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OSCE Secretariat

Wallnerstr. 6, 1010 Vienna, Austria

Tel: + 43 1 51436 6000

Fax: + 43 1 51436 6299

email: info@osce.org

www.osce.org/cthb

www.osce.org/oceea

www.osce.org/tnt

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Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings

FOREWORD

This publication summarizes several years of joint efforts to bridge gaps in the knowledge and capacity of practitioners who are working to counter money laundering and trafficking in human beings. Much of the research contained herein was identified during the OSCE/UNODC Expert Seminar on Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking, held in Vienna on 3-4 October 2011. The foundations for this work, however, were laid through other initiatives and publications including the OSCE/UNODC Regional Operational Meeting on Combating Human Trafficking and Money Laundering in the Mediterranean Rim Region, held in Larnaca, Cyprus on 18-19 September 2008, the May 2010 OSCE/UN.GIFT research publication *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* and the July 2011 FATF Report *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*.

In December 2013, the OSCE participating States adopted an Addendum to the Action Plan on Combating Trafficking in Human Beings, which, for the first time, mandates the OSCE participating States to support the use of anti-money laundering tools to combat THB. Among actions participating States are to take at the national level, the Addendum includes “[p]romoting the use of financial investigations linked with THB-related offences; enhancing the capacity of anti-money-laundering authorities and other relevant structures to identify financial activities linked to THB; enhancing the capacities, where necessary, for tracing, freezing and confiscating the instrumentalities and proceeds of THB, in accordance with national law; and considering, where applicable, using confiscated proceeds to fund anti-trafficking initiatives and victim support, including the possibility of obtaining compensation.”¹

Based on the above, this publication provides background and information to help practitioners to operationalize the intersection of human trafficking and money laundering.

The OSCE wishes to note that this publication contains a number of examples in text boxes and case studies that were generously provided by the countries and organizations involved both during the October 2011 Expert Seminar in Vienna and in subsequent exchanges with the OSCE Secretariat. The candour of the case studies attests to these states’ and organizations’ willingness to engage in open dialogue about the challenges they face and the value of joint action.

¹ OSCE Ministerial Council, *Decision No. 7/13 Combating Trafficking in Human Beings*, MC.DEC/7/13 (6 December 2013), <<http://www.osce.org/mc/109341>>, accessed 27 May 2014, and OSCE Permanent Council, *Decision No. 1107 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later*, PC.DEC/1107 (6 December 2013).

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ACRONYMS

AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism	MLA	Mutual Legal Assistance
APG	Asia/Pacific Group on Money Laundering	MONEYVAL	Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
AWF	Analysis Work File	MSB	Money Services Business
CARIN	Camden Asset Recovery Interagency Network	MVTS	Money or Value Transfer Service
CTR	Currency Transaction Report	NGO	Non-Governmental Organization
CDD	Customer Due Diligence	NPO	Non-Profit Organization
DNFBP	Designated Non-Financial Businesses and Profession	NRA	National Risk Assessment
DHS	United States Department of Homeland Security	OECD	Organisation for Economic Co-operation and Development
EAG	The Eurasian Group on Combating Money Laundering and Financing of Terrorism	OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
EC	European Commission	OSCE	Organization for Security and Co-operation in Europe
Europol	European Police Office	OSR/CTHB	OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
FATF	Financial Action Task Force	PEP	Politically Exposed Person
FI	Financial Institution	POC	Proceeds of Crime
FIU	Financial Intelligence Unit	SAR	Suspicious Activity Report
FSRB	FATF-Style Regional Body	SOM	Smuggling of Migrants
GRETA	Council of Europe's Group of Experts on Action against Trafficking in Human Beings	STR	Suspicious Transaction Report
HSI	Homeland Security Investigations	TIP	Trafficking in Persons
ILO	International Labour Organization	TF	Terrorism Financing
IMF	International Monetary Fund	THB	Trafficking in Human Beings
Interpol	International Criminal Police Organization	TNTD/SPMU	OSCE Transnational Threats Department / Strategic Police Matters Unit
JIT	Joint Investigative Team	UN	United Nations
LEA	Law Enforcement Agency	UNODC	United Nations Office on Drugs and Crime
MER	Mutual Evaluation Report		
ML	Money Laundering		



Executive Summary

Trafficking in human beings (THB) poses a grave transnational threat to countries within the OSCE region and beyond. THB and the investment of its proceeds are known to challenge economic security, feed corruption, and undermine the rule of law in countries where THB occurs and where its proceeds are collected and integrated into both the formal and criminal economies.

THB businesses are generally characterized by low start-up costs, high profitability and a high degree of cross-border movement of persons and funds. New data released by the ILO in May 2014 estimates that forced labour in the private economy including for sexual exploitation generates USD 150 billion per year in illegal proceeds. Taken together with the increasing ability of traffickers to move proceeds quickly across borders and the fact that successful national and international criminal justice responses to the crime remain rare, THB is a low-risk, high-reward crime that affects nearly 21 million victims worldwide.

To date, most of the global effort to stem THB has focused on the THB crime itself, and not on the proceeds derived from and invested in THB. This trend is due to several factors. Too often, the anti-trafficking and anti-money laundering communities work in isolation from one another. Law enforcement agencies are often unaware of or unequipped to handle THB-related financial activity, whereas financial investigators generally lack knowledge of THB operations. Interagency and international co-operation on THB is frequently weak and is particularly limited with respect to THB-related financial investigations. National legislation on THB is often insufficient and no country has been rated as “compliant” with all of the Financial Action Task Force Recommendations on combating money laundering (ML).

Transforming THB into a high-risk, low-reward criminal activity requires comprehensive solutions to the abovementioned challenges. One of the most effective ways to disrupt and dismantle THB criminal networks is to identify and confiscate the money they spend and collect. Because some criminals are willing to risk serving time in prison if they are confident that the

money from their criminal activities will be available to them upon release, the confiscation of criminal profit has a clear potential to dissuade the highest levels of a criminal enterprise. In addition, tracing the financial flows associated with THB often allows investigators to identify additional members and victims of a THB organization, and confiscated funds and assets can be used to support both law enforcement and victim support programmes. Doing so more effectively however, requires first and foremost that funds be made available and secondly that legal practitioners including both judges and victim representatives are trained to make full use of victim compensation provisions in national legislation.

AML regimes, which seek in part to identify and confiscate the proceeds of crime, can support countries’ efforts to identify and confiscate the proceeds and instrumentalities of THB. Operational in almost every jurisdiction around the world, AML regimes provide their jurisdictions with useful tools for detection, investigation, co-operation and confiscation, including FIUs, whose expertise in financial crime can support law enforcement authorities in identifying and analysing financial transactions associated with THB. AML regimes, however, are most effective when they enjoy close co-operation with their national and international counterparts in law enforcement and the broader anti-trafficking community. One key recommendation that has emerged from discussions between experts on ML and THB is that law enforcement authorities ensure that for every investigation of suspected THB activity, a financial investigation is also conducted. Such an approach supports the early involvement of both law enforcement and AML authorities in an investigation.

Although AML regimes offer tools that are useful in identifying and analysing financial flows related to THB, important AML stakeholders, including government officials and private sector reporting entities, may not have detailed knowledge of THB business models, markets and preferences for moving illicit funds. This knowledge gap can be addressed in part by providing AML experts with red-flag indicators of possible THB-related financial activity that other countries and financial

institutions have identified in the course of their own THB investigations. Numerous case studies have shown that while THB is in many respects a unique crime, the methods by which its perpetrators attempt to launder its proceeds are identical to those used for other types of crime. Thus, the AML tools at the disposal of states have the potential to be as effective in tackling THB as they are for other, often better understood, crimes such as trafficking in narcotics.

The role of the private sector in preventing the laundering of THB proceeds should not be underestimated. Nearly all of the THB case studies published to date have noted the use of financial institutions or money transfer services in moving the proceeds and instrumentalities of THB from one location to another. By fully leveraging the private sector's access to the financial transactions of criminals, countries can often be more effective in identifying suspicious financial activity.

In addition to domestic co-operation between various national agencies and the private sector, improving the use of AML regimes to combat THB also requires closer co-operation between countries of origin, transit and destination for THB. International networks gathering law enforcement, judicial and financial intelligence units and anti-trafficking structures can provide a useful platform for developing operational contacts with other countries and exchanging experiences. A challenge for many countries, however, is to make full use of professional contacts in countries of origin, transit and destination in order to exchange case-related information.

A number of studies, tools, case studies and good practices are available to assist the wide variety of stakeholders in improving the effectiveness of efforts to counter THB. Although the role of each type of stakeholder is unique, each stakeholder's effectiveness would be increased by better understanding the roles other stakeholders play; efforts to improve the use of AML regimes to combat THB would be greatly improved if AML experts increased their familiarity with THB and if experts in combating THB deepened their knowledge of AML tools and practices. All stakeholders would thus derive benefit from making full use of available research and best practices and to continue building capacity in their respective jurisdictions and organizations to more effectively combat THB.

With inputs from a broad range of experts and countries, this report provides fuller information on each of the abovementioned issues, as well as case studies and a list of resources practitioners may find useful.



Introduction and Outline of the Report

In October 2011, the OSCE's OCEEA, OSR/CTHB, and TNTD/SPMU, in co-operation with the UNODC, organized within the context of the *Alliance against Trafficking in Persons*² an Expert Seminar on Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking in Vienna. The Expert Seminar was timely, given the heightened vulnerabilities within the global economy: the credit and liquidity shortages resulting from the global financial crisis have created opportunities for cash-flush criminals to take over legitimate businesses. The financial crisis has also contributed to a situation across the OSCE region, wherein those most vulnerable to THB are even more likely to fall into the hands of traffickers.

This report is based primarily on the contributions of THB and AML experts that participated in the joint Expert Seminar. The seminar drew on the experience and expertise of practitioners and researchers from FIUs, FIs, law enforcement, judicial and supervisory agencies, and other government authorities, inter-governmental and international organizations, anti-trafficking experts, NGOs, and the business sector in order to bring the fields of AML and THB closer together and to enhance the use of AML tools, procedures, and expertise to combat THB. In addition, the report also includes several recent case studies and recognizes the contributions of other key THB-related reports, including the OSR/CTHB's report on *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* and the FATF Report on the *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*.³

² The *Alliance against Trafficking in Persons* is a broad international platform for co-operation that was initiated by the OSCE in 2004. It is composed of more than 30 members including the OSCE: international organizations, UNODC, UNICEF, UN OHCHR, UNHCR, UN WOMEN, ILO, IOM, IFRC, the Council of Europe, the European Commission, ICMPD, the Council of Baltic Sea States (CBSS), Interpol, Europol and NATO; key international and regional NGOs, such as Amnesty International, Anti-Slavery International, Churches Commission for Migrants in Europe (CCME), ECPAT, International Centre for Missing and Exploited Children (ICMEC), Human Rights Watch (HRW), La Strada International, Platform for International Cooperation on Undocumented Migrants (PICUM), Save the Children and Terre des Hommes International Federation; social partners, such as International Trade Union Confederation (ITUC) and the International Organisation of Employers (IOE); and others such as the Bureau of the Dutch Rapporteur on Trafficking in Human Beings.

³ See OSCE OSR/CTHB and UN.GIFT, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* (May 2010), <<http://www.osce.org/cthb/69028?download=true>>, accessed 3 June 2014; hereinafter "OSCE report"; FATF, *Money Laundering Risks Arising from Trafficking in Human Beings*

The goal of the Expert Seminar was to hold concrete and technical discussions among participants of mixed backgrounds on the links between ML and THB. Participants reviewed specific cases, developed strategies to improve the application of financial investigation skills, shared international experiences with THB operations and laid the groundwork for further co-operation on this issue. Given the success of the seminar and subsequent follow-up activities, it was decided to draft and publish the main findings of the Expert Seminar to allow them to be shared with a wider audience.

