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**TYOLOGIES REPORT ON MONEY LAUNDERING
RELATED TO ILLICIT DEALINGS IN AND
SMUGGLING OF MOTOR VEHICLES IN THE
ESAAMLG REGION**

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ABBREVIATIONS & ACRONYMS

| | |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AML /CFT | Anti-Money Laundering/Combating financing terrorism |
| AUSTRAC | Australian Financial Intelligence Unit |
| BLNS | Botswana, Lesotho, Namibia and Swaziland |
| EAPCO | Eastern African Police Chief Corporation Organisation |
| CDD | Customer Due Diligence |
| ESAAMLG Region | Eastern and Southern Africa Anti-Money Laundering Group: Botswana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Uganda, Union of Comoros, Tanzania, Zambia and Zimbabwe |
| FIUs | Financial Intelligence Units |
| INTERPOL | International Criminal Police Organization |
| ISS | International Security Studies |
| LEAs | Law Enforcement Agencies |
| SARPCCO | Southern African Regional Police Chiefs Cooperation Organisation |

EXECUTIVE SUMMARY

Motor vehicles play a vital role in the economic and social growth of every country. However, motor vehicles have recently become instruments and a source of illegally obtained financial gains for criminal syndicates and individuals.

This study was aimed at identifying vulnerabilities of money laundering and terrorist financing associated with illicit dealing in and motor vehicle smuggling through case studies from the region in order to identify the trends and methods used to launder the proceeds generated from the illicit dealing in and smuggling of motor vehicles.

The study further identifies gaps and efforts put in place by governments and other stakeholders to address illicit dealing in and motor vehicle smuggling.

The study also identifies the role played by those involved in the illicit dealing in and motor vehicle smuggling and its economic and social impact thereof, the source and destination of smuggled vehicles, the licensing and supervision of motor vehicle dealers and the modus operandi. The study establishes how the illicit generated proceeds are or have previously been laundered and whether proceeds can be linked with the funding of other crimes including funding of terrorist activities.

Based on the case studies, it is clear that bonded warehouses and Financial Institutions are being misused to facilitate money laundering activities with the real estate being the most vulnerable area where the proceeds are used.

The study has also shown that insurance companies are widely affected by fraudulent claims made by motor vehicle owners who illegally export their vehicles and later report them stolen.

One of the key findings of this study like with the predecessor ESAAMLG typologies reports is that law enforcement officers do not investigate cases beyond the predicate offence to establish the money laundering aspect, neither is there proper direction/guidance to law enforcement by prosecution and the courts in that regard. It was further established that there is no proper maintenance of statistics of criminal cases. This adversely affects the extent of assessing the magnitude of ML related to illicit dealings in and smuggling of motor vehicles in the region.

Finally the study highlighted general indicators of illicit dealing in and smuggling of motor vehicles and money laundering, current practices and measures, and brought out issues for consideration by member countries.

A. INTRODUCTION AND BACKGROUND

1. The ESAAMLG region has in recent years experienced cases of illicit dealing in and smuggling of motor vehicles which has continued to rise despite the endeavours by countries to control it.
2. According to a research by the ISS, illicit cross-border trafficking in motor vehicles refers to vehicles that are stolen, hijacked or fraudulently moved from one country to another for use or sale, either in the country that the vehicle crosses into, or for transportation to a third country where it is to be used or sold.¹
3. Approximately 30% of all stolen or hijacked vehicles are exported illegally and undetected from South Africa, via Ports of Entry/Exit and border lines and sold in neighbouring countries.²
4. Activities relating to illicit dealing in and smuggling of motor vehicles have been attributed to various factors including the unregulated motor vehicle industry; cash based economy in the region, nature of the institutional and legal framework, corrupt officials and non-operational FIUs in the region.
5. The impact of illicit dealing in and smuggling of motor vehicles made member countries in the ESAAMLG region to join efforts and have in place bilateral, multi-lateral agreements, extradition treaties, hence SADC, SARPPCO and EAPCCO Protocols to facilitate investigations, exchange of information/intelligence, evidence gathering and prosecution were adopted.

