Global Financial Integrity

ACODE

TRADE-BASED MONEY LAUNDERING IN UGANDA

POLICY MEMO

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Policy Memo
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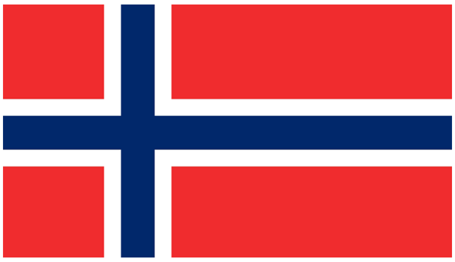

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ABBREVIATIONS

ACODE	Advocates Coalition for Development and Environment
AMLA	Anti-Money Laundering Act
BOU	Bank of Uganda
CFT	Combating the Financing of Terrorism
CID	Criminal Investigation Department
CMA	Capital Markets Authority
CMI	Chief of Military Intelligence
CPF	Countering Proliferation Financing
DNFBPs	Designated Non-Financial Businesses and Professions
EFRIS	Electronic Fiscal Receipting and Invoicing Solutions
FATF	Financial Action Task Force
FIA	Financial Intelligence Authority
FTZs	Free Trade Zones
GFI	Global Financial Integrity
ICPAU	Institute of Certified Accountants of Uganda
IFFs	Illicit Financial Flows
IGG	Inspector General of Government
IRA	Insurance Regulatory Authority
ISO	Internal Security Organisation
MDAs	Ministries Department and Agencies
MIA	Ministry of Internal Affairs
ML	Money Laundering
MoFA	Ministry of Foreign Affairs
MoFPED	Ministry of Finance, Planning and Economic Development
MoJCA	Ministry of Justice and Constitutional Affairs
NII	Non-intrusive inspection technology
ODPP	Office of the Director of Public Prosecutions
OECD	The Organisation for Economic Cooperation and Development
PPDA	Public Procurement and Disposal of Public Assets Authority
SDGs	Sustainable Development Goals
TBML	Trade-Based Money Laundering
TF	Terrorist Financing
TM	Trade Mis Invoicing
TPCA	Tax Procedures Code Act
UBOS	Uganda Bureau of Statistics
UGX	Uganda Shilling
UIA	Uganda Investment Authority
ULS	Uganda Law Society
UMRA	Uganda Microfinance Regulatory Authority
UNCTAD	United Nations Conference on Trade and Development
UPF	Uganda Police Force
URA	Uganda Revenue Authority
URSB	Uganda Registration Services Bureau

1 INTRODUCTION

Illicit Financial Flows (IFFs) have been recognised as a key challenge to the global development agenda.[1] IFFs drain resources from countries that could finance development. In Uganda, IFFs are part of a larger political economy dynamic in which economic growth and development are impeded by corruption and impunity.[2] It is estimated that Uganda loses more than UGX.2 trillion annually to IFFs.[3] Global Financial Integrity defines IFFs as the illegal movement of money or capital from one country to another that is illegally earned, acquired, transferred, or utilised across an international border.[4] There are three broad categories in which IFFs manifest; i) commercial activities (tax evasion, trade-based money laundering, smuggling, abusive transfer pricing, and aggressive tax planning); ii) criminal activities (poaching, and illegal mineral trade, and trafficking of people and drugs, arms smuggling, fraud, money laundering, stock market fraud and forgery); and iii) corruption.[5]

In recent years, Trade-Based Money Laundering (TBML) as one of the forms of IFFs has become a commonly used method to launder money. TBML is one of the most sophisticated methods of money laundering, and since it resembles legitimate trade, it is the hardest to detect by financial institutions and customs authorities.[6] TBML largely involves giving false information on imports and exports through over/under-billing, multiple billing, over/under shipping, and quality misrepresentation. Compared to more conventional kinds of money laundering, TBML seems to be less understood by policymakers, yet its impact can have a significant effect on global trade and tax income.[7] This policy memo, therefore, seeks to contribute to understanding the landscape of trade-based money laundering in Uganda.

[1] https://www.un.org/africarenewal/news/global-dilemma-illicit-financial-flows-time-collective-action
[2] Global Financial Integrity. (2018). A Scoping Study of Illicit Financial Flows Impacting Uganda. Global Financial Integrity: https://www.gfintegrity.org/wp-content/uploads/2018/10/Uganda-Report-2018_12.20.18.pdf
[3] Ibid
[4] Ibid
[5] Ibid
[6] Ibid
[7] CRS. (2016, June 22). Congressional Research Service. Retrieved from Trade-Based Money Laundering: Overview and Policy Issues: https://www.everycrsreport.com/files/20160622_R44541_85299e33d8675024af91c3b341a6ec9130910963.pdf

2 | CONCEPTUALIZING TRADE-BASED MONEY LAUNDERING

Trade-based money laundering has been defined by the Financial Action Task Force (FATF), "as a process of concealing the proceeds of crime and moving value through the use of trade transactions to legitimise their illicit origins".[8] Trade-based money laundering has been recognized as one of the three main methods by which criminal organizations and terrorist financiers move money while disguising its origins and integrating it back into the formal economy.[9, 10]This method of money laundering is based on the fraudulent trade transactions and their financing. According to a 2006 FATF report, the increasing attractiveness of TBML as a method for laundering funds is the desire to circumvent tight controls that exist in the financial systems (both formal and alternate) and the physical movement of cash (cash smuggling).[11]