The OSCE first addressed the nexus of THB proceeds and ML in September 2008 at a Regional Meeting on Combating Human Trafficking and Money Laundering in the Mediterranean Rim Region, which was organized in Larnaca, Cyprus, in co-operation with OSR/CTHB, the Republic of Cyprus and the UNODC's Global Programme against Money Laundering. The two-day meeting provided government officials with an enhanced understanding of international standards in building effective systems to fight ML and THB. However, it also displayed a notable disconnect between practitioners in the fight against money laundering and those in the fight against human trafficking and demonstrated the need for further work on the intersection of ML and THB, as well as the need to facilitate closer co-operation between stakeholders both within and between countries.

The topic of THB and money laundering was further addressed from 16-18 November 2010 in Cape Town, South Africa, in the framework of the first joint meeting of the Financial Action Task Force and the Egmont Group of Financial Intelligence Units on Money Laundering and Terrorist Financing Typologies. An outcome of that exercise has been a concerted effort among numerous national and international stakeholders to gather and examine what is known about the money laundering

and Smuggling of Migrants, FATF Report (July 2011), <<http://www.fatf-gafi.org/media/fatf/documents/reports/Trafficking%20in%20Human%20Beings%20and%20Smuggling%20of%20Migrants.pdf>>, accessed 4 June 2014. The agenda and presentations from the OSCE and UNODC Expert Seminar on Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking are available at: <<http://www.osce.org/cthb/83276>>, accessed 4 June 2014.

typologies related to human trafficking and migrant smuggling. The key findings of this FATF typology report, published in July 2011, are that THB and SOM appear to be region-specific, that there are links with other forms of organized crime and finally, that no new ML techniques have been detected: the channels used, and the instruments and sectors involved are the same as those used to launder the proceeds of other crimes. The report stresses the importance of both national and international co-operation, the need to increase the use of financial investigations and the need for countries to better implement the related FATF recommendations.

This report provides an overview of THB and AML regimes and how they can interact, describes key issues and challenges for leveraging AML regimes to combat THB, identifies existing good practices, tools, and resources to address the financial and business aspects of THB and provides recommendations to relevant government agencies, NGOs, FIs and businesses. In addition, the report includes several THB and SOM case studies that highlight existing challenges and practices, as well as a list of possible financial indicators of THB activity.

Chapter 1 provides an overview of THB practices and AML regimes and includes a discussion of the business models and finances of THB operations, international AML standards, national AML regimes, and the benefits and challenges of leveraging AML regimes to combat THB. *Chapter 2* identifies key issues and challenges related to national legal frameworks, the identification and analysis of financial activity related to THB, criminal THB investigations, private-public co-operation, inter-agency co-operation, international co-operation, and the freezing, seizure and confiscation of assets related to THB. *Chapter 3* points out existing AML practices, tools and resources to combat THB at the national and international levels, and in the banking and business sectors. *Chapter 4* lays out recommendations to stakeholders at the national level and in FIUs, law enforcement and prosecution agencies, FIs, NGOs, the anti-trafficking community and the business sector for improving the use of AML regimes to combat THB. *Annex 1* includes several THB and SOM case studies, and *Annex 2* provides a list of relevant references.

Chapter 1: Overview of Efforts to Counter ML and THB

1.1 Trafficking in human beings and smuggling of migrants

Trafficking in human beings is defined in international law in the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to the Transnational Organized Crime Convention. The 2003 OSCE Action Plan on Combating Trafficking in Human Beings adopted the Palermo definition, as did the 2005 Council of Europe Convention on Action against Trafficking in Human Beings. Trafficking in human beings consists of three elements. The first element is an act: recruitment, transportation, transfer, harbouring or receipt. The second element is the means: threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or giving or receiving of payments or benefits to achieve the consent of a person having control over another person. The third element is the purpose of exploitation of the person considering that it shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs⁴.

THB is a widespread global phenomenon, and it is on the rise. Fuelled by global factors, such as demand for cheap labour, unequal economic development and corruption, THB has become a lucrative business for criminals all over the world. As such, THB is now the fastest growing form of organized crime and ranks as the third largest source of illicit profit after narcotics and arms trafficking.⁵

In general, THB is a process that occurs in stages, and can involve different offences and offenders at each stage. In the first stage, potential victims are either recruited, often by deception, or abducted in the country or place of origin by the traffickers. In the second stage, the victims are transported to the country or place of destination, often but not always crossing national borders. During the third stage, in which most of the exploitation takes place and most of the profits are generated, victims are often forced or coerced into servitude, including for sexual exploitation, for labour exploitation, the removal of organs, domestic servitude, forced begging or organized criminality, among other forms. Victims are typically deprived of their freedom, either through physical control but also through the use of psychological coercion and other more subtle forms of control. Victims are also deprived of their earnings. Once

4 The EU Anti-Trafficking directive 2011/36/UE dated 5th April 2011 specified the definition with mentioning "forced begging" as a part of forced labour and added "the exploitation of criminal activities".

5 Louise Shelley, *Human Trafficking: A Global Perspective* (Cambridge University Press, 2010).

exploitation produces proceeds, traffickers may carry out a fourth stage, laundering the proceeds to conceal their criminal source and using them as legitimate funds or as capital to invest in THB or other criminal activities.⁶

The process of THB involves many different crimes and human rights violations, primarily depriving victims of their freedom, security and wages, and subjecting them to document theft, threats and often various forms of violence, including forced prostitution, sexual assaults and rape and even death. In addition, victims of THB are often denied access by the traffickers to medical care, basic social services and education. They are frequently forced to work in indecent and inhumane conditions.⁷

Experience to date in the OSCE region shows that THB is linked with a number of other criminal phenomena, including the smuggling of migrants (SOM). While THB is a crime that is directed against individuals and includes the coercion of migrants, typically to forced labour or prostitution, SOM is a crime against a state and includes the paid transportation of migrants using methods of irregular entry.⁸ Traffickers are increasingly taking advantage of the vulnerabilities of smuggled migrants, both before, during and after the smuggling phase. Thus, while the focus of this report is on THB, SOM is also addressed because of the overlapping issues and especially because SOM can lead to THB. Addressing SOM within the broader spectrum of migration policies is essential to efforts to combat THB.

While experts agree that THB is a highly profitable organized crime, estimating its revenues remains difficult. A new report issued by the ILO in May 2014 estimated that the annual criminal revenue of modern day slavery is USD 150 billion.⁹ This figure marks a threefold increase from the ILO's previous estimate of USD 32 billion which the organization released in 2005-2006.¹⁰ Two thirds of the estimated total of USD 150 billion, or USD 99 billion, are reported to come from commercial sexual exploitation, while the remaining USD 51 billion result from forced economic exploitation, including domestic work and agriculture.¹¹

In 2012, the ILO provided a conservative estimate that globally, there are 20.9 million people who are victims

6 OSCE report, pp. 17-18.

7 Ibid., p. 9, 18.

8 UNODC, *Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants* (Vienna, 2012), pp.19-22.

9 ILO, *Profits and Poverty: The Economics of Forced Labour* (May 2014), <http://www.ilo.org/global/topics/forced-labour/publications/WCMS_243391/lang-en/index.htm>, accessed 4 June 2014.

10 ILO, *Forced Labour and Human Trafficking: Estimating the Profits* (2005), <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081971.pdf>, accessed 4 June 2014.

11 ILO, *Profits and Poverty: The Economics of Forced Labour*, Op. Cit.

of forced labour and human trafficking. Of that total, 4.5 million (22 per cent) are victims of forced sexual exploitation, 14.2 million (68 per cent) are victims of forced labour exploitation in sectors such as agriculture, construction, domestic work or manufacturing, while the remaining 2.2 million (10 per cent) are in state-imposed forms of forced labour. Globally, women and girls represent 11.4 million (55 per cent) of victims, while children represent an estimated 5.5 million (26 per cent).¹²

Globally, despite the large scale of THB, different official sources concur on the low rate of convictions. According to UNODC, between 2007 and 2010, “the cumulative absolute number of convictions for trafficking in persons is between 5,500 and 7,000 per year for the 132 countries covered”¹³. According to the US TIP Report in 2012 only 7,705 prosecutions and 4,746 THB convictions took place¹⁴ and that in 2010 for instance, there were 62 countries that had yet to achieve a single conviction for THB.¹⁵ The country reports published by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) also confirm these findings.¹⁶ As a result, THB remains a low risk, high profit criminal activity, allowing criminal networks to make enormous profits by exploiting victims and depriving them of their freedoms and human rights.

1.2 The business model and finances of THB

The business of THB is generally characterized by low start-up costs, high profits and high mobility of victims across and within countries. Under current criminal justice practices, criminals engaging in THB typically face a low risk of being arrested, of being subject to long incarceration and of having the proceeds and instrumentalities of their crimes confiscated. In addition, some THB organizations engage in other criminal activities, such as trafficking in drugs and arms, and many are linked to identity theft, falsifying documents and visa fraud.

The low cost of entering the THB business facilitates a wide array of traffickers ranging from small “family-owned” groups to international criminal networks and gangs from various regions. Traffickers may be from a variety of socioeconomic backgrounds and may receive logistical support from a broad range of actors, including

government officials. Victims of THB are typically found among the most vulnerable sectors of society, including those with irregular migration status, those who are marginalized due to socio-economic factors and those who face racial, ethnic or gender discrimination. Both men and women have been found to be managing portions of trafficking operations.

While different THB operations often share many characteristics, for example, a focus on profits, they do not follow a single business model. Particularly between geographic regions, there are significant variations in trafficking business models, patterns and practices. These variations depend not only on the market forces of supply and demand, but also on historical and cultural influences that shape local business practices. In her book, *Human Trafficking: A Global Perspective*, Dr. Louise Shelley has offered several different descriptions of models of trafficking, including the supermarket model, the natural resources model, the trade and development model, the pimp model and the West African model.¹⁷

Just as THB models vary significantly from one another, so does the use of the proceeds of trafficking. While traffickers employing the natural resources and pimp models tend to use proceeds of THB to maintain expensive lifestyles, traffickers employing the trade and development and West Africa models tend to repatriate proceeds of THB to countries of origin for re-investment in illicit activity. These differences create clear implications for LEAs seeking to identify and confiscate the proceeds and instrumentalities of THB-related offences.

Currently, the true scale of THB and the extent to which its proceeds are laundered into the licit economy remain unknown, and national and global assessments must thus rely on information from individual cases and bottom-up extrapolation.

Information from different Dutch cases indicates that the proceeds from a prostitute in the Amsterdam Red Light district average about EUR 8,000 per month. Cases in other countries indicate that a single child forced to beg and pickpocket in a major European city can generate more than EUR 300 per day, or EUR 9,000 per month for the trafficker.

It is known that proceeds of transnational THB are generated primarily in countries of destination. The means of using, transferring and laundering THB proceeds vary, however, based on the specific region and business model employed. While most THB operations use cash-

¹² International Labour Office (ILO), *2012 Global Estimate of Forced Labour* (Geneva, 2012), <http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_181961/lang--it/index.htm>, accessed 4 June 2014.

¹³ UNODC, *Global Report of Trafficking in Persons 2012* (December 2012), p. 85.

¹⁴ U.S. Department of State, *Trafficking in Persons Report 2013* (June 2013).

¹⁵ U.S. Department of State, *Trafficking in Persons Report 2010* (June 2010).

¹⁶ Council of Europe, GRETA, *Second General Report on GRETA's activities* (4 September 2012), p. 5. All general activity reports and country reports published by GRETA can be consulted on the following link : <http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Country_Reports_fr.asp>, accessed 4 June 2014.

¹⁷ Louise Shelley, *Human Trafficking: A Global Perspective* (Cambridge University Press, 2010), pp. 112-31; see also Annex I, Case Study 1.

based transfers through MSBs and cash purchases of high-value assets, there are regional differences in laundering methods. Traffickers in Europe tend to focus on cash intensive businesses, such as MSBs, real estate and high-value goods. In the Americas, there is a greater use of casinos, wire transfers and import/export companies to move and launder THB proceeds. In Asia, traffickers rely more on informal transfer systems than on formal bank transfers, and African traffickers commonly use informal banking systems and couriers to move cash and purchase real estate.¹⁸

In contrast, much of the financial activity related to SOM generally takes place in the country of origin. Cases have shown that relatives of migrants may make domestic transfers to the bank accounts of smugglers in the country of origin, in order to pay smuggling fees and transportation costs. When investigating SOM, LEAs in countries of destination thus face the added challenge identifying criminal proceeds and instrumentalities that often remain in the country of origin.