¹ Illicit trafficking of vehicles across Beit Bridge border post Jenni Irish ISS Paper 109 • June 2005

² SAICB Report April 2010

6. Motor vehicle smuggling is a broad concept which is more than cross border movement of the vehicles, and it is defined differently in each jurisdiction's domestic laws.
7. In its nature Motor Vehicle Smuggling is considered as a global problem which impacts negatively on the safety and security of citizens and the countries' economies. This crime is mostly masterminded by organized criminal syndicates believed to be well structured and driven by need for money/profit. Motor vehicle smuggling subject is usually linked to other crimes such as drug trafficking and money laundering, or can be used to stash bombs for terror attacks or to commit other terror related crimes.
8. In September 2011 the ESAAMLG Council of Ministers approved a typology research on money laundering (ML) and financing of terrorism (FT) related to illicit dealing in and motor vehicle smuggling. The project's core team is made up of eight ESAAMLG member countries, with the Kingdom of Lesotho being the project leader.

a) Objectives of the report

9. The main aim and objective of this study was to:
 - i. Identify through case study from the region trends, methods and techniques used in the illicit dealing in and smuggling of motor vehicles;
 - ii. Whether indeed the smuggling of vehicles occurs in the region;
 - iii. To identify the gaps and efforts put in place by governments and other stakeholders to address vehicle smuggling;
 - iv. To identify the people involved;
 - v. The impact of motor vehicle smuggling such as social, political and economic on member countries;
 - vi. Establish how the illicit generated proceeds are or have previously been laundered; and

- vii. Whether there can be any link of the proceeds with the funding of other crimes including funding of terrorist activities.

b) Methodology

10. The information contained in this report was produced based on the following:-

- Development of a comprehensive questionnaire that was distributed to ESAAMLG member countries in January 2012 by the project team;
- Statistics template to compliment the questionnaire was circulated to member countries;
- Open source (internet and media articles) research was conducted; and
- Finally the project team attended a typology writing workshop presented by AUSTRAC which centred mainly on the present project.

B ANALYSIS OF QUESTIONNAIRE RESPONSES

11. This section of the report focuses on the jurisdictions' certain responses to the questionnaire, summarises and analyses the information provided focusing on the following responses:

- Legislation on motor vehicle smuggling in the region;
- Source and destination countries;
- Licensing and supervision of motor dealers;
- ML/FT vulnerabilities faced by ESAAMLG region; and
- Analysis of the most common methods used to launder money or ML/TF methods.

C LEGISLATIONS ON MOTOR VEHICLE SMUGGLING IN THE REGION

12. There is no specific definition of illicit dealing in and smuggling of motor vehicle in the region. However, offences related to illicit dealing in and smuggling of motor vehicles are criminalised under various statutes.³

13. The offences as stated by the member countries are as follows:-

- False declaration/mis-classification;
- False registration(local and foreign registration);
- Round tripping;
- Under valuation/declaration;
- Non-declaration;
- Double invoicing;
- Abuse of exemption certificates for returning residents rebate item;
- Diversion of transit vehicles,
- Use of fraudulent documents;
- Cloning of motor vehicles;
- Theft of motor vehicles;
- Tax evasion; and
- Illegal chop shops.

14. The majority of the member countries make use of their Customs and Excise Acts to deal with illicit dealing in and smuggling of motor vehicles, this is indicative that the member countries' investigations in this regard could be limited to taxation (import duties, Value Added Tax/Sales Tax) and not the predicate offence and/or the money

³ Motor Vehicle and motorcycle Acts; Road Traffic Acts; Customs and Exercise Acts; Penal Codes; Prevention of Organised Crime Acts.