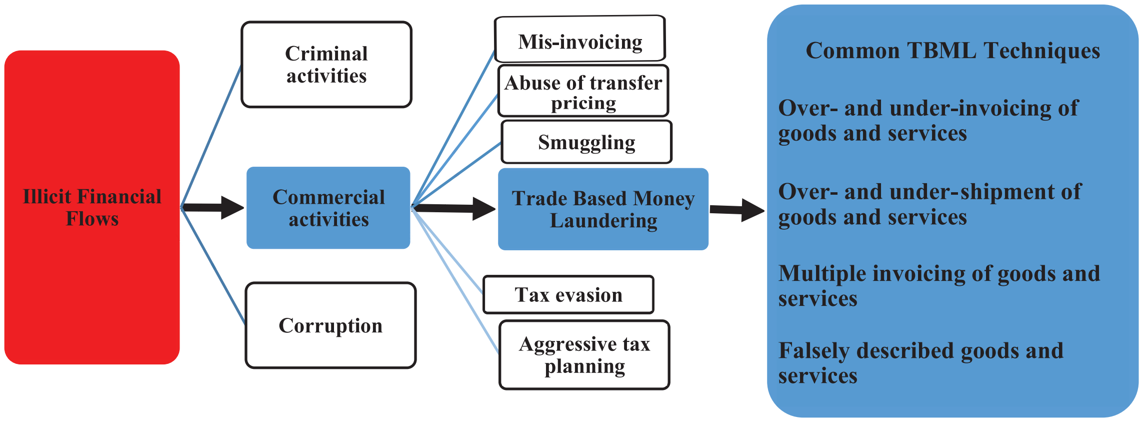
As governments become more effective in preventing the traditional methods of money laundering and terrorism financing, criminals get more creative by employing more complex and sophisticated schemes involving the use of the international trade system. The scale, complexity, and speed of global trade makes it easy for the TBML to thrive.[12] Similarly, the digitalization of global commerce has acted as an enabler for electronic fraud including falsification of documents and lowering transportation costs for commodities.[13] TBML often converges with other types of crime, such as corruption, illicit trade, drug trafficking, human trafficking, terrorism financing, and other illegal activities.[14]

To understand TBML, a distinction must be drawn between TBML and other trade-related offences such as fraud and smuggling. Trade-based money laundering – unlike other trade-related offences – is not the movement of goods, but rather the movement of value that the trade transactions facilitate. Launderers use trade-based money laundering techniques to launder the proceeds of crime for their clients' while criminals involved in other trade-related offences are usually the ultimate beneficiaries of the proceeds of these crimes. In both trade-based money laundering and other trade-related offences, criminals can engage in a range of other potentially unlawful activities, such as preparing false invoices, mischaracterizing goods to circumvent controls, and tax evasion.[15]

[8] Ibid
[9] The first involves the movement of value through the financial system using methods such as cheques and wire transfers; the second involves the physical movement of banknotes using methods such as cash couriers and bulk cash smuggling; and the third involves the movement of value using methods such as the false documentation and declaration of traded goods and services. (see FATF report 2006)
[10] FATF. (2006). Trade Based Money Laundering. Financial Action Task Force / OECD. FATF/OECD. Retrieved June 11, 2022, from https://www.fatf-gafi.org/media/fatf/documents/reports/Trade%20Based%20Money%20Laundering.pdf
[11] Ibid
[12] FATF – Egmont Group (2020), Trade-based Money Laundering: Trends and Developments.
[13] Ibid
[14] Ibid
[15] See https://www.fatf-gafi.org/media/fatf/documents/Handout-Trade-Based-Money-Laundering-Private-Sector.pdf

There are four main techniques or methods that facilitate TBML;
(i) Over- and under-invoicing the price of goods and services, (where the price of the good or service is misrepresented), (ii) multiple invoicing of goods and services (reusing existing documentation to justify multiple payments for the same shipment of goods or delivery of services, (iii) Over- and under- shipment of goods and services (involves overstating or understating the number of goods or services), and (iv) falsely described goods and services (the misrepresentation of the quality or type of a good or service).[16]

Figure 1 below illustrates the positioning of TBML in the wider IFFs discussion.



NB: *Criminal activities: include poaching, illegal mineral trade, trafficking of people and drugs, arms smuggling, fraud, money laundering, stock market fraud and forgery.[17]

*Corruption includes bribery, embezzlement, illicit enrichment and abuse of functions.[18]

[16] Others include: Hawala is an informal method of transferring money described as a "money transfer without money movement" based on a system of money lenders known as hawaladars, generally used in the Middle East, Africa, and India outside the traditional banking systems. See, Corporate Finance Institute. Available at https://corporatefinanceinstitute.com/resources/knowledge/finance/hawala/ . the black-market peso exchange in Colombia and Mexico has also been cited as a technique for TBML.
[17] Global Financial Integrity. (2018). A Scoping Study of Illicit Financial Flows Impacting Uganda. Global Financial Integrity
[18] Ibid
[19] The Automated System for Customs Data (ASYCUDA) is a computerized customs management system that covers most foreign trade procedures. It handles manifests and customs declarations, along with accounting, transit and suspense procedures.
[20] See Mukwano evades sh2b in taxes - New Vision Official
[21] See https://www.newvision.co.ug/news/1528700/uganda-losing-revenue-mineral-inspectors