1.3 International AML standards

In 1990, the FATF, which had recently been established as an OECD-based inter-governmental organization, released 40 recommendations for addressing ML, creating the first international standards on ML. A number of countries subsequently began implementing elements of the FATF recommendations and creating comprehensive national regimes to combat ML. By 2004, the FATF had added nine special recommendations for fighting TF to the list, which became known as the FATF 40+9 Recommendations. Since then, FATF membership has grown to 36 members and nine FSRBs have been established to assist non-FATF members around the world in adopting the FATF Recommendations, developing AML/CFT regimes and monitoring their progress.¹⁹ In February 2012, the recommendations were strengthened and revised into a total of 40 Recommendations, which lay out guidelines for governments to prevent, identify and suppress ML, TF and the financing of proliferation.

The implementation of the FATF Recommendations in different countries is monitored through an ongoing process of mutual evaluations that are conducted by teams of experts from the FATF, relevant FSRBs, other countries and in some cases the IMF or the World Bank. As part of the process, which is conducted according to a single FATF-developed methodology, the team of experts visits the country to learn about its AML/CFT

system and challenges, collect data on the performance of the system and produce a MER that includes the team's assessment of the country's level of compliance with each of the FATF Recommendations. As of October 2012, 189 jurisdictions had completed at least one evaluation of their AML/CFT regime.²⁰

Compliance with the FATF Recommendations is voluntary, and the FATF and FSRBs have no formal authority or official enforcement mechanism over their members. However, de facto enforcement of the standards is achieved through the publication of various lists,²¹ commonly referred to as "black" or "grey" lists, of countries that are either non-compliant with the standards or have not made sufficient progress in implementing objectives agreed with the FATF or FSRB representatives. Since the failure of some countries to comply with the international AML/CFT standards poses a risk to the financial systems of other countries, a FATF listing typically results in regulatory actions by major financial centres. These regulatory actions typically require increased due diligence on banking relations and transactions, which in turn slows down transactions with the listed country. In severe cases, regulators may prohibit FIs within their jurisdiction from contacting transactions with an entity in a listed jurisdiction. Since these measures increase the cost of conducting transactions and doing business with listed countries, they provide significant incentives for countries to adhere to international standards.²²

1.4 National AML regimes

With the increasing implementation of the FATF Recommendations, most jurisdictions in the world have at least basic AML/CFT regimes. Notwithstanding certain variations, AML/CFT regimes are generally structured similarly to one another.

The FIU is the specialized government agency that focuses on combating ML, TF, and other financial crimes, and is at the heart of every AML/CFT regime. The FIU is the national authority that receives STRs and other financial disclosures from reporting entities and agencies, processes them and disseminates them to relevant government agencies, primarily LEAs. The importance of the FIU stems from its expertise in AML/CFT and financial analysis, as well as on its unique position as an intermediary between the financial sector and LEAs. Most FIUs are administrative in nature, serving as a focal point for receiving, processing, and disseminating financial

18 Louise Shelley, *Human Trafficking: A Global Perspective* (Cambridge University Press, 2010), pp. 112-31

19 The FATF Recommendations are available at the FATF website: <<http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandards-on-combating-money-laundering-and-the-financing-of-terrorism-proliferation-the-fatf-recommendations.html>>, accessed 4 June 2014; For a full list of the members of the FATF and all eight FSRBs, see the FATF website: <<http://www.fatf-gafi.org/countries/>>, available 4 June 2014.

20 See Mutual Evaluations on the FATF website: <<http://www.fatf-gafi.org/topics/mutualevaluations/>>, available 4 June 2014.

21 The current FATF list of high risk and non-cooperative jurisdictions is available at: <<http://www.fatf-gafi.org/topics/high-risk-and-non-cooperative-jurisdictions/>>, available 4 June 2014.

22 See, for example, the July 2012 US Treasury guidance to FIs following the publication of the updated FATF lists on June 2012: <http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2012-A008.pdf>, accessed 4 June 2014.

data. Others, however, are part of law enforcement or judicial authorities and have investigative and other powers.²³

According to the basic structure of most AML/CFT regimes, reporting entities, including financial institutions (e.g., banks, money transmitters and securities companies), designated non-financial businesses and professionals (e.g., accountants, real estate agents, dealers in precious metals and stones and trust and company service providers) and government agencies (primarily customs and border control), are required to have various AML/CFT safeguards in place. Such safeguards vary by type of reporting entity and include, inter alia, verifying the identity of customers, maintaining detailed records of transactions and identifying and reporting suspicious financial activity. Compliance with the specific AML/CFT requirements of each type of entity is typically monitored by supervisory authorities.²⁴

Reporting entities, and in some countries reporting agencies, such as customs and border control authorities, submit STRs or similar reports and other financial disclosures such as CTRs on cash transactions over a certain threshold to the FIU. As a rule, the FIU then analyses the disclosures, and forwards relevant information and the results of its analyses to LEAs for criminal investigation.

Whether based on reports from the FIU or more traditional initial sources of information on a potential crime, LEAs conduct criminal investigations of both the original, often profit-generating offence (i.e., the predicate offence to ML) and on the ML aspects of the offence, and collect evidence for a possible prosecution. Criminal proceeds and other assets discovered during the investigation should be frozen or seized. Prosecutions are most often for the predicate offence itself, although an ML charge may be added to the charges. In cases where the laundering of the funds was carried out by a third party, charges can be brought for a third party, or autonomous, ML offence. Convictions for autonomous ML in the absence of proof of the underlying predicate offence have proven in practice to be particularly difficult to secure. It is also difficult to prove the precise link between the money or property laundered and the predicate offence perpetrated. In the absence of legislation permitting the reversal of the burden of proof, it is difficult for the prosecution to bring such evidence even if it is obvious that the assets laundered can only stem from criminal activities.

In conjunction with a conviction, the prosecution can pursue a legal process to permanently confiscate funds and assets that were frozen or seized, or in some cases additional assets equivalent to proceeds of crime that could not be frozen or seized. In addition, pursuant to FATF Recommendation 4, many countries have adopted legal mechanisms allowing for the confiscation of criminal assets without a criminal conviction and without the need to prove the unlawful origin of each asset in an offender's possession. The confiscation of the proceeds of crime is not only a means to deprive criminals of ill-gained assets and reduce incentives to commit additional crimes, but it is also a means to secure funds that can be used to further support law enforcement efforts and compensate victims of THB. In THB cases, confiscated assets are often the only available means to compensate victims.

1.5 Benefits and challenges of leveraging AML regimes to combat THB

Efforts to combat THB are in many respects similar to efforts to combat ML. Efforts to tackle both ML and THB face many shared challenges, including sophisticated and highly profitable criminal enterprises, cross-border illicit financial flows, heavy reliance on international co-operation and challenges related to the confiscating of criminal proceeds. THB-related investigations include peculiar features stemming from the cruelty of the crime and the trauma experienced by victims. Victims are often reluctant to co-operate with law enforcement due to a lack of trust, serious threats to their personal security and intimidation by traffickers, as well as their irregular migration status.

Nevertheless, the use of AML tools, procedures and expertise holds a significant and largely untapped potential to advance the fight against THB in most jurisdictions. The use of AML tools can improve the detection of THB, assist in broadening and deepening THB investigations and support international co-operation and asset confiscation efforts by using AML-related channels. Investigative authorities could improve their current efforts by adopting many of the practices and techniques put forward in the FATF report *Operational Issues – Financial Investigation Guidance*, issued in June 2012. This report provides information aimed at assisting countries in conducting effective financial investigations, including through the development of investigative strategy and the use of parallel financial investigations of predicate offences, multi-disciplinary teams and asset recovery and specialist investigative techniques.

²³ See the Egmont Group website: <<http://www.egmontgroup.org/about/what-is-an-fiu>>, accessed 4 June 2014.

²⁴ Banking supervisory authorities typically enforce AML/CFT requirements for banks. FATF, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation – the FATF Recommendations* (February 2012), <<http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandardscombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html>>, accessed 4 June 2014.

The AML tools that could be leveraged to combat THB may be broadly listed in four categories. First, STRs and other financial disclosures can detect suspicious activity related to THB, initiate or contribute to investigations and provide useful insight into traffickers' finances and operations. Second, FIUs and specialized law enforcement units can support parallel financial investigations of THB offences and provide crucial expertise and investigative tools to identify and freeze proceeds and assets linked to the THB business. Third, THB investigations could benefit from the use of specific mechanisms for international co-operation on ML-related issues such as information exchanges between FIUs. Last, the effective use of AML procedures to freeze, seize and confiscate criminal proceeds and assets related to THB can have a substantial disruptive effect on THB operations, play a significant role in reducing the profitability of THB and secure additional funds for anti-THB activities and victims' compensation.

However, current efforts to utilize available AML/CFT tools to address THB remain limited. There are several primary causes of this disconnect between THB and ML. First, there has been a lack of co-operation between financial investigation units and anti-trafficking units, in part due to distinct operational cultures but also due to lack of resources, training and information exchange. There is thus a need to bridge the gap between those doing proactive financial intelligence gathering, and those who are collating and analysing the criminal networks of traffickers. Second, in many jurisdictions, there has been a predominant reliance on victim-witness evidence in prosecutions of THB. Evidence from victims and witnesses is difficult to collect because of weak victim and witness protection systems in many countries. Victims' testimony may be subject to frequent change because of the level of trauma they endured and may be difficult to maintain throughout the course of lengthy investigations and trials. In this respect, the information yielded by AML and financial investigative techniques could provide crucial evidence at trial, thus reducing the need to rely on complex and expensive witness protection measures. Third, within LEAs, there is a tendency to focus on the first line of perpetrators of a crime such as THB, often at the expense of attention to the proceeds and the ML aspects. In addition, rather than pursue additional ML charges, it is common practice among many police forces to close cases once criminals involved in a human trafficking case have been identified and arrested.

On the other hand, from the perspective of AML practitioners, THB is one of a long list of predicate offences for ML, and therefore measures and guidance to combat ML may be general in nature, rather than focused on a specific crime. In addition, most of the professionals working on these issues have expertise either in THB and criminal investigations, or in ML and financial investigations, but rarely both. Similarly, the information that is relevant to THB and ML cases is usually obtained by, or located in, multiple agencies and institutions. Law enforcement and prosecution agencies hold investigation materials, such as physical evidence and witness testimonies, whereas private FIs and the FIU hold or have access to information concerning bank accounts, transactions and customer identities and profiles. Additional relevant information may be located in other government bodies or in foreign agencies.

Most of these challenges could be addressed through increased awareness and by identifying good practices and concrete measures that legislators, FIUs, LEAs, prosecution agencies, FIs and the anti-trafficking community can employ to leverage existing AML tools and expertise to combat THB. There is also a need for increased co-operation and information exchange between the AML and anti-trafficking communities, including with NGOs, anti-trafficking agencies and specialized law enforcement units. Identifying those good practices is the focus of chapters 2, 3 and 4 of this report.

Chapter 2: Key Issues and Challenges

Although many countries have put in place a national action plan to combat THB, and many countries have dedicated units that focus on addressing the crime locally, these efforts often suffer from significant deficiencies, most of which are due to limited domestic and international co-operation and to insufficient efforts to address the financial aspects of THB.

This chapter identifies key issues and challenges for the effective use of AML measures to combat THB, as identified by THB and AML professionals.