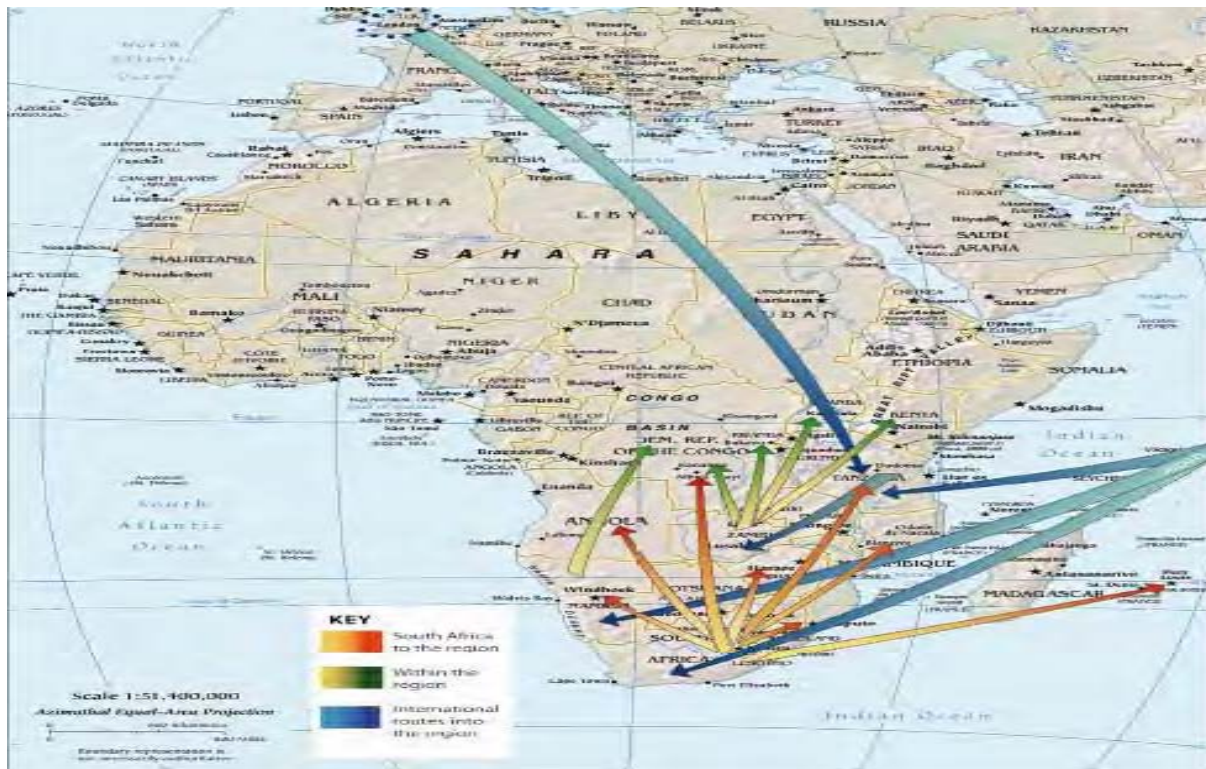
laundering aspect. However, in some member countries, money laundering investigations are referred to other law enforcement agencies, such as the Police and Anti-Corruption Commission.

15. The responses from most member countries indicate that illicit dealing in and motor vehicle smuggling are treated as serious offences, however there is no indication of whether this is explicitly so defined in their laws.



D SOURCE AND DESTINATION COUNTRIES

16. Responses from the member countries reveal that the ESAAMLG region is a source, transit and destination for illicit dealing in and smuggling of motor vehicles.



E LICENSING AND SUPERVISION OF MOTOR DEALERS

17. All member countries require motor vehicle dealers to be registered and the registration is done by a number of authorities for a number of reasons e.g. the Traffic Department, Registrar of Companies and Customs. However, the requirements for one to be licensed or registered are not given. The analysis further revealed that there are no overall supervisory entities that are designated to supervise the motor vehicle industry.
18. Furthermore, only two member countries subject motor vehicle dealers to AML/CTF requirements, while the rest of the member countries did not respond in this regard.

F ML/FT VULNERABILITIES FACED BY ESAAMLG REGION

19. Most member countries responded that the motor vehicle industries in their respective jurisdictions are vulnerable to money laundering and stated vulnerabilities such as: -

- Unregulated motor vehicle industry;
- Cash based nature of transactions;
- Deficiencies within legislations of different jurisdictions;
- Insufficient international cooperation;
- Ineffective exchange of information (amongst local and regional registering, and licensing authorities);
- Secrecy provisions in some of the statutes leading to delays in providing feedback by other enforcement agencies;
- Lack of cooperation with law enforcement agencies by importers;
- Porous borders/unmanned ports of entry/exit;
- Collusion of officials and illegal dealers;
- Corruption/bribery of officials;
- Most FIUs in the member countries not being operational/fully operational to benefit other law enforcement agencies with typology analysis;
- Inadequate training of law enforcement officers on financial investigations; and
- Ineffective control on bonded warehouses.

G MONEY LAUNDERING METHODS

20. It is clear from the study that within the region, motor vehicles are smuggled by road where vehicles are driven in or out of jurisdictions, some are smuggled in vessels, some are containerized, others are couriered in trucks. In Kenya, vehicles are also smuggled through air transport. Most member countries indicated that both nationals and foreign nationals are involved in smuggling of motor vehicles with the exception of Seychelles which indicated that none of the nationals have ever been involved.
21. The study further revealed that motor vehicle smugglers use false registrations, false declarations for registration of smuggled vehicles. Motor vehicles are driven through unmanned entry and exit ports, round tripping, hijacking, cloning, theft, tempering with the engine and chassis number, chopping to hide the true identity of the motor vehicle, use of ungazetted routes and pseudo export (vehicle meant for transit subsequently ending up in local market).
22. ISS report, titled "Organised Crime in Southern Africa" indicates that smuggling mainly involves police officers and customs officers themselves who facilitate movement of vehicles across the borders and assist in falsifying documentation. The information on the falsified documents is not checked against the vehicle. Once the vehicle has crossed the border, it is 'legalised'. Corrupt officials issue a new vehicle registration and other requisite documentation for the vehicle and it is then 'legally' sold.⁴