Trade-based money laundering by its nature makes it difficult to estimate the magnitude of its impact on economies.[22] The UN describes IFFs as a serious global threat to the attainment of the global development agenda.[23] UNCTAD's Economic Development in Africa Report 2020, indicates that halting illicit money flights may nearly halve the $200 billion (or UGX 733 trillion) yearly funding shortfall that the continent of Africa experiences to meet the Sustainable Development Goals (SDGs).[24]

TBML and IFFs in a broader sense, have negative impacts on development. They deprive the government of much-needed tax income, which in turn limits the amount of money it can spend on activities like security, administration of justice, social programs, development programs, gender equality, and human rights protection.[25] In spite of the numerous modifications to the tax administration and systems in place, Uganda's tax-collecting operations have continued to fall short of the projections in terms of revenue mobilization. This compels the government to finance its budget through both domestic and foreign borrowing. Currently, Uganda’s debt burden stands at 51.9% of GDP.[26] Trade mis-invoicing (TM), a form of TBML in Uganda, is considered a major cause of revenue loss to the country. GFI estimated the total value gap as US$ 6.6 billion in trade from Uganda between 2006-2015.[27]

In addition, the necessity for greater law enforcement to tackle the catastrophic repercussions of money laundering raises the cost of government. The need for retooling tax enforcement agencies to detect and address TBML is an additional cost to the country. IFFs also deprive Uganda's national budget of vital funds that could be used to enhance the state of human rights.[28]

[22] Global Financial Integrity. (2018). A Scoping Study of Illicit Financial Flows Impacting Uganda. Global Financial Integrity
[23] Ibid
[24] See https://www.monitor.co.ug/uganda/business/finance/extractive-sector-why-the-country-should-care-about-illicit-financial-flows-3322054
[25] See https://www.acode-u.org/uploadedFiles/Illicit_Financial_Flows_Fact_Sheets.pdf
[26] See MOFPED 2022 report on Public Debt, Grants, Guarantees And Other Financial Liabilities For Financial Year 2021/2022https://www.finance.go.ug/sites/default/files/Publications/REPORT%20ON%20PUBLIC%20DEBT%2C%20GRANTS%2C%20GUARANTEES%20AND%20OTHER%20FINANCIAL%20LIABILITIES%20FY%202021-22.pdf
[27] Global Financial Integrity. (2018). A Scoping Study of Illicit Financial Flows Impacting Uganda. Global Financial Integrity : https://www.gfintegrity.org/wp-content/uploads/2018/10/Uganda-Report-2018_12.20.18.pdf
[28] See https://www.acode-u.org/uploadedFiles/Illicit_Financial_Flows_Fact_Sheets.pdf

3 METHODOLOGY

The methodology adopted to compile this policy memo included a literature review and interaction with key stakeholders through key informant interviews, stakeholder dialogue and a validation meeting. An online survey was conducted with key stakeholders to solicit perceptions on commodities vulnerable to TBML. The body of literature reviewed involved various international publications from FATF, GFI and reports from responsible ministries, agencies and departments in Uganda; particularly Uganda Revenue Authority, Financial. Intelligence Authority, Uganda Bureau of Statistics and Bank of Uganda. In addition, various pieces of legislation and judgements from courts of judicature were analysed to inform this policy memo.

To obtain information, stakeholders were engaged at two levels. First, key informant interviews were held with officials from government officials and civil society. Second, two strategic dialogues were held involving representatives from the Ministry of Finance Planning and Economic Development, Extractive Industry Transparency Initiative (EITI), Inspectorate of Government, Uganda Registration Services Bureau, Bank of Uganda (BoU), Uganda Revenue Authority (URA), Financial Intelligence Authority (FIA), Ministry of Trade, Industries and Cooperatives (MTIC), Members of Parliament on Uganda Parliamentary Network on Illicit Financial Flows and Trade Justice, CSOs, private sector, media and development partners among others.

The selection and ranking of commodities in the report relied on external trade statistics from the Uganda Bureau of Statistics (UBOS) covering calendar years 2015-2021 to identify Uganda's main imports[29] and exports[30] during the period. The trade statistics show 51 key imports and 37 exports. These imports and exports were organised into an online survey tool that elicited a response rate of 50% among 64 stakeholders. The vulnerable commodities as ranked by the stakeholders were also compared to key commodities identified by the 2018 GFI scoping study on how illicit financial flows are impacting Uganda.[31]

[29] See https://www.ubos.org/wp-content/uploads/statistics/Formal_and_Informal_most_Imported_products_by_SITCREV4_groupings_and_Value_in_Thousand_US_Dollar,_Financial_Year.xlsx
[30] See https://www.ubos.org/wp-content/uploads/statistics/Formal_and_Informal_Exports_by_Commodity_and_value_in_Thousand_US_Dollar,_Calender_Year.xlsx
[31] Global Financial Integrity. (2018). A Scoping Study of Illicit Financial Flows Impacting Uganda. Global Financial Integrity