2.1 National legal and institutional framework

The legal and institutional framework in most countries is poorly equipped to address the challenges of ML and THB. Key issues and challenges include:

Inadequate institutional capacity, organization, resources and training to address the financial aspects of THB. This includes a lack of specialized investigative authorities that focus on the financial aspects of THB, the lack of financial investigators or investigators trained in the basics of financial investigations in the specialized THB units, a broad lack of co-ordination between agencies involved in the investigation of THB and insufficient resources and training for financial criminal investigations and analysis. As a result, there is a shortage of trained financial investigators working on THB cases and the ability of countries to address this central financial aspect of THB is limited accordingly.

Lack of legal authority for FIUs to suspend, postpone or freeze suspicious transactions or accounts. As the FIU is the agency that typically works most closely with FIs on AML issues and analyses suspicious transactions, it is well situated to respond quickly to suspicious activity reported by FIs. FIUs can temporarily suspend or postpone a transaction or freeze an account until further analysis can be conducted. Currently, however, only about 60 per cent of the world's FIUs have such powers, and the lack of these powers by the remaining 40 per cent impedes efficient recovery.

Lack of centralized and comprehensive national databases and centralized systems to obtain all relevant financial data on suspects from different FIs. Databases of real property, bank accounts and criminal records are currently unavailable in many countries. Procedures for requesting bank account and transaction data from all FIs in a country at once rather than one by one would also be helpful. The lack of quick access to

these types of data often significantly slows financial investigations.

Romanian officials have noted the lack of a centralized database for immovable assets as a major challenge in the investigation of ML cases.

Lack of investigation strategy. Countries should elaborate a comprehensive investigation strategy that recognizes the central role of financial investigations within a country's broader criminal investigation efforts. Financial investigations should be a routine component of all criminal investigations of profit-motivated crime, including THB.

Limited resources, corruption and lack of political will inhibit the prioritization of the fight against THB in many countries of origin, transit and destination.

Countries of origin that have underdeveloped economies and limited financial resources may consider the outward migration of their citizens to be beneficial in terms of reduced unemployment and increased remittances from nationals working outside the country. Countries of transit may perceive themselves as less affected by THB and tend not to dedicate the resources and political will necessary to address the problem. A lack of political will to reduce demand for the services of trafficked persons, including sexual and labour exploitation, in countries of destination also effectively contributes to trafficking activity. In countries of origin, transit and destination alike, officials benefiting from THB activity are particularly unlikely to support efforts to combat the crime.

Lack of sufficient legal options to assist and protect victims of THB and to allow them to stay in the country of destination if they entered it illegally create serious difficulties for law enforcement and prosecution agencies to secure co-operation from victims in THB investigations. Even where strong legal standards on the protection of victims' rights exist (such as the Council of Europe Convention on Action against Trafficking in Human Beings and the 2011 EU Directive²⁵), effective implementation remains elusive.

²⁵ European Union (EU), *Directive 2011/36/ EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (5 April 2011), in Official Journal L 101, 15/04/2011.

2.2 Identification and analysis of financial activity related to THB

Countries face a number of challenges in identifying the financial activities of human trafficking businesses and in analysing information that is collected. These challenges include:

Suspicious transactions reports by FIs and MVTs in most countries currently identify few cases related to THB and do not provide significant indications for ML and related criminal activity. Although much of the proceeds from THB pass through the regulated financial sector, the transactions are often small and low-profile. Without additional information, they normally do not generate suspicion. In addition, while the number of STRs that FIs submit to FIUs is high and rising in many countries, the quality of the STRs is often low. When STR quality is low, few STRs are considered useful in the investigation of ML, THB and other crimes.

In Italy, in 2010, only 23 out of approximately 37,000 STRs that were submitted to the FIU were considered useful to a criminal investigation.

Law enforcement authorities underutilize FIU data because STRs cannot be used immediately, full exploitation of the data would require cross-border co-operation or the data is otherwise considered to be too difficult or complex to use.

Transactions related to THB are often carried out through MVTs (particularly money transmitters) and cash couriers, facing little supervision and monitoring in most countries. MVTs are typically less regulated than banks and collect less data on customers. They often have lower capacity and fewer measures in place to identify suspicious transactions. The monitoring of cash couriers is particularly weak and most countries do not have effective mechanisms in place to detect the illegal or suspicious cross-border transportation of cash.

The flow of financial transactions between accounts, banks and countries is immensely faster than the ability of investigative authorities to track them, making the tracing of THB-related financial flows more challenging.

In one experiment, it took only two hours to transfer money around the world, but it took two years to re-trace the process using mutual legal assistance between countries.

FIs find it challenging to balance between the need to facilitate the flow of millions of legitimate financial transactions and the need to identify, report and at times delay suspicious transactions related to money laundering and THB. In addition, delaying transactions in order to provide the FIU additional time to collect and analyse information may unintentionally alert suspects and interfere with ongoing investigations.

FIUs often have limited information other than STRs and basic financial information when making decisions about disseminating STRs for further investigation, and rely on tips and guidance from LEAs. These types of information are not always available, particularly if no investigation is ongoing and no information is being exchanged with LEAs.

2.3 Criminal investigations of THB

Despite growing recognition of their importance, the use of measures to collect, analyse and share financial information to support criminal investigations of THB and other crimes remains limited in most countries. Key issues and challenges include:

Most criminal investigators with expertise in THB do not have training in financial investigations and most financial investigators do not have training in THB investigations. This lack of cross-topic training creates difficulty in fully integrating financial investigations into THB cases and realizing their full potential to disrupt and dismantle THB networks by targeting THB proceeds.

Many criminal investigations for THB do not include financial investigations. This not only reduces the effectiveness of specific THB investigations, but also limits the ability of LEAs and the anti-THB community to properly assess the scale of THB proceeds and the degree to which they are laundered and integrated into the legitimate and criminal economies. Given the fact that most countries do not have state compensation funds, accessing the proceeds and assets of THB remains one of the only viable ways of providing financial compensation to victims of trafficking.

When financial investigations do take place in THB cases, they are usually limited in scope and focus on specific offences that already took place, on the final exploiters and on confiscating funds related to the current case, rather than on the larger THB business and all of its stakeholders. As a result, many financial investigations have a limited disruptive effect on the operations of criminal organizations engaging in THB.

The criminal use of complex financial and commercial structures makes financial investigations of ML, THB and other offences challenging. The use of shell companies, cash mules, hidden beneficial ownership, and offshore companies and accounts are several examples.

Criminal investigations of THB often focus on the obvious and accessible suspects rather than on the operation of the criminal organizations and their leaders. Many of the perpetrators of THB and their leaders reside outside of the trafficking countries of destination where most of the exploitation and criminal investigations take place and reaching them requires international co-operation, which can be difficult to secure. As a result, investigators and prosecutors often settle for lower-level perpetrators. Too often, investigations target THB victims and their role in carrying out offences.

Many victims of THB are understandably unwilling to co-operate with the criminal investigation and to testify against the perpetrators, and are not likely to self-identify as victims. This creates difficulty in obtaining information about the criminal operation and its proceeds and often undermines efforts to prosecute the perpetrators. Victims typically refuse to co-operate with authorities because they are afraid of the perpetrators and their affiliates, who could hurt them or their families not only in the country of destination, but also in their own country or place of origin. In addition, victims may distrust the authorities, particularly in cases where they do not have a legal permit to stay in the destination country and may face deportation, which would further limit the authorities' ability to protect them from their traffickers. Furthermore, despite the principle of the non-punishment including the non-criminalization of victims of trafficking, many victims of THB are unfortunately prosecuted or punished for offences which were directly linked to, and committed during the course of their trafficking. Reportedly traffickers are aware that victims often face prosecution for crimes committed during their trafficking and make victims aware of that possibility as a means of achieving control over them.²⁶

2.4 Freezing, seizing and confiscating assets related to THB

Examples of THB confiscations at the international level remain limited and most countries are less successful in their efforts to identify and confiscate the proceeds of THB than they are in restraining the proceeds from other types of organized crime such as drug trafficking. Key issues and challenges include:

Strict legal requirements for confiscations at the national level may make it difficult for prosecutors to confiscate criminal assets related to THB. In particular, the lack of legal mechanisms to allow confiscations in the absence of a criminal conviction makes confiscations more challenging in some jurisdictions. Legal mechanisms that may be used include civil forfeiture, which requires a lower burden of proof and can be used even in cases where a criminal conviction has not been attained. Another mechanism that may be used is the reversal of the burden of proof to require defendants, and in some cases their relatives, who meet certain conditions (e.g., a criminal lifestyle combined with unexplained wealth) to prove the legal origin of their assets.

Most of the proceeds of THB are either quickly transferred out of the country, spent in cash as part of an expensive lifestyle or re-invested in criminal enterprises without being laundered and are therefore particularly difficult to identify and confiscate.

Most of the proceeds of SOM in recent case studies fail to reach the destination countries, where most of the investigations take place and therefore require extensive international co-operation from the country of origin to identify and restrain the assets.

2.5 Public-private co-operation

Effective co-operation on THB between FIUs, LEAs and entities that submit suspicious transaction reports to FIUs remains a challenge in most countries and inhibits the detection and analysis of suspicious activities related to THB and its proceeds. In particular, the flow of information is excessively one-sided in the direction of private FIs to FIUs and LEAs. Public-to-private guidance, feedback and resources are generally lacking. Key issues and challenges include:

²⁶ For a detailed analysis of this issue, including its scope, see: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) in consultation with the *Alliance against Trafficking in Persons* Expert Co-ordination Team, *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking* (Vienna, April 2013), pp. 8-13, <<http://www.osce.org/secretariat/101002>>, accessed 26 May 2014. For a recent judicial interpretation of the principle including a citation of the OSCE's Recommendations among the sources consulted by the highest court in the United Kingdom, see Royal Courts of Justice, Court of Appeal, Criminal Division, *Case of R.v. L, HVN, THN and T*, EWCA Crim 991 (2013).

STR reporting in many countries is characterized by high volume and low quality. This results in a large and growing volume of work for reporting entities and FIUs, but in little useful data for the purposes of initiating or supporting criminal investigations of ML, THB and other crimes.

There are currently no international databases of persons, organizations or companies that are involved in THB. Unlike the availability of commercial databases of PEPs and internationally-accepted TF lists, the lack of such a database for THB makes it difficult for FIIs to identify suspicious THB-related activity.

FIIs often receive only general and insufficient guidance from FIUs and law enforcement agencies on how to identify suspicious transactions related to THB. The FATF Report on *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants* provides a list of red-flag indicators.²⁷ Subsequently issued country or sector-specific guidance, however, remains limited.

FIIs often receive limited or no feedback from FIUs on the quality of submitted STRs and on the results of submitted STRs. This limits the ability of FIIs to improve their AML systems for identifying suspicious activity and may be a cause of frustration among compliance officers who cannot see the results of their work, or demonstrate its utility to senior management.

On the other hand, in many countries **rules regarding the confidentiality of investigations prevent LEAs and FIUs from providing FIIs with details on specific cases** (particularly ongoing investigations) even if they were initiated by or benefited from an STR. **LEAs conducting financial investigations often require co-operation from FIIs, but sharing confidential information with FI employees could lead to leaks that alert suspects about the existence and direction of investigations.**

During Operation SNEEP against human traffickers in the Netherlands, a leak from a bank employee to a family member of one of the suspects alerted the suspects and required the authorities to arrest the suspects before the undercover investigation was completed.

FIIs in many countries have a limited ability to verify the authenticity of their client's identity and the stated purpose of a particular transaction due to a lack of access to up-to-date electronic databases.

The identification of suspicious transactions related to THB is particularly challenging for MVTSSs, which often receive insufficient guidance and feedback from FIUs, regulators and LEAs on implementing effective monitoring systems. MVTSSs, and in particular money transmitters, are often used by criminals to conduct transactions related to THB. However, in comparison with banks, MVTSSs face additional difficulties in identifying suspicious activity due to the lack of an ongoing relationship with their customers and their resulting heavy reliance on third parties to provide key services.

Western Union, for example, has only 10,000 employees worldwide but operates a network of about 494,000 agent locations, most of them third parties, that provide money transfer services.