⁴ Organised crime in Southern Africa First annual review

23. All member countries further indicated that all types of motor vehicles are smuggled except Union of Comoros which only has motor bikes being smuggled.

24. Member countries indicated that smuggled vehicles are sold at a lower price compared to legally obtained vehicles in each of the members' jurisdictions. Most of the member countries do not have records on franchises, independent, auction houses and/or second hand motor vehicle dealerships related to motor vehicle smuggling. However South Africa, Tanzania, Namibia and Zimbabwe stated that second hand dealers, individuals and bonded warehouses pose a high risk as dealers.

25. The responses indicate that most member countries have not yet recorded cases on money laundering related to motor vehicle smuggling except for three member countries who indicated that proceeds of motor vehicle smuggling are concealed by investing the proceeds in legitimate businesses, making payments for goods and services, purchasing of property or transmission through the use of Hawala system.

H CASE STUDIES

26. This section brings out the money laundering typologies in illicit dealings in and motor vehicle smuggling.

CASE STUDY 1: Use of bonded warehouses and laundering through Financial Institutions and Transport business.

An investigation uncovered a syndicate which operated bonded warehouses near the ports which are ideally situated for their operations. These bonded warehouses accommodated vehicles imported from Japan and destined to other African countries. The imported vehicles however were being sold illegally locally and to some extent auctioned or even sold by second hand motor vehicle dealers. In some instances the directors of the warehouses were importing directly to the person in BLNS countries and not to the BLNS countries bonded warehouses, which is a contravention of the license conditions/requirements. Due to high levels of corruption within the LEAs, these vehicles were also being registered on the vehicle population register system.

Upon inspections conducted it was identified that bond sureties held were insufficient in relation to the stock on hand, there were discrepancies between the manual invoices amounts and the electronic invoices amounts resulting in incorrect bills of entry. Furthermore there were motor vehicle spares/parts such as engines, rims lying in the warehouse in violation of the warehouse licensing requirements. This resulted in a total of 4056 people being detained. Approximately USD 2 300 405 in lieu of penalties were collected by the authorities. All the 18 warehouses were temporarily closed for trading pending further investigation. Approximately 80 luxury vehicles were part of a round tripping offence. The motor vehicles were sold by a motor vehicle dealer. These vehicles were confirmed to be deregistered at the country of origin. Further investigation revealed that the vehicles were round

tripped and that VAT and customs duties had not been paid.

Heavy duty vehicles

The same syndicate sold 2nd hand heavy duty vehicles imported from an overseas country into one of the BLNS countries. These vehicles were then brought to the SA border without meeting compliance requirements with any temporary or permanent entry permits as per the customs requirements. These vehicles were then used on a permanent basis in SA for transportation of goods.

Hijacked vehicles

The syndicate included foreign nationals who sold hijacked vehicles in the country and across the borders of SA. The foreigners placed the order for specific vehicles with the hijacking syndicate. The vehicles were smuggled across the border where they were sold at ridiculously low prices.

Cloning

The investigation also revealed that vehicles written off by insurance companies (i.e. involved in accidents), where the real owner had been paid by the insurance for the accident claim were being sold/purchased by syndicates. The syndicate through hijackings got hold of the model of the written off vehicle, the write off vehicle chassis number is then taken off and put on the hijacked vehicles. They also changed the identity on the vehicle population register (fraud) to match the hijacked and upgraded vehicle and sold it to unsuspecting customer.

Chop Shops

The investigation further revealed that some stolen vehicles were being chopped up/dismantled and sold as spares. The vehicles would be declared as parts/spares with Customs, leading to commission of false declaration offences. In some instances where the chopped vehicles were being declared as spares in containers they were not being inspected and were released to the destined country (to the customer). Upon receipt of the spares the vehicles would be reassembled.