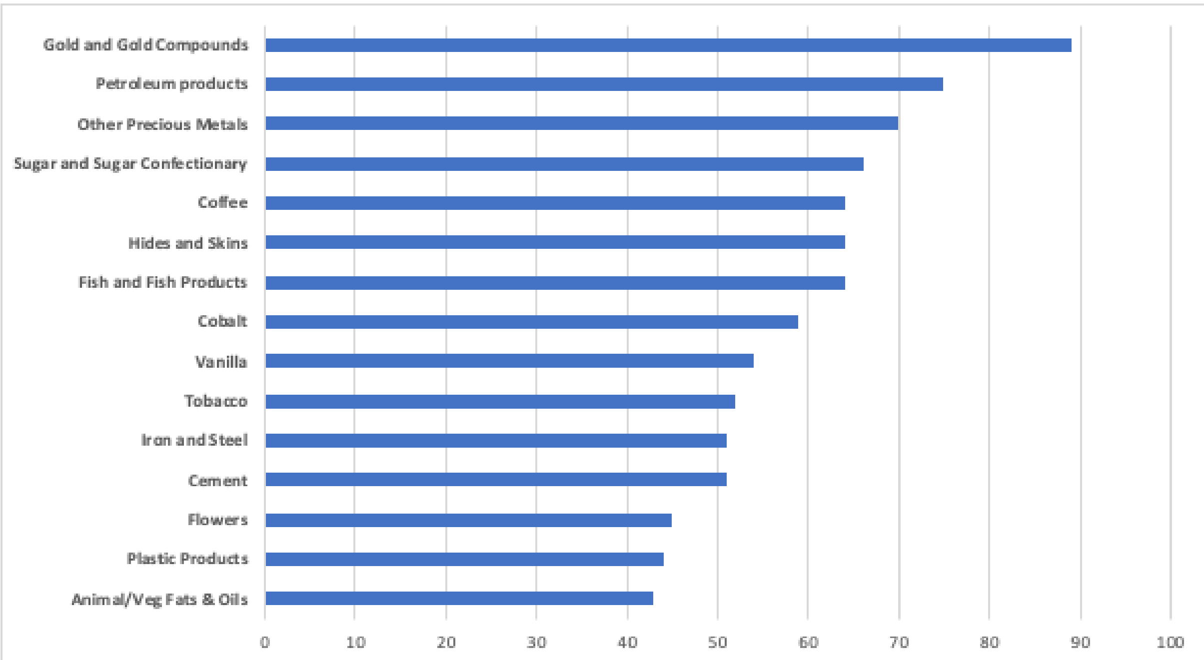
4 SECTORS VULNERABLE TO TBML

Vulnerability to trade-based money laundering cuts across a wide range of economic sectors and goods. The FATF – Egmont Group study (2020) identifies goods characterised by high-value, low-volume, (such as precious metals), low-value, high-volume (such as second-hand textiles), goods with wide pricing margins; goods with extended trade cycles (i.e., shipping across multiple jurisdictions); and goods which are difficult for customs authorities to examine as being particularly vulnerable to TBML.

In 2018, Global Financial Integrity[32] identified 15 top exports and 15 top imports as being vulnerable to trade mis-invoicing, a form of trade-based money laundering. The vulnerable export commodities to trade mis-invoicing included: coffee, tea, spices, fish, crustaceans; tobacco; edible oils, waxes; salt, stones, cement; iron and steel; cocoa; misc. grains, seeds, fruit; soaps and waxes; raw hides, leather; cereals; sugar; iron and steel articles; machinery, and plastic. With the exception of a few commodities that were not key exports and imports at the time, the findings are consistent with the current stakeholder perceptions regarding vulnerable commodities to TBML.

The stakeholder perception survey undertaken during the compilation of this policy memo shows that the top 15 exports vulnerable to trade mis-invoicing are: gold and gold compounds, petroleum products, other precious metals, sugar and sugar confectionary, coffee, hides and skins, fish and fish products, cobalt, vanilla, tobacco, iron and steel, cement, flowers, plastic products, and animal/veg fats & oils as indicated in figure 2.