FIIs in some countries face uncertainty regarding the extent of the legal protection they are entitled to when analysing and sharing client information with the FIU when the information is protected by privacy laws. Although STRs are generally required to be confidential, clients may find out or suspect that a STR was submitted when they are investigated or when their transactions are delayed. In cases in which a client believes the suspicion was unfounded, the client may attempt to bring suit against the financial institution for violation of privacy laws or damage to the client. In countries where the filing of STRs is not fully confidential or where insufficient legal protection is extended to bank employees reporting STRs, FIIs may be hesitant to report suspicious activities to the FIU.

FIIs that delay suspicious transactions to receive instructions from the FIU are placed in a difficult situation vis-à-vis their clients when the FIU fails to respond in a timely manner and the financial institution needs to explain a delay to a client without revealing the fact that an STR has been filed.

²⁷ See FATF, *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*, FATF Report (July 2011), Annex B, <<http://www.fatf-gafi.org/media/fatf/documents/reports/Trafficking%20in%20Human%20Beings%20and%20Smuggling%20of%20Migrants.pdf>>, accessed 4 June 2014.

2.6 Inter-agency co-operation

Limited information sharing between FIUs and LEAs and prosecution agencies is a major impediment to effective efforts to combat THB. Key issues and challenges include:

FIUs receive limited guidance from LEAs on criminal activities related to THB and on the outcomes of STR analyses that were disseminated to LEAs for investigation. FIUs both provide guidance to reporting entities on how to submit STRs and analyse and disseminate the STRs they receive. A lack of sufficient guidance and feedback from FIUs and LEAs can have a negative effect both on the quality of STRs and on STR analysis.

LEAs make insufficient use of the FIUs' resources, tools and expertise when conducting THB investigations. FIU resources, tools and expertise that may be leveraged for THB investigations include STRs and other disclosures from reporting entities, assistance in obtaining additional information from reporting entities, requesting information from foreign FIUs and, when legally possible, relying on the financial expertise of the FIU during the investigation process.

2.7 International co-operation

The pace of international co-operation in criminal matters has not kept up with the pace of the movement of people and goods across national borders. Open borders and visa-free travel, particularly between EU countries and between CIS countries, reduce the number of obstacles traffickers face and the ability of national authorities to identify and disrupt cross-border THB operations.

The current level of international co-operation on THB cases is insufficient, particularly when involving countries of origin and countries of transit, and poses a major impediment to effectively combating THB. Key issues and challenges include:

Lack of international co-operation between countries of origin, transit and destination. Many countries of origin do not provide adequate and timely responses to international requests for information and other co-operation from countries of transit and destination that conduct THB investigations and prosecutions. Although many countries of origin have signed the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children to the UNTOC, many have not yet implemented legislation facilitating international co-operation to combat THB.

Investigators and prosecutors often have to wait long periods of time (up to years) to obtain financial information, witness testimony and evidence from foreign jurisdictions. Because speed is crucial during financial investigations and when freezing, seizing and confiscating the proceeds of THB, such delays seriously disrupt investigations and limit both their scope and ultimate effectiveness. Non co-operative jurisdictions with bank secrecy laws and an unwillingness to query financial institutions in their jurisdiction create major difficulties for financial investigations in THB cases.

Different types of FIUs sometimes face difficulty in exchanging information with one another. Although all FIUs share the common functions of receiving, analysing and disseminating STRs and other disclosures, the structure of FIUs still varies widely and differences in the legal powers of FIUs pose challenges to the timely and effective international exchange of information. The Egmont Group of Financial Intelligence Units can play an important role in improving FIU-to-FIU co-operation related to proceeds of THB.

Some countries face **domestic procedural barriers to freezing, seizing and confiscating assets in foreign jurisdictions.** Domestic courts and ministries of foreign affairs may prevent LEAs and prosecution authorities from issuing asset restraint orders for assets located in foreign jurisdictions.

In Ukraine, some domestic courts have blocked the issuance of asset restraint orders on the grounds that domestic officials do not have the authority to order the seizure of assets located outside of the country.

Chapter 3: Existing AML Practices, Tools, and Resources to Combat THB

In the past few years, international and inter-governmental organizations, national authorities, financial institutions and businesses have developed tools, dedicated resources and implemented effective practices to utilize AML regimes to combat THB. At the international level, these include platforms for international information sharing between LEAs and FIUs, legal frameworks that facilitate joint investigations and tools such as databases and typologies. At the national level, countries have developed good practices, including on conducting financial investigations, operating the FIU, inter-agency and international co-operation and working with the private sector. In the financial and business sectors, some FIs have developed advanced systems to assess THB-related risks, analyse financial and other information to detect THB-related activity, and raise awareness of THB among businesses.

Good practices, tools and resources for the effective use of AML measures to combat THB, as identified by THB and AML professionals, include:

3.1 International level

Conventions

- The UN Convention against Transnational Organized Crime provides a legal basis for joint investigations and other types of international co-operation between States Parties to the convention.²⁸
- The Council of Europe Convention on Action against Trafficking in Human Beings,²⁹ which has been ratified by 40 States and which is also open to non-Member States of the Council of Europe provides a legal basis at the regional and international level to “confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences”, including THB³⁰. The Convention also requires that States adopt legislation that, in cases in which instrumentalities and proceeds of THB cannot be located or are outside a court’s jurisdiction, permits authorities to confiscate other funds or property with a corresponding value.³¹

- The Council of Europe Second Additional Protocol to the European Convention on Mutual Assistance³² in Criminal Matters Article 20 promotes the creation of joint investigation teams between the member states of the Council of Europe and non-member states that have joined the Protocol.
- Article 13 of the 2000 EU MLA Convention facilitates the creation of Joint Investigation Teams from two or more Member States, which could greatly improve international co-operation in THB investigations and reduce the need for traditional MLA requests.³³

Co-operation networks

- Interpol, which has 190 member countries, supports efforts to target the proceeds of THB and related ML through several different avenues and resources
 - **The I-24/7 global police communications system** is a global and secure telecommunications network that allows member countries, their national central bureaus and about 19,000 specialized units and police investigators around the world to exchange police information, search Interpol’s range of criminal databases and obtain information on suspects in real time.
 - **The Expert Working Group on Trafficking in Human Beings** works to raise awareness of emerging issues and new strategies in THB investigations.
 - **Interpol promotes joint operations on THB** to utilize expertise in financial investigations and widen the scope of THB investigations.
 - **An Interpol manual of best practices for law enforcement investigators** includes information on how to investigate THB for sexual exploitation, forced labour, domestic servitude and organ removal and provides a basic investigative formula for the identification and collection of financial evidence.

28 See: UNODC, *United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (New York, 2004), <<http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>>, accessed 4 June 2014.

29 Council of Europe (CoE), *Convention on Action against Trafficking in Human Beings*, CETS No. 197 (Warsaw, 16 May 2005).

30 Ibid, Article 19(3).

31 Ibid.

32 Council of Europe (CoE), *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, ETS No. 182 (Strasbourg, 19 September 2001).

33 See the Europol website: <<https://www.europol.europa.eu/content/page/joint-investigation-teams-989>>, accessed 4 June 2014.

- **The THB Global Suite of Products (GSP)**, which is currently under development by Interpol's sub-directorate on THB, is a platform on the Interpol restricted website that member countries can use to share information on all matters related to THB, including the modus operandi of traffickers and best practices in tracing financial transactions during investigations.
 - ⇒ Europol, which has 28 members, supports efforts to target the proceeds of THB and related ML through several different avenues and resources that are available to LEAs:
 - **AWF Phoenix** is an operational platform where personal data related to THB is stored and analysed to support THB investigations.
 - **AWF Sustrans** is an operational platform where personal data related to ML is stored and analysed to support ML investigations across all crime areas. AWF Sustrans relies on information from STRs, CTRs and investigations and assists investigators in identifying beneficial owners, money flows, links to predicate offences for ML and links between perpetrators and networks.
 - **CARIN**, which has its secretariat at the Europol headquarters in The Hague, is an informal network for asset tracing and recovery. Members of CARIN each have two representatives, including one judicial and one police representative, who can provide assistance about the means available to trace assets in their countries. Similar networks exist for other regions, including ARINSA for Southern Africa and RRAG for South America.
 - ⇒ The Egmont Group of Financial Intelligence Units provides a forum for FIUs around the world to improve co-operation. It operates the Egmont secure web system that allows most of its 139 member FIUs³⁴ to communicate and exchange information directly in a secure way.
- ⇒ FATF has issued guidance to assist countries in improving financial investigation capacity.³⁵
 - ⇒ The EC intends to address key issues related to financial investigations through a string of future measures, including:
 - An EU financial investigation strategy;³⁶
 - Amending the 3rd EU Anti-money laundering directive and merging it with Council Decision 2000/642/JHA on the exchange of information between FIUs where a particular focus on access to necessary information could be better ensured;³⁷
 - An EU police training strategy that would cover financial investigation;
 - A directive proposal recasting the EU legal framework on confiscation;
 - o Guidelines on central registers of bank accounts
 - ⇒ The EAG extends technical assistance to countries in the OSCE region seeking to develop the legal and institutional bases of national AML/CFT systems. The EAG analyses region-specific AML/CFT typologies, including research into cross-border money transfers by individuals.
 - ⇒ The APG has developed ML typologies of various forms of THB.³⁸

Typologies and other tools

- ⇒ The UNODC has developed an online MLA Request Writer Tool to assist national authorities with the drafting of MLA requests and to help them organize key information and avoid the submission of incomplete requests. Judicial authorities may request access at: <http://www.unodc.org/mla/index.html>.

3.2 National level

Belgium

In Belgium, when processing STRs related to THB, the FIU typically submits a wide range of related financial information to prosecutors, even though it is not always directly related to the THB offence. The additional information assists investigators and prosecutors in building their cases.

The FIU disseminates relevant information to LEAs through the public prosecutor's office. Inter-agency co-operation is furthered through a "roundtable" of all the

³⁵ FATF, *Operational Issues – Financial Investigations Guidance*, FATF Report (June 2012), http://www.fatf-gafi.org/media/fatf/documents/reports/Operational%20Issues_Financial%20investigations%20Guidance.pdf, accessed 4 June 2014.

³⁶ See: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/financial-investigation/index_en.htm, accessed 4 June 2014.

³⁷ European Commission, *Roadmap - Revision of the third Anti Money Laundering Directive and the Fund Transfers Regulation* (December 2012), http://ec.europa.eu/smart-regulation/impact/planned_ia/docs/2012_markt_001_third_anti-money_laundering_directive_en.pdf, accessed 4 June 2014.

³⁸ This work is available in the APG's annual typologies reports, available at the APG website at: <http://www.apgml.org/includes/handlers/get-document.ashx?d=4cea4e68-7466-4885-a005-9e18bb7710c9>, accessed 4 June 2014.

relevant agencies, including the FIU, national and regional prosecutors, the secret service, fiscal authorities, social services and other agencies.

France

In 2005 France introduced a new provision in the Criminal Code (art. 321-6) which created the offence of non-justification of resources, essentially, “laundering by association” (blanchiment de proximité).³⁹ The offence targets individuals for whom it is difficult to prove direct evidence of participation in an act of money laundering despite circumstantial elements that appear to indicate such participation. The offence is particularly useful in bringing action against individuals who are in close personal relationships with traffickers and it is punishable by up to three years of imprisonment and a fine of up to EUR 75,000. The offence reverses the burden of proof such that prosecutors are required to prove only the discrepancy between an individual’s lifestyle and the financial resources reported on his or her official tax declaration. Individuals concerned are then provided an opportunity to demonstrate in good faith the legal sources of their financial resources and, failing to do so, can be found guilty.