Movement of money

Large amounts of money were being carried out of South Africa across borders with Swaziland being the prime transit destination. In some cases, vehicle registration numbers used to transport the cash were not registered on the vehicle registration systems and at times police vehicles were being used. Upon arrival in Swaziland the currency would be flown to the destined countries. It was further discovered that a cell phone store was being used as a front company by certain foreign nationals, where they would exchange the currency from Rand to dollars after the commission of the crime to ease the transfer of their proceeds.

The foreign nationals were found to have shares in travel agencies. The travel agencies were being used as instruments to launder money through purchase of air tickets & hotel bookings for the perpetrators, foreign exchange and foreign transfers of cash or as gifts, sponsorship for a wedding to offshore connected parties' accounts and telegraphic transfers.

Offence: Motor Vehicle Smuggling, cloning and illegal dealings in Motor
Vehicles

Customer: Individuals

Industry: Tourism, banking and Transport

Jurisdiction: South Africa, Swaziland

Indicators: Purchase of high value gifts
Multiple telegraphic transfers
Huge cash deposits
Purchase of air tickets to various destinations with no economic reasons.

CASE STUDY 2: Use of false documents and laundering the proceeds through real estate.

A syndicate that had its members from Zimbabwe, Zambia, Botswana, Malawi, Mozambique, South Africa and the DRC stole 28 vehicles in South Africa over a period of time in 2011.

The criminals generated false Zambian vehicle registration documents and registration plates and somehow acquired genuine customs stamps for Zambia, Zimbabwe and Botswana.

The stolen vehicles were smuggled from South Africa to Botswana where they were fitted with the false Zambian registration plates. The criminals then generated false documentation purporting that each of the vehicles was registered in Zambia and that it had been driven to Botswana via Zimbabwe.

The vehicles would then be driven from Botswana to Zimbabwe under the pretext that they were returning to Zambia. In Zimbabwe the vehicles would be taken to the North Eastern small town of Mutoko which is within easy reach of the Mozambican boarder. In Mutoko the vehicles would be sold by the criminals to a local Zimbabwean.

The Zimbabwean would sell the vehicles to customers on the Mozambican side of the boarder. The vehicles were all expensive luxury vehicles including Range Rovers, Toyota Hilux and Audi Q5.

The Zimbabwean has purchased a number of immovable properties from suspected proceeds following disposal of the vehicles.

The criminal syndicate was eventually busted when an alert Botswana customs officer alerted Botswana police after noticing that the same people were often crossing into Zimbabwe with different luxury vehicles.

Some members of the syndicate were arrested, tried and sentenced to fines under the Botswana penal code. Because the owners of the vehicles were not identified, the criminals could not be convicted of theft, but they were found guilty of the less

serious offence of possession of property reasonably suspected to be stolen and failing to give satisfactory explanations.

Similarly, the Zimbabwean police have been unable to build a prosecutable case against the local man who bought and sold the vehicles because the vehicle owners were never identified and the man argued that he was simply buying and selling vehicles which he did not know were stolen.

Offence: Being in possession of property suspected to be stolen

Customer: Individuals

Industry: Real Estate

Jurisdiction: South Africa, Botswana, Malawi, Zambia, Zimbabwe, DRC and Mozambique

Indicators: Purchase real estate
Purchase high value Motor vehicles
Same people crossing the border with high value Motor Vehicles.

CASE STUDY 3: Vehicle Cloning and laundering through the insurance industry.

An investigation revealed that some vehicles that were manufactured in South Africa and exported to neighboring countries including Namibia were cloned. The identities of such vehicles (new) were duplicated and the information would be used on stolen vehicles (from South Africa), which would be similar to the new vehicles. Similarities such as Brand, colour were replicated.

The vehicles were then exported and sold for cash in other countries (including Namibia). In the meantime, the used vehicle was reported stolen in South Africa and an insurance claim was successfully initiated. By the time the new vehicles were registered, the database indicated that such vehicles already existed, however due to a unique number allocated to all exported new vehicles, it was easily determined which vehicles were cloned.

The cloned vehicles were then confiscated and repatriated to the country of origin after communication with the relevant foreign Law Enforcement Agency (LEA). The case involved South Africans (sellers) and Namibian (buyers). This involved a Toyota and a Volkswagen vehicle. The other vehicle could not be found.