Figure 2: Stakeholders ranking of 15 most vulnerable exports



Source: Primary data

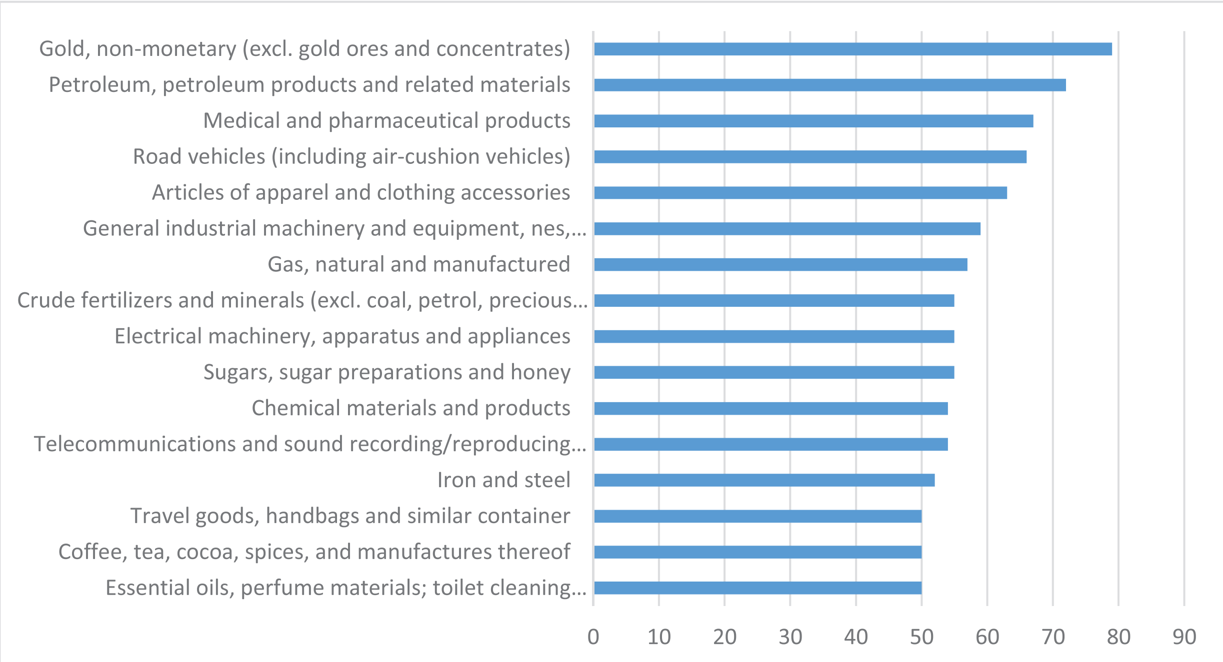
[32] Ibid

Among the exports, gold and gold compounds, petroleum products, other precious metals, cobalt, vanilla, flowers and plastic products appeared prominently among the vulnerable products. This can be attributed to the increasing volume and value of these exports from the period 2015-2021. Gold, for example, overtook the traditional exports of Coffee in 2018 to become Uganda's leading export valued at US$1.03 billion in 2021 .[33]

Regarding to imports, the GFI report identified the top 15 imports vulnerable to trade mis-invoicing as; mineral fuels, vehicles, electrical machinery, machinery, pharmaceuticals, iron and steel, plastics, cereals, paper and paperboard, sugars, edible oils, waxes; worn clothing; iron and steel articles; salt, stone, cement; chemical products.[34]

Stakeholders' perceptions show that the top 15 vulnerable import commodities are comprised of gold, non-monetary (excl. gold ores and concentrates); petroleum, petroleum products and related materials; medical and pharmaceutical products; road vehicles (including air-cushion vehicles); articles of apparel and clothing accessories; general industrial machinery and equipment; gas, natural and manufactured; crude fertilizers and minerals; electrical machinery, apparatus and appliances; sugars, sugar preparations and honey; chemical materials and products; telecommunications and sound recording/reproducing apparatus; iron and steel; travel goods, handbags and similar containers, coffee, tea, cocoa, spices; and essential oils, perfume materials; toilet cleaning preparations as indicated in figure 3.

Figure 3: Stakeholders ranking of most vulnerable Imports



Source: Primary data

[33] See https://www.ubos.org/wp-content/uploads/statistics/Formal_and_Informal_Exports_by_Commodity_and_value_in_Thousand_US_Dollar,_Calender_Year.xlsx[30] See https://www.ubos.org/wp-content/uploads/statistics/Formal_and_Informal_Exports_by_Commodity_and_value_in_Thousand_US_Dollar,_Calender_Year.xlsx

[34] Global Financial Integrity. (2018). A Scoping Study of Illicit Financial Flows Impacting Uganda. Global Financial Integrity

Several exports that were previously not ranked as vulnerable to TBML according to the 2018 GFI report have been noted by the stakeholders. These include gold, non-monetary (excl. gold ores and concentrates), telecommunications and sound recording/reproducing apparatus, gas, natural and manufactured, crude fertilizers and minerals, travel goods, handbags and similar containers, and coffee, tea, cocoa, spices, and manufactures thereof. These equally correspond with the increase in the volumes and value of these imports as indicated in the UBOS statistics over the period 2015-2021.[35]

Gold and petroleum products are listed as being particularly vulnerable to TBML, either as exports or imports. With regard to gold, the trade in gold has grown to become Uganda's biggest export accounting for US$ 1.2 bn in 2019, US$ 1.8 bn in 2020 and US$ 1.03bn in 2021.[36] Gold was also the largest import over the same period accounting for US$1.31bn, US$1.84bn and US$1.94bn in 2019, 2020 and 2021 respectively.[37] However, it is worth noting that the reported production of gold in the country is low with only 40 kgs of gold produced between 2015 and 2020. There is also no clear data on the mines from which this gold is sourced within and outside Uganda. Gold is equally characterised as a cash-intensive business, with limited oversight and licensing, difficult-to-trace its origins, and used as an alternative form of currency.[38] All these increase its susceptibility to TBML.

Just like gold, petroleum products are both Uganda's top exports and imports. In the period 2019-2021, petroleum exports were worth US$ 128m, US$ 73m and US$ 94m in 2019, 2020 and 2021 respectively.[39] The imports on the other hand were valued at US$ 1.2bn, US$ 951m and US$ 1.2bn in 2019, 2020 and 2021 respectively.[40] Oil products are particularly vulnerable to all types of mis invoicing techniques. The risks in the oil and gas industry are mainly explained by the nature of the oil companies involved. The major international oil companies currently involved in Uganda's oil sector are registered in tax havens,[41] and some have hidden ownership structures that pose a high risk of Illicit Financial Flows and TBML.