Italy

In Italy, issuing residence permits for humanitarian reasons and otherwise assisting victims of THB appears to have had a positive influence on the ability of LEAs and prosecutorial authorities to receive co-operation from victims. This approach has led to an increase in information received about the criminal operations of perpetrators. Several other countries of destination have mechanisms to allow victims of THB to stay in the country legally, for instance, in the EU the 2011 EU Directive requires EU Member States to provide victims with residence permits with reflection periods.⁴⁰

The Netherlands

In the Netherlands, in order to build a solid case against human traffickers and to ensure that criminal proceeds are captured, LEAs and prosecutorial authorities make an effort to collect all possible information through criminal and financial investigations, including through extensive international co-operation from the early stages of investigations, before making arrests. In the Netherlands, if a compensation claim is awarded by the judge, the state is responsible for collecting the money. If the state does not succeed in doing so within eight months,

the state pays the compensation award from a state compensation fund to the trafficked person.⁴¹

In some countries it is possible to prosecute and impose sanctions on bank employees who leak information from financial investigations.

The United States

In the US, prison sentences of up to 20 years and monetary fines of up to USD 500,000 can be imposed for ML.

SARs are completely confidential and it is illegal for LEAs to disclose their existence or role in an investigation, and that provides a good degree of protection to FIs that submit SARs.

The DHS has a dedicated enforcement initiative called Project STAMP (Smugglers and Traffickers Assets, Monies and Proceeds) that targets the illicit proceeds of THB and SOM. Project STAMP is designed to attack organizations involved in THB and SOM from an aggressive AML stance, to identify key members and their assets and to seize and confiscate those assets to dismantle criminal enterprises.

The DHS works to identify the means and methods of traffickers and smugglers both through comprehensive reviews of THB and SOM investigations and through outreach and partnership with the private sector, foreign LEAs and other partners. A variety of information is used to develop typologies and red flag indicators of suspicious financial transactions, which are then shared with international organizations and professional associations to improve the quality of suspicious activity reporting.

Financial investigations are an essential part of the development of THB cases by the DHS. These investigations glean information from receipts, bank accounts, MVTs transactions, funds transfers, information from SARs and open source information in order to identify suspects’ assets and purchases of significant commodities.

In a separate project, the Immigration and Customs Enforcement’s (ICE) Cornerstone project publishes the Cornerstone Report, a quarterly bulletin highlighting key issues related to financial crime trends, investigative techniques and red flag indicators identified by LEAs and the private sector.⁴²

³⁹ FATF, *Rapport d’évaluation mutuelle, Lutte contre le blanchiment de capitaux et le financement du terrorisme – France* (2011), <<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20France%20ful.pdf>>, accessed 4 June 2014.

⁴⁰ European Union (EU), *Directive 2011/36/ EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (5 April 2011), in Official Journal L 101, 15/04/2011.

⁴¹ Anti-Slavery International, *Human traffic, human rights: redefining victim protection* (London, 2002), <http://www.antislavery.org/includes/documents/cm_docs/2009/h/hum_traff_hum_rights_redef_vic_protec_final_full.pdf>, accessed 27 May 2014.

⁴² The Cornerstone Report is available online at: <<http://www.ice.gov/news/library/reports/cornerstone/>>, accessed 4 June 2014.

The U.S. Department of Defense has enacted a zero tolerance policy for trafficking in persons. The Combating Trafficking in Persons Program Office ensures that the Services, Combatant Commands and Defense Agencies have the necessary tools to prevent trafficking.⁴³

In April 2013, USAID released a Counter-Trafficking in Persons Field Guide to provide practical guidance to its officers as they implement counter-trafficking in persons programmes in dozens of countries around the world.⁴⁴

3.3 Banking sector

Banker's Alliance against Human Trafficking

The Banker's Alliance is a financial working group organized in April 2013 by Thomson Reuters Foundation and the Manhattan District Attorney, which includes representatives from leading banks and corporations as well as anti-human trafficking NGOs.⁴⁵ The working group has drafted a guidance paper aimed at helping the banking sector and wider industry to identify and report irregularities in financial transactions that might be linked to potential human trafficking activity. The paper contains investigative guidance for financial institutions and law enforcement agencies both at national and international levels, with the aim of identifying customer and transaction traits that indicate a higher risk for human trafficking.

Raiffeisen Bank International

At Raiffeisen Bank International, efforts to detect suspicious financial activity include AML and CFT tools and expertise and detailed procedures on:

- CDD, including classifying customers as either low risk, standard risk, high risk or high risk special case for ML;
- Customer and account profiling, including information on account usage, peer group definition and comparison, behaviour analysis and customer and account risk analysis;
- Screening against watch lists to identify PEPs, entities on financial crime lists and high risk and offshore destinations;
- Screening against lists of entities facing financial sanctions and country or goods embargos.

43 U.S. Department of Health and Human Services, "Federal Government Efforts to Combat Human Trafficking" (2012), <<http://www.acf.hhs.gov/programs/orr/resource/federal-government-efforts-to-combat-human-trafficking>>, accessed 27 May 2014.

44 The *Counter-Trafficking in Persons Field Guide* is available online at: <http://www.usaid.gov/sites/default/files/documents/2496/C-TIP_Field_Guide_Final_April%205%202013.pdf>, accessed 4 June 2014.

45 Corporations and foundations including: American Express, Bank of America, Barclays, Citigroup, Human Trafficking Pro Bono Legal Center, JPMorgan Chase & Co., TD Bank, Theodore S. Greenberg, Polaris Project, Wells Fargo and Western Union. See "Manhattan District Attorney Vance and Thomson Reuters Foundation launch financial working group against human trafficking", 9 May 2013, *Thomson Reuters Foundation*, <<http://www.trust.org/item/20130425193204-a6ulk/>>, accessed 27 May 2014.

Detection measures rely on both ex-ante (real time) and ex-post monitoring of transactions to identify unusual customer behaviour and suspicious transactions. Based on "blacklisted" entities and lists of ML and THB indicators and detection rules, these processes result in a set of reports, link analyses and STRs.

Belgium

In Belgium, FIs generate a large number of STRs related to THB. The number of cases forwarded to the public prosecutor as a result of such disclosures was 53, 70 and 54 in 2010, 2011 and 2012, respectively.

The United States

In the US, DHS ICE provides banks with non-classified information about suspicious economic behaviours. Sharing this information allows the banks to be more aware of key risks and to better analyse the financial data in their possession.

At least one US bank has developed and applied an extensive risk model that uses proprietary transaction data, open source information and typologies provided by LEAs to assist in identifying and investigating potential THB.

3.4 Supply chain integrity

Finance Against Trafficking

Finance Against Trafficking is an organization made up of specialists from a variety of industries. It works to raise awareness about the risks relating to human trafficking and helps businesses mitigate those risks. Businesses can be affected by THB in many ways, including through supply chain operations and the use of financial services. Failure to effectively identify and mitigate ML and THB-related risks can translate into reputational risk and prosecution.

Finance Against Trafficking engages with and supports companies in developing appropriate policies and practices. The organization has developed products and services to assist businesses seeking to assess, train, audit and investigate existing and potential areas of vulnerability to human trafficking. An online tool called ChainChecker is currently under development to assist companies in identifying and addressing areas of concern. In 2013 Finance Against Trafficking released a *Suspicious Financial Activity and Human Trafficking Manual* that builds upon the Financial Action Task Force's guidance report *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*. The manual alerts financial sector institutions to the risks of money laundering arising from human trafficking and

provides guidance on red-flag indicators that can help identify and manage those risks. The manual is designed to help businesses in the financial sector adopt a more focused and pragmatic approach in utilizing available anti-human trafficking recommendations and guidance.

Verité

Verité is an international NGO which is promoting effective approaches to preventing human trafficking in supply chains, including manufacturing and material sourcing with companies, NGOs, regulators and other stakeholders.⁴⁶ The NGO works together with the Alliance to Stop Slavery and End Trafficking (ASSET) to provide tools for corporations, governments and civil society to address the business processes that can lead to trafficking for labour exploitation.

The United States

The California Transparency in Supply Chains Act (2010) came into effect in 2012 and applies to all retailers and manufacturers with annual global revenues of more than USD 100 million that do business in California.⁴⁷ The Act requires these businesses to disclose information about their efforts to eradicate slavery and human trafficking from their direct supply chains where they make tangible goods for sale. The stated purpose of the Act is *“to educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby, to improve the lives of victims of slavery and human trafficking”*.⁴⁸ The Act requires businesses to publicly post information on their websites describing the extent to which they engage in the verification of product supply chains, auditing of suppliers and the certification by direct suppliers that materials comply with the laws on slavery and human trafficking in the country or countries in which they do business. Companies must also maintain internal accountability procedures and train relevant employees and management on human trafficking.

In the US, Executive Order 13627 on “Strengthening Protections Against Trafficking in Persons in Federal Contracts” was issued in September 2012 to further strengthen the protections that federal contractors and subcontractors must provide their employees. According to the Executive Order, federal contractors are prohibited from using misleading recruitment practices, charging employee recruitment fees and destroying or confiscating workers’ passports. Contractors or subcontractors performing certain services outside of the U.S. and in excess of USD 500,000 are also required to create compliance plans that include employee awareness programmes and whistleblower protections for employees who report trafficking violations.

The United Kingdom

The Gangmasters Licensing Authority (GLA) is an agency which regulates the supply of workers to the agricultural, horticultural and shellfish industries.⁴⁹ Since 1 October 2006, any employment agency which provides labour in these fields must be licensed by the GLA. The GLA was established to prevent the exploitation of workers, particularly by debt bondage and forced labour and to improve health and safety standards in what had become unregulated areas of employment. The GLA also has some enforcement authority against employment agencies which operate without a licence, obtain or possess a false licence or false documentation, use an unlicensed labour provider or obstruct compliance officers exercising their functions.

⁴⁶ For more information, see: <<http://www.verite.org/>>.

⁴⁷ 2010 California Transparency in Supply Chains Act, <http://leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.html>, accessed 4 June 2014.

⁴⁸ Ibid.

⁴⁹ For more information on the Gangmasters Licensing Authority, see: <<http://www.gla.gov.uk/>>, accessed 27 May 2014.

Chapter 4: Recommendations to Stakeholders

While the challenges to maximizing the potential of AML regimes to combat THB are considerable, national authorities should take steps to address them and to significantly improve their ability to address THB. Steps that states can consider include adapting the legal and institutional framework, enhancing the resources and capabilities of investigative authorities, tapping the full potential of financial analysis and investigations, improving inter-agency and international co-operation, working with FIs to improve the quality and usefulness of STRs and increasing the use of provisional asset restraint measures and final confiscations. In addition, FIs should enhance their collaboration with the FIU and LEAs, know their customers, use risk models and develop proactive measures to identify THB-related activity. Similarly, NGOs and businesses should increase their awareness of THB, apply measures to prevent its occurrence in their respective sectors and alert law enforcement to suspected THB activity.

Key recommendations to stakeholders for the effective use of AML measures to combat THB, as identified by THB and AML professionals at the Expert Seminar, include:

4.1 National legal and operational framework

National authorities should enhance the capabilities and co-operation of FIUS, LEAs and other relevant authorities to identify and track the proceeds of THB and to strengthen the legal and administrative means to confiscate them.

National authorities should ensure that LEAs in charge of THB cases have the necessary resources, expertise and investigative authority to investigate THB and its financial and economic aspects.

National authorities should encourage the proactive investigation of possible THB activity, and co-operate with key stakeholders in civil society, especially NGOs such as victim service providers and migrant workers associations, to improve the identification of victims.

National authorities should ensure that the AML legal measures are adapted to the difficulty of establishing the crime of money laundering by mitigating the burden of proof for the LEAs.

National authorities should make full use of the experience of other countries in addressing the ML aspects of THB and take full advantage of available guidance and technical assistance from countries and international organizations such as the OSCE, FATF, Egmont Group, Council of Europe, Interpol and Europol.

