibilities and functions in relation to the cooperation which is sought, even where such foreign competent authorities have a different nature or status (e.g. depending on the country, AML/CFT supervision of certain financial sectors may be performed by a supervisor that also has prudential supervisory responsibilities or by a supervisory unit of the FIU).

Illicit Dealings	For the purposes of this study, illicit dealings in PMS refers to the trafficking and illegal trade of PMS. This includes operating without a license or operating outside the defined conditions by the licensing authority.
Money Laundering offence	Money laundering offence refer not only to the primary offence or offences, but also to ancillary offences
Other Agencies	For the purposes of this study, please refer to the definition of competent authorities
Proceeds	The term funds refers to assets of every kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets.
Property	Property means assets of every kind, whether corporeal or incorporeal, moveable or immoveable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in such assets.
Seize	The term seize means to prohibit the transfer, conversion, disposition or movement of property on the basis of an action initiated by a competent authority or a court under a freezing mechanism. However, unlike a freezing action, a seizure is effected by a mechanism that allows the competent authority or court to take control of specified property. The seized property remains the property of the natural or legal person(s) that holds an interest in the specified property at the time of the seizure, although the competent authority or court will often take over possession, administration or management of the seized property.
Supervisors	Supervisors refers to the designated competent authorities or non-public bodies with responsibilities aimed at ensuring compliance by financial institutions and/or DNFBPs with requirements to combat money laundering and terrorist financing. Non-public bodies (which could include certain types of SRBs) should have the power to supervise and sanction financial institutions or DNFBPs in relation to the AML/CFT requirements. These non-public bodies should also be empowered by law to exercise the functions they perform, and be supervised by a competent authority in relation to such functions.
Terrorist Financing	Terrorist financing is the financing of terrorist acts, and of terrorists and terrorist organisations.