[35] See https://www.ubos.org/wpcontent/uploads/statistics/Formal_and_Informal_Exports_by_SITC_rev4_grouping_and_value_in_Thousand_US_Dollar,_C
alender_Year.xlsx
[36] Ibid
[37] See https://www.ubos.org/wpcontent/uploads/statistics/Formal_and_Informal_Exports_by_SITC_rev4_grouping_and_value_in_Thousand_US_Dollar,_C
alender_Year.xlsx
[38] See Gold Trade in Uganda https://www.youtube.com/watch?v=oXqB3bgekXU
[39] See https://www.ubos.org/wp-content/uploads/statistics/Formal_and_Informal_Exports_by_SITC_rev4_grouping_and_value_in_Thousand_US_Dollar,_Calender_Year.xlsx
[40] See https://www.ubos.org/wp-content/uploads/statistics/Formal_and_Informal_Exports_by_SITC_rev4_grouping_and_value_in_Thousand_US_Dollar,_Calender_Year.xlsx
[41] Illicit Financial Flows Risk Factors in Uganda's oil and gas sector .https://www.acode-u.org/uploadedFiles/IFFs_info_Final.pdf

5 | GOVERNMENT EFFORTS TO COMBAT TRADE-BASED MONEY LAUNDERING

The Government of Uganda has instituted several mechanisms to counter TBML through formulating policies, enactment of laws and the establishment of relevant institutions. The key institutions include Financial Intelligence Authority (FIA), Criminal Investigations Department (CID), and Uganda Revenue Authority (URA. Uganda is committed to preventing, detecting and prosecuting money laundering and terrorist financing activities because they have a catastrophic effect on Ugandans, the financial system and the stability of the economy. The government set up AML/CFT Taskforce as a national coordination mechanism to advise on matters relating to combating money laundering and terrorist financing. The Taskforce is comprised of representatives from Ministries, Department and Agencies (MDAs) and institutions central to the regulation, enforcement, investigation, and prosecution of money laundering and terrorist financing offences.[42]

Key TBML Related Legislation in Uganda

- Anti-Money Laundering Act, 2013 as amended
- The Companies Act 2012 as amended
- The Partnership Act 2010 as amended
- Capital Markets Authority Act 2011
- The Trustees Incorporation Act Cap 164
- The Non-Governmental Organisations Act 2016,
- The Business Names Registration Cap 109,
- The Cooperative Societies Act, Cap. 112,
- The Tier 4 Microfinance Institutions & Money Lenders Act 2016
- The Forex Bureaus Act, 2004
- The Anti-Terrorism Act, 2002
- Income Tax Act
- National Payment System Act,2020
- Financial Institutions Act, 2004 (as amended)

In terms of policy and legal frameworks, Uganda developed a National Strategy for Combating Money Laundering and the Financing of Terrorism and Proliferation for FY 2020/21 – FY 2024/25 to ensure that Uganda's AML/CFT/CPF regime is aligned with international standards. To make trade mis-invoicing illegal, Section 65(6) of the VAT Cap 349, Section 15A (6) of the Excise Duty Act 2014 and Section 50 of the Tax Procedures Code Act (TPCA) 2014 impose penal taxes for making false and misleading statements. Furthermore, in the TPCA amendments for FY 2022/23, the penalty for making false or misleading statements was increased from UGX 4M (US$ 1,060) to UGX 110M(US$29,154) as a deterrent measure to improve voluntary compliance.[43] The Parliament of Uganda on 30th August 2022 passed key legislation to address existing gaps in the law on beneficial ownership information. It also passed the Anti-Money Laundering (Amendment) Bill, 2022 to empower the FIA and other supervisory authorities to levy administrative penalties for breach of the provisions of the Act and related matters.[44]

Other measures adopted include; Uganda joining the Global Forum on Transparency and Exchange of Information for Tax Purposes in 2012 and becoming a party to the OECD Convention on Mutual Administrative Assistance in Tax Matters in 2016, widening URA's information network to 144 Jurisdictions around the world,[45] adopting automated exchange of information between international trade intervening parties through trade initiatives such as the Uganda Electronic Single Window; initiating campaigns to sensitize the traders on adverse effects of trade mis-invoicing, training of staff to understand the mechanisms of trade mis invoicing and how to curb it as well as penalties and disciplinary measures against non-compliant traders.[46]

The government, through the customs department, has also introduced the utilisation of the Electronic Fiscal Receipting and Invoicing Solution (EFRIS) directly linked to the Customs System is aimed at reducing forgery. The invoice generated at sale in the (EFRIS) will match with the sales invoice at exportation. Revenue points have been set up in countries such as Kenya, UAE and China where Uganda exports its commodities such as coffee to curb trade mis invoicing.[47] Uganda Revenue Authority has also adopted the use of Non-intrusive inspection technology (NII technology) at most entry points into Uganda to eradicate the issue of concealing and under declaration of goods.[48]

Furthermore, The Public Procurement and Disposal of Public Assets Authority (PPDA), Uganda's procurement regulator, in 2021 issued a public notice requiring firms submitting bids for government contracts to disclose the beneficial owners. All these measures will aid the Ugandan government in its efforts to reduce risk and minimise TBML, tax evasion, and corruption.[49]