National authorities should ensure that FIUs have the authority to temporarily postpone suspicious transactions to prevent funds from being moved before an FIU can complete its analysis and initiate measures such as freezing or seizing. The FIU should have the authority to postpone suspicious transactions based on information from STRs or other disclosures, or upon request from a foreign FIU.⁵⁰

National authorities should facilitate productive relations and good communication between the FIU and reporting entities by providing legal protections to entities and individuals filing STRs and imposing legal sanctions for leaking information on STRs. First, authorities should ensure that, provided disclosures are submitted in good faith, FIs and all other reporting entities are legally immune from criminal and civil law suits regarding the filing of STRs and other disclosures to the FIU. Second, authorities should impose criminal liability and deterring sanctions upon reporting entities and their employees that leak information about financial investigations or the filing of STRs.⁵¹

National authorities should take measures to allow FIs to verify the identity, national documents and other basic information (e.g., property owned, businesses operated) of their clients within a timely manner. National authorities should improve the collection of beneficial ownership information for accounts, transactions and legal persons and increase access to that information for domestic and foreign government agencies and reporting entities.

National authorities should improve the access of LEAs and/or FIUs to the financial data of individuals suspected of involvement in THB and allow investigators to receive a financial overview of a suspect based on data from all FIs in a timely manner. In countries where data privacy laws are an impediment to investigative authorities' effective access to financial data or to FI disclosures of suspicious activity to the FIU, countries should consider establishing a formalized

⁵⁰ See: Council of Europe, *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* (Warsaw, 2005), articles 14, 47.

⁵¹ See FATF Recommendation 21: <<http://www.fatf-gafi.org/topics/fatfrecommendations/documents/internationalstandardsoncombatingmoneylaunderingandthefinancingofterrorismproliferation-thefatfrecommendations.html>>, accessed 4 June 2014

system for sharing financial data and providing legal protection to FIs. National authorities could consider creating a central register of bank accounts to avoid duplicative requests to FIs.

National authorities should ensure that customs and border authorities report suspicious cross-border activities and large amounts of currency to the FIU to improve the detection of THB-related cash couriers.

National authorities should facilitate and encourage the use of joint investigations with foreign law enforcement and prosecution agencies to improve the effectiveness and timeliness of international co-operation in cross-border THB cases. Authorities in countries that are party to the EU MLA Convention should increase the use of JITs. In countries that are not party to the EU MLA Convention, authorities should consider concluding bilateral or multilateral agreements that would permit the establishment of joint investigation bodies from two or more jurisdictions. Alternatively, countries can also form specific agreements for joint investigations on a case-by-case basis, based on Article 19 of the UN Convention against Transnational Organized Crime.⁵²

National authorities in countries of origin should increase their awareness and prioritization of anti-THB measures and adapt their legislation to comply with their obligations under the UN Convention against Transnational Organized Crime and its protocols on trafficking in persons and smuggling of migrants. Countries of origin should also improve their international co-operation on THB-related issues with countries of transit and destination. These efforts require political will, financial resources and capacity building. National authorities in countries of destination should encourage and support these efforts and consider offering both financial and technical assistance on THB-related matters.

National authorities should ensure that their legislation and its implementation allows relevant authorities to confiscate all funds and assets that are instrumentalities or proceeds of THB and that frozen, seized and confiscated assets are well managed. Doing so often requires mechanisms for reversing the burden of proof to require offenders to demonstrate that lawful sources of income were used to purchase assets

or support an expensive lifestyle.⁵³ The use of civil, rather than criminal, confiscation measures may also prove effective in cases with limited direct evidence.

National authorities should ensure that any property seized for the purpose of the confiscation will be managed efficiently between seizure and confiscation (or return in the case of an acquittal). Many countries do this through asset recovery and management offices.

National authorities should ensure legal aid to victims of trafficking and build the capacity of practitioners to support their clients in claiming compensation. Victims should be aware of any possible confiscation and seizure of assets and be in a position to take timely measures to apply for damages or compensation therefrom. Further, national authorities should ensure that victim assistance and protection programmes receive sufficient funding to meet demand.⁵⁴ Confiscated assets or proceeds of human trafficking activity should be allocated for the purpose of victim compensation as a priority.

National authorities, and in particular, immigration authorities, should ensure that trafficked persons are able to remain in the country while pursuing civil claims for compensation against traffickers.

⁵² See the OSCE report, p. 71; and UNODC, *United Nations Convention against Transnational Organized Crime and the Protocols Thereto* (New York, 2004), Article 19, <<http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>>, accessed 4 June 2014.

⁵³ See FATF Recommendation 4. The European Court of Human Rights has upheld several cases involving a reversal of the burden of proof with respect to criminal proceeds and instrumentalities. See the ECHR judgments in *Phillips v. The United Kingdom* (Application no. 41087/98), <http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/car_serbia/ECtHR%20Judgements/English/PHILLIPS%20v%20THE%20UK%20-%20ECHR%20Judgment%20_English_.pdf>, accessed 4 June 2014, and *Grayson & Barnham v. The United Kingdom* (Applications no. 1995/05 and 15085/06), <http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/car_serbia/ECtHR%20Judgements/English/GRAYSON%20&%20BARNHAM%20v%20THE%20UK%20-%20ECHR%20Judgment%20_English_.pdf>, accessed 4 June 2014. Council of Europe, *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism* (Warsaw, 2005), Art. 9.6: provides mechanisms for money laundering convictions without establishing precisely which predicate offence produced the proceeds.

⁵⁴ This is in line with the UN High Commissioner for Human Rights - 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (2002) which states that: "Trafficked persons, as victims of human rights violations, have an international legal right to adequate and appropriate remedies. This right is often not effectively available to trafficked persons as they frequently lack information on the possibilities and processes for obtaining remedies, including compensation, for trafficking and related exploitation. In order to overcome this problem, legal and other material assistance should be provided to trafficked persons to enable them to realise their right to adequate and appropriate remedies." Similarly, the *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims* requires EU Member States to "ensure that victims of trafficking in human beings have access without delay to legal counselling, and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources." (Art. 12.2)

4.2 Financial intelligence units

FIUs should work with LEAs to develop THB-specific expertise and facilitate effective co-operation and exchanges of information to improve the identification and analysis of THB-related financial activity for use in criminal investigations.⁵⁵

FIUs should develop productive relationships with reporting entities and effective procedures to provide guidance, receive disclosures and respond quickly to STRs with orders to temporarily postpone suspicious transactions. By doing so, FIUs would be able to better perform the role of proactive intermediary between regulated entities and LEAs and prevent STR-related funds from being moved before preliminary measures, such as freezing or seizing, are able to be put in place by law enforcement and prosecution agencies.⁵⁶

FIUs should devote special attention to money transmitters and other MSBs, which are commonly used to transfer proceeds of THB, and provide them with specific guidance on how to identify and report financial flows that may be related to THB.

FIUs should increase their efforts and improve their procedures to provide useful and timely international co-operation to foreign FIUs on THB cases, both directly and through the Egmont Secure Web system.

4.3 Law enforcement and prosecution agencies

Financial investigations should be an integral part of all THB investigations from their inception in order to identify and freeze or seize all criminal assets related to the case. Investigations should use a three-dimensional approach that includes focus on:

- **The past: reconstituting how the criminal offence was committed** to provide evidence for the prosecution of the case and for the confiscation of the proceeds of crime.
- **The present: opening new investigation avenues** (domestic and/or international) by identifying new leads and identifying or confirming links between individuals, legal entities, activities, addresses and bank accounts.
- **The future: identifying the modus operandi of the crime and relevant typologies** to improve the understanding of THB, refine preventive measures and detection tools and identify early warning signals of THB-related activities.⁵⁷

LEAs and prosecutorial authorities should focus their efforts on identifying all funds and assets related to THB cases early in the investigation and take quick action to freeze or seize these assets before the suspects can relocate or transfer them abroad.

Investigators and prosecutors working on THB and other crimes should have specialized training on how to investigate, freeze, seize and confiscate criminal assets.

LEAs and prosecutorial authorities should maintain the secrecy of THB investigations and prevent leaks from any agency or financial institution that could alert suspects and allow them to move their proceeds out of the authorities' reach.

LEAs and prosecutorial authorities should assist and protect victims of THB and, to the extent possible, obtain information from them about the perpetrators of the crime, their business model and the proceeds of their crime to further criminal investigations and prosecutions, in full respect of their human rights.⁵⁸

LEAs should continuously seek innovative ways to identify the illicit assets and proceeds of human traffickers and smugglers through outreach and partnership with foreign LEAs, international organizations and the private sector.

National authorities should develop a programme to develop and train accredited financial investigators within their respective law enforcement communities. Such financial investigators should be vetted against an agreed standard to ensure that FIs feel confident in disclosing client information for the purposes of an investigation into THB or other proceeds-generating offences.

Within the UK, the LEA and the financial community utilize accredited financial investigators to strengthen the effectiveness of investigations. Information can be passed to a financial investigator which cannot be adduced with a court order but can be used to develop lines of inquiry or the rapid identification of assets to prevent dissipation. Recently, financial investigators were registered in Moneyweb, which was a portal that LEAs and FIs could access both to verify the credentials of an investigator and to report SARs. Close professional working relationships were able to be developed and enhanced to the benefit of both the investigation and the FI.

⁵⁵ OSCE report, p. 72.

⁵⁶ Council of Europe, Op. Cit., Articles 14, 47.

⁵⁷ See the OSCE report, pp. 67- 84.

⁵⁸ Ibid, pp. 67-68

LEAs and prosecutorial authorities should improve procedures both to provide and obtain useful and timely international co-operation to and from foreign counterparts and international police databases on THB cases. Co-operation with foreign counterparts should take place both through formal channels, such as MLA requests, and through informal channels, which are often significantly faster. To facilitate and improve co-operation on THB cases, LEAs should consider assigning police attachés to relevant countries of origin, transit, and destination. In addition, law enforcement and prosecution professionals should try to develop professional relations with their foreign counterparts, especially from relevant countries of origin, transit and destination and establish informal channels for international co-operation.⁵⁹

LEAs should enhance their use of, and increase their contributions to, the secure platforms for international police co-operation and databases of Interpol and Europol. These platforms include Interpol's I-24/7 global police communications system for exchanging police information and searching criminal databases, Europol's AWF Phoenix and AWF Sustrans platforms for storing and analysing data related to THB and ML and Europol's CARIN network for tracing assets in foreign countries.

LEAs and prosecutorial authorities should address issues of limited capacity or legal reach in large international THB cases through joint investigation teams and other forms of international co-operation with counterparts in the relevant countries.

LEAs and prosecutorial authorities should use international information exchanges and other types of international co-operation from the early stages of intelligence gathering for THB investigations, not only following arrests and publicity surrounding cases. This would allow for earlier identification of all relevant suspects and assets, preventing their flight.

LEAs should assign a high priority to developing effective co-operation with the FIU on THB-related issues, including bi-directional information exchanges. In addition to receiving STRs for investigation from the FIU, LEAs should provide the FIU with feedback, guidance and other relevant information on THB cases (within the limitations of national law) to allow the FIU to enhance its understanding of THB cases, to provide specific and useful guidance to reporting entities on how to identify and report suspicious activity related to THB and to improve the FIU's analysis of THB-related STRs. Information from LEAs to the FIU should include detailed THB and SOM typologies, lists of suspected individuals and companies, geographical areas of operation, types of businesses used, victim profiles, countries of origin

and transit and other relevant indicators and red flags that could be used by the FIU, FIs and other reporting entities to identify and analyse suspicious activities related to THB.

LEAs should consider establishing direct communication channels to FIs and professional relationships with compliance officers in order to facilitate co-operation. LEAs should share with FIs information on THB and SOM typologies, trends and patterns from recent THB activity, red flags and indicators of suspicious activity and to the extent that law permits, results from relevant completed cases.

Prosecution agencies should increase their efforts to pursue additional ML charges in THB cases and to assign a high priority and use all available legal measures to confiscate assets related to THB. These legal measures include the pursuit of non-conviction based asset restraint and provisions allowing the reversal of the burden of proof to require offenders to demonstrate the lawful source of income that was used to purchase assets or to support an expensive lifestyle.⁶⁰

4.4 Financial institutions

FIs should inform the FIU and LEAs of all types of financial data that could be provided to authorities upon request and could be useful in the investigation of THB and related ML cases. For example, LEAs should be aware that credit card companies have records of all credit card swipes regardless of the actual payment method that was used, which could provide evidence of car rentals and hotel stays (which typically require credit cards) even if the payments were ultimately made in cash.