Offence: Motor Vehicle cloning

Customer: Individuals

Industry: Insurance

Jurisdiction: South Africa, Namibia

Indicators: Purchase of real estate
Several insurance claims

I GENERAL INDICATORS

- Same people transporting vehicles across the borders
- Tempered registration/chassis number and information plate
- Different registration numbers for the same vehicle
- Unreported accident incidences
- Duplication of registration numbers.
- Motor vehicle insurance claims from the same dealers.
- Change of motor vehicle colours
- False Foreign registration plates
- Change of ignition keys
- Irreconcilable records on import and export of motor vehicles entering and leaving a warehouse.
- Misclassification of motor vehicles on documentation.
- Falsified customs clearing documents
- Conflict of interest in official duties by officers.
- Huge foreign purchases
- Use of cash to facilitate transactions (air tickets and hotel bookings).
- Vehicles being sold at low prices.
- Proxy registration
- Abuse of exemption facility for returning residents.
- Use of front companies
- Same people crossing borders with different luxury vehicles.
- Foreign nationals conducting business unrelated to work permits
- Same officers assisting particular customers

J CURRENT PRACTICES/CONTROL MEASURES

27. There are a number of measures in place within the region to combat illicit dealing in and smuggling of motor vehicles. Such measures include legislation, trained personnel, database (INTERPOL, Customs and Excise) and joint operations.
28. The current practice is that member countries do share intelligence and information regarding motor vehicle identification.

K KEY FINDINGS

29. This typologies study has revealed the following key issues:
1. Motor vehicle dealerships are not subjected to AML/CFT measures in the respective member countries.
 2. Member countries do not maintain proper statistical records and case studies on illicit dealing in and smuggling of motor vehicles.
 3. Illicit dealing in and motor vehicle smuggling is a problem in the region.
 4. Most member countries do not have restrictions on the amount of cash transactions due to cash based nature of economies in the region.

5. Only a few member countries have operational FIUs and where motor vehicle dealers are designated as reporting agencies the FIUs do not enforce the AML/CFT requirements on the motor vehicle dealers.
6. There is little appreciation by law enforcement officers on the connection of money laundering to other crimes such as motor vehicle smuggling.
7. Investigations conducted only relate in most cases to the predicate offences and are not extended to money laundering and probably financing of terrorism.
8. There has been little or no coordination among agencies that deal with the predicate offence of motor vehicle smuggling and those dealing with the financial investigations.
9. Law enforcement officers often play a major role in facilitating the illicit dealing in and smuggling of motor vehicles.

L ISSUES FOR CONSIDERATION

30. Taking into account the vulnerabilities that this report highlighted, the following issues require consideration and possible action by member countries;

- Regulate the motor vehicle dealing/selling industry;
- Operationalize FIUs;
- Effectively enforce existing legislation on motor vehicle dealers;
- Maintain proper records and statistics on both AML/CFT and predicate offences;
- Improve local and regional cooperation/coordination;
- Enhance information exchange and mutual assistance;
- Provide training on AML/CFT issues to LEA and prosecutors;
- Review legislation to specifically provide for motor vehicle smuggling as an independent offence; and
- Countries should consider conducting typologies at country level.

M CONCLUSION

31. This report has indicated that the ESAAMLG Region is not immune to the crimes in relation to illicit dealings in and smuggling of motor vehicles. The vulnerabilities, as highlighted emanate from the inadequate and ineffective legislative and institutional framework, capacity and integrity of the officials and poor local and regional information sharing by member countries. As a result, the ability to prevent, detect, report, investigate, forfeit proceeds from these crimes and/or prosecute money laundering or terrorist financing offences is a challenge in the region.

32. Despite the existence of the problem in the region due to insufficient and inadequate case studies on illicit dealing in and smuggling of motor vehicles, the money laundering indicators could not be exhaustively established.
33. It is evident that transnational motor vehicle syndicates have infiltrated legal structures such as customs and transport systems to transfer stolen vehicles from abroad. They sell the motor vehicles to legal motor vehicle or spare-part dealerships. They offer protection and bribes to law enforcement officers. The officers then feed syndicates with information about upcoming police action that may affect their illegal dealings. The officers further provide forms to drivers at border posts to facilitate the illegal importation and false declaration of motor vehicles.
34. Member countries are encouraged to develop measures directed at improving the control mechanisms, provide for specific provisions in their current legislation to criminalize acts of illicit dealing in and smuggling of motor vehicles and extend the investigations to money laundering.

BIBLIOGRAPHY

AUSTRAC Typologies and Case Studies Report 2012.09.1

FATF (2004), *Typologies Report 2003-2004*, FATF, Paris. www.fatf-gafi.org.

Irish, Jenni (*Occasional Paper 109* June 2005), *Illicit trafficking of vehicles across Beit Bridge border post*.

Organised Crime in Southern Africa First Annual Review. <http://www.issafrica.org/pgcontent.php?UID=30580>