The Uganda Registration Service Bureau (URSB) has taken the necessary administrative actions to address BO disclosure. It has developed Guidelines on its role in the prevention of money laundering, terrorism funding, and other questionable transactions, it has published a data collecting form on beneficial owners and created a platform for data collection and retrieval; carried out staff training to equip officers with the necessary abilities for the job; and appointed a liaison officer to strengthen collaboration with the Financial Intelligence Authority (FIA).[50]

[42] These include; MoFPED, MoJCA, MOFA, MIA, BOU, CMA, IRA, UMRA, URSB, ICPAU, UPF (CID), CMI, ISO, ULS, UBA, UIA, URA, IGG, ODPP
[43] See https://thetaxman.ura.go.ug/ura-steps-up-fight-against-illicit-financial-flows-to-curb-revenue-leakages/
[44] The six new bills passed by parliament addressing the FATF recommendations. https://www.fia.go.ug/sites/default/files/The%20Six%20New%20Bills%20Passed%20by%20Parliament%20addressing%20the%20FATF%20Recommendations..pdf
[45] Strengthening tax transparency to combat tax evasion, illicit financial flows and profit shifting in Uganda. https://www.oecd.org/tax/tax-global/strengthening-tax-transparency-to-combat-tax-evasion-illicit-financial-flows-and-profit-shifting-in-uganda.pdf
[46] See https://thetaxman.ura.go.ug/ura-steps-up-fight-against-illicit-financial-flows-to-curb-revenue-leakages/
[47] See https://www.monitor.co.ug/uganda/business/finance/ura-sets-up-centres-to-curb-misinvoicing-1827938
[48] https://www.newvision.co.ug/category/blogs/ura-gets-27-non-intrusive-scanners-for-border-116543
[49] https://gfintegrity.org/press-release/beneficial-ownership-laws-in-uganda/
[50] https://www.lawyersofafrica.org/capacitating-csos-for-improved-policy-influence-on-beneficial-ownership-in-uganda/

6 | TBML RISK FACTORS IN UGANDA

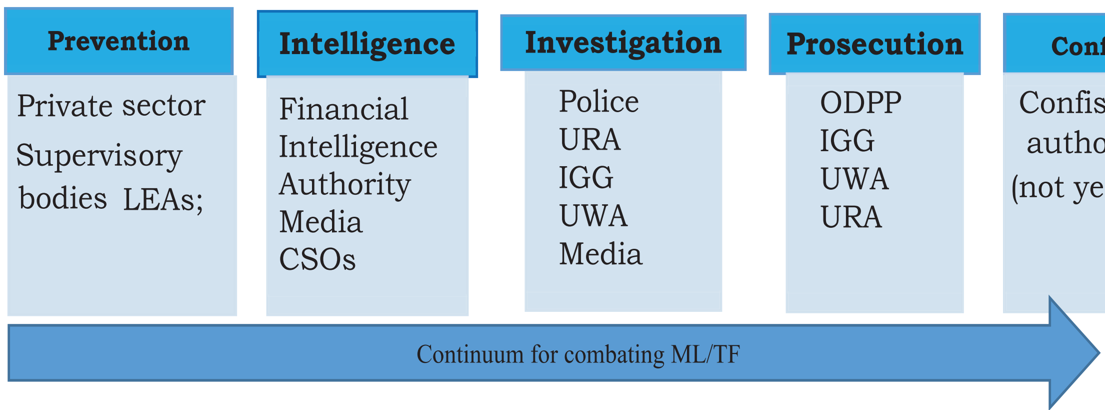
The 2017 National Risk Assessment Report shows that Uganda's vulnerability to AML/CFT is facilitated by: i) a highly cash-based economy; ii) capacity resource constraints of the Financial Intelligence Authority and law enforcement agencies; iii) inadequate AML/CFT statistics; iv) ineffective AML/CFT supervision; v) lack of parallel financial crime investigations; vi) weak border controls; vii) limited beneficial ownership requirements; viii) limited AML/CFT awareness; ix) unreliable identification infrastructure; x) unregulated sectors such as real estate; and xi) weak AML/CFT oversight among others.[51] In the context of TBML, the literature reviewed and stakeholder discussions held reveal the following risks to various sectors/ products discussed herein above.

Limited understanding of TBML and techniques used: There is a knowledge gap among stakeholders on TBML which provides room for more sophisticated aspects of this crime to go on undetected. Key informant interviews with key actors (government officials, private sector and media), meeting with journalists and the validation workshop undertaken as part of the methodology pointed to the fact that most actors are less knowledgeable about the key TBML manifestations and techniques.

Corruption: Despite the Government of Uganda establishing several anti-corruption and other agencies with relevant mandates to check IFFs, including the Inspectorate of Government (IGG), Office of the Auditor General (OAG), Public Accounts Committee (PAC), Directorate of Public Prosecution (DPP) and Uganda Revenue Authority (URA) issues of corruption persist. It is reported that the country is estimated to lose over UGX 500 billion (US$ 146.3 million) annually through corruption according to the 2016 auditor General's report.[52] The most recent report produced by the IGG estimated that Uganda loses UGX 20 trillion (US$ 5.8 billion) every year.[53] Corruption is a key facilitator of TBML as it compromises established systems and hinders the implementation of laws and policies.

Co-ordination of key stakeholders: A number of stakeholders both public and private are vital to identifying, combatting and disrupting TBML schemes as described in Figure 4 below.

Figure 4: Stakeholders in the fight against ML/TF in Uganda



Source: Financial Intelligence Authority 2022

Public sector actors include customs under the Uganda Revenue Authority, the Financial Intelligence Authority (FIA), the Criminal Investigations Department (CID), the Bank of Uganda and the Judicial System. On the other hand, the private sector includes private individuals, businesses, media, and civil society. While the public sector plays a key role in the prevention, intelligence, investigation, prosecution and sanctioning of TBML practices, the private sector provides the needed trade financing while at the same time maintaining the supply chain integrity through Designated Non-Financial Businesses and Professions (DNFBPs).[54] Despite the critical role played by the public actors and the private sector in Uganda, many players lack knowledge of TBML. Similarly, the coordination between the private actor and the public institutions involved in the fight against IFFs is still weak.[55]

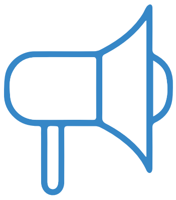
Relaxed oversight over Free Trade Zones (FTZs): Relaxed oversight over FTZs was one of the risk factors identified by stakeholders as a risk to TBML. In Uganda, the implementation of Free Zones began in 2014, after the enactment of the Free Zones Act, 2014. The Free Zone Act (2014) stipulates that Free Zones are specially designated areas where goods introduced into the area are generally regarded, so far as import duties are concerned, as being outside the customs territory and includes; Export Processing Zones, Free Port Zones, Special Economic Zones, among others. The scope and degree of Customs control over the goods introduced, and the economic operations carried out in FTZs, vary from one jurisdiction to another. As already indicated, goods introduced in a FTZ are generally not subject to Customs controls. There is therefore a risk of exploiting the FTZ system for commercial fraud.[56] Although the conditions for setting up FTZs may be regulated by the Customs or relevant management authority, and the kinds of operations may be subject to the approval of these authorities, the degree of Customs intervention is often insufficient or even absent.

[51] https://www.fia.go.ug/sites/default/files/downloads/20201207_NATIONAL_STRATEGY_FOR_COMBATING_MONEY_LAUNDERING_AND_THE_FINANCING_OF_TERRORISM_AND_PROLIFERATION%20FY%202020.21-FY%202024.25.pdf
[52] Uganda-Report-2018_12.20.18.pdf (gfintegrity.org)
[53] https://www.eyewitnessug.com/uganda-loses-20tn-to-corruption-annually-igg/
[54] fatf-gafi.org/media/fatf/content/Trade-Based-Money-Laundering-Trends-and-Developments.pdf
And according
[55] Stakeholder Dialogue Report for the IFFs Land scape in Uganda July 2022
[56] TAFT Report,2010. Money Laundering Vulnerabilities. https://www.fatf-gafi.org › documents › reports

7 | CONCLUSION

TBML thrives because it exploits the very structures designed to prevent fraud: documentation, customer/invoicing processes, and open trade accounts are all twisted by fraudsters to conceal or obfuscate the illegitimate movement of money. The current situation in Uganda, characterised by a highly cash-based economy, resource constraints, and limited data transparency for public and private actors', points to a fertile ground for TBML practices. This situation is not helped by the apparent knowledge gap among stakeholders on TBML which leaves room for more sophisticated aspects of this crime to go undetected. Therefore, as a result of this complexity, a more deliberate and consistent approach is required. Therefore, combating TBML will require a multi-stakeholder approach at both the domestic and international levels.

8 | RECOMMENDATIONS

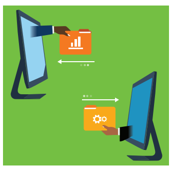


Raise awareness and provide training on TBML among private and public actors:

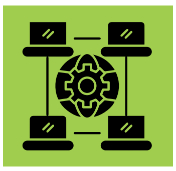
The negative impact of TBML on national and global economies emphasized a strong need to elevate this issue as a national policy priority. Multi-stakeholder discussions of TBML and advocacy campaigns should include legislators, academia, civil society, private sector organizations, customs authorities, and other government agencies, as well as representatives of international organizations, such as the United Nations, the World Bank Group, the Organization for Economic Cooperation and Development, International Monetary Fund, and other multinational agencies.

Implement beneficial ownership laws and enforce the sanctions systems:

In 2022, Uganda amended various laws to provide for beneficial ownership disclosure. The government should therefore facilitate the enforcement of these laws to mitigate TBML.



Data sharing and coordination among stakeholders: Mechanisms should be put in place to ensure that data collected by each agency is shared and collated in real time using common data-sharing software. Agencies should also be trained to detect and consistently report suspicious activity to the Finical Intelligence Authority as required by the AML Act 2013.



Increase Support and funding to frontline agencies:

The government should increase funding and ensure independence of frontline agencies such as Financial Intelligence Authority, Uganda Registration Services Bureau, Uganda Revenue Authority, Criminal Investigations Directorate of Uganda Police, Inspectorate of Government, and the Directorate of Public Prosecutions to, among others, detect, prevent and prosecute money laundering cases.

TRADE BASED MONEY LAUNDERING IN UGANDA

ACODE is an independent public policy research and advocacy think tank based in Uganda, working on a wide range of public policy issues. ACODE has for the last seven consecutive years been ranked in the Global go to Thinktanks index report as one of the best think tanks in Uganda and globally.

Global Financial Integrity (GFI) is a Washington, DC-based think tank focused on illicit financial flows, corruption, illicit trade and money laundering.

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