FIs should increase their efforts to identify suspicious activity related to THB by applying CDD measures, scrutinizing customers and transactions according to risk profiles and learning about high-risk industries, typologies and countries of origin, transit and destination for THB. FIs should also follow FIU and LEA guidance on identifying red flags and risk indicators, researching publicly-available data related to THB, such as court documents, newspaper articles and advertisements, and analysing all available information to produce actionable STRs.

MVTs, and particularly money transmitters, which are commonly used by traffickers, should work closely with FIUs and LEAs and significantly increase their efforts to identify and report activity that may be related to THB.

⁵⁹ Ibid, p. 68, 84.

⁶⁰ See FATF Recommendation 4 and the OSCE report, p. 85.

4.5 Business sector

Businesses should increase their awareness of THB and use publicly-available sources, such as international reports, the US ICE's Cornerstone Report, Verite, and Stop the Traffik's Finance Against Trafficking initiative to learn about and address THB risks in the sectors and regions in which they are active.⁶¹

Businesses should make use of all available information, including internal audits and financial reporting to identify whether trafficked labour is used at any stage of their global supply chain. Businesses should implement effective monitoring procedures and report violations to LEAs.⁶² Whistleblower protections should be extended to those who report on trafficking activity.

4.6 Non-governmental organizations

NGOs should report suspicious THB activity to LEAs, and when possible and appropriate, encourage THB victims to co-operate with law enforcement and prosecution agencies. NGOs that have access to victims of THB and assist them should be aware of the importance of criminal investigations and the confiscation of criminal assets to addressing THB and providing compensation to victims, and should make efforts to support them.⁶³

4.7 National anti-trafficking structures

National anti-trafficking structures (including National Referral Mechanisms, national co-ordinators, independent rapporteurs, and relevant governmental agencies) should integrate financial investigations within THB investigations. National Referral Mechanisms should have a designated focal point to promote financial investigations of THB.

States should ensure that seized and confiscated proceeds of THB are made available for return to victims of THB when a court so orders.

States should train prosecutors, judges and legal representatives of victims of trafficking to advocate for and award compensation to trafficked victims.

4.8 International and regional organizations

International and regional organizations with mandates in the areas of anti-money laundering and anti-human trafficking should harmonize their efforts both internally and externally via trainings and other programming to ensure that practitioners in each area develop knowledge in the other area.

⁶¹ See the Stop the Traffik website: <<http://www.stophetraffik.org/>>.

⁶² See the OSCE report, p. 70

⁶³ Ibid., p. 74

Conclusions

This report explored the use of AML measures to strengthen the effectiveness of efforts to combat THB. The contents of the report were based on the experiences of THB, SOM and AML experts as presented at the OSCE/UNODC seminar on Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings in October 2011 in Vienna and in recent FATF and OSCE reports. The findings suggest that THB and ML share several important interfaces, and that efforts to combat THB could be significantly enhanced through the increased and targeted use of existing tools in national AML regimes. By increasing co-operation between agencies, institutions and professionals that focus on THB and ML and by facilitating exchanges of expertise and information, national authorities can significantly improve their capacity to identify and explore new information sources and investigative techniques to target and confiscate the criminal proceeds that drive THB businesses.

However, there is currently a significant disconnect between AML and anti-THB efforts in most jurisdictions and a need for the more effective use of key AML elements. These issues can be addressed through the targeted use of financial investigations of THB cases, the identification and analysis of THB-related STRs and effective inter-agency co-operation between FIUs and LEAs. The national legal framework to facilitate effective and timely identification, reporting and response to suspicious financial activity related to THB is lacking in many jurisdictions and there is a shortage of financial investigative expertise in many LEAs. International co-operation on financial and other aspects of THB is often slow and limited.

This report has laid out good practices in the use of AML tools and resources to combat THB and includes in Annex I several relevant cases studies identified by practitioners. Mechanisms, tools and resources that have been identified as good practices include secure platforms for international information sharing on THB and ML-related issues between LEAs and between FIUs, typologies produced by international organizations, the development of investigation, co-operation and enforcement procedures by LEAs and prosecutorial authorities and advanced detection and analysis methods FIs can use to identify and report suspicious THB activity.

The report provides specific recommendations to legislators, FIUs, LEAs, prosecutorial authorities, FIs, the business sector, NGOs, national anti-trafficking structures and international and regional organizations. Key recommendations include integrating financial investigations into THB investigations, training financial investigators and analysts and improving inter-agency co-operation on THB. Other key recommendations include the timely use of preliminary asset restraint measures in THB investigations, improving the quality and usefulness of THB-related STRs and increasing countries' use of and responsiveness to requests for international co-operation in THB cases. In addition, the report provides recommendations to increase the effectiveness of victim compensation mechanisms.

These recommendations to improve the use of AML regimes to combat THB are intended to assist countries in opening a new and promising front against trafficking and to make THB a higher-risk and less profitable criminal enterprise.

Annex I: Selected Case Studies

The following case studies were provided primarily by representatives of the OSCE participating States mentioned in each case study, and by one major financial institution in the United States.

Case Study 1: Analysis of Different Business Models of THB

While different THB operations often share many characteristics, they do not follow a single business model, and particularly between geographic regions, there are significant variations in trafficking business models, patterns and practices. In her book, *Human Trafficking: A Global Perspective*, Dr. Louise Shelley offers several different descriptions of models of trafficking:

The Supermarket model – from Mexico to the US:

This model is characterized by a high-volume low-cost model of trafficking, in which profits rely primarily on the number of individuals trafficked. THB operations following this model have low start-up costs and often feature links with drugs, arms trafficking and corruption. Victims are trafficked primarily for forced labour and often die because traffickers are concerned primarily with volume rather than the well-being of trafficked individuals.

Natural Resources model – from the former Soviet States to the US:

This model follows the regional pattern of selling natural resources for immediate profit. It is characterized by sophisticated methods of recruiting victims, who are primarily women and young girls, and by high levels of human rights violations against them because the traffickers do not rely on them to recruit new victims. Profits in this model often dissipate or are moved to offshore financial centres.

Trade and Development model – from China:

This model is characterized by high levels of organization, record-keeping and integration of all business aspects. This model relies on bribery or the direct involvement of public officials in southern China. An estimated 90 per cent of victims in this model are men who are trafficked for labour exploitation. Since recruitment is based on knowledge of the victims and their families, and profits are made through the long-term exploitation of the victims, this model results in fewer human rights violations than other models. In this model, proceeds are often sent back to China through formal and informal money transfers for re-investment.

Pimp model – domestic trafficking in the US:

This model is used primarily by individual pimps who traffic a small number of American girls and women for prostitution. The traffickers typically use drugs and psychological means to manipulate the girls, who are often minors. Victims often die from drug overdoses, suicide, disease and/or violence after an average of seven years in prostitution. This model results in high profits, which are used primarily to support an excessive lifestyle.

West African model – traditional slavery in new form:

This model is used by Nigerian criminal organizations that traffic women and drugs from Nigeria and other countries in West Africa to Europe. Female recruiters often exploit victims' belief in voodoo to force compliance from uneducated women who are then sexually exploited in Nigerian immigrant communities in Europe. Nigerian THB organizations rely on public officials to facilitate their operations. While some profits are returned to Nigeria, much of the profit is laundered or re-invested in other illicit activity.

Case Study 2: Operation SNEEP

Country: The Netherlands

General information: Forced prostitution in the Netherlands

Countries involved: The Netherlands, Turkey, Germany, Belgium and Poland

Criminal operation:

Perpetrators: Three men of Turkish origin, including two brothers, who came from Germany to Amsterdam in 1998. The group bought several German women to work as prostitutes and within less than a decade developed into a network of some 50 pimps, bodyguards and other associates that was active in licensed window prostitution in at least five Dutch cities and had collaborators in various German and Belgian cities.

The group employed an organized and hierarchical structure. The three men, who originally acted as supervisors themselves, later hired bodyguards to monitor the prostitutes, the number of clients and the business' proceeds. In time, several of the bodyguards were promoted as pimps, but others maintained their bodyguard activities.

Victims: A total of 120 prostitutes were linked to the group, 78 of which were labelled as probable victims based on the investigation, and 10 of which reported THB or made incriminating statements about the group. Some of the women later asked to withdraw their reports. Most of the victims were from Germany and the Netherlands, but other countries of origin included Ireland, Poland, Bulgaria and the Czech Republic. Most of the women were taken from other pimps, but some were recruited in the clubbing scene. The victims were working as window prostitutes in the Netherlands, usually every day, including during their periods, and many had to hand over a daily target figure of EUR 1,000. They were monitored by the group virtually 24 hours a day and had to ask their pimps for permission to stop working.

Facilitators: Several types of facilitators were connected to the group's operation:

Licensed window rental companies rented workrooms to the prostitutes in various Dutch cities, and in some cases there was direct contact between the window rental company and the pimps.

A tax consultancy firm was involved in the paperwork that prostitutes had to fill out in order to be allowed to work in licensed prostitution.

Several accounting offices and work agencies provided the suspects with pay slips.

An abortion clinic performed at least five abortions for the group.

A cosmetic clinic performed all the breast enlargements for the group and a doctor employed by the clinic gave discounts to new customers introduced by the main suspects.

Of the different facilitators, only one licensed window renter formally reported alleged exploitative practices.

Response by the authorities: The authorities addressed THB using the Programmed Approach, which entails co-operation between the Public Prosecution Service and LEAs and administrative co-operation with municipalities. All relevant authorities have to be prepared to identify THB, act to counter it using the criminal system and administrative measures and create barriers to its operation. Operation SNEEP is an example of a criminal investigation component of the Programmed Approach and illustrates its success compared to the traditional approach to THB.

In 1998, the German police alerted the Amsterdam police about the two Turkish brothers. However, Operation Caravan, which was initiated in response to this alert and followed the classical approach, eventually concluded with no results. In 2005, however, another group of German Turks was found to be active in THB and the authorities decided to launch another inquiry that led to Operation SNEEP.

Operation SNEEP included three phases:

Information phase (spring-summer 2006): Information from other operations was analysed.

Operational phase (from summer 2006): Investigative means were deployed, including telephone intercepts, systematic surveillance, a car registration reading system and the IMSI catcher (for intercepting calls on pre-paid telephones). In addition, this phase included interagency co-operation between the Public Prosecution Service and LEAs and international police co-operation between the Netherlands and Germany, Belgium, Poland and Turkey.

The Public Prosecution Service benefited from intensive co-operation from the German police and, following a letter of request, received information on the suspects' money flows and bank accounts through phone call intercepts and a financial inquiry. In addition, the Polish police interviewed victims who had already returned home and the Turkish police provided information on the assets of the main suspects.

In the fall of 2006, the authorities opened a financial inquiry to identify the cash flows between pimps and prostitutes. Although the inquiry originally focused on depriving the suspects of illegally obtained gains, it later expanded to include related money flows.

Arrest phase (February 2007): Following an unauthorized tipoff that financial intelligence was being collected on one of the suspects, the authorities moved quickly in arresting several suspects. After the arrests the police made an effort to collect evidence and statements from the victims, both in the Netherlands and in the countries of origin, but several women denied being victims and refused to co-operate. However, thanks to the thorough investigation that preceded the arrests, the Public Prosecution Service still had a strong case against the suspects, and after the prosecution of 20 suspects and a multi-year trial, most of the suspects were convicted.

Main findings and lessons learned:

- Effective inter-agency and international co-operation is crucial to the successful investigation and prosecution of THB cases;
- International co-operation should be used from an early stage during THB investigations;
- THB investigations should utilize a wide range of investigative and electronic measures, due to the difficulty of obtaining evidence and testimonies from victims;
- It is important to keep THB investigations confidential to prevent the flight of suspects and assets;
- Countries should have measures in place to prevent leaks from bank employees on the existence of financial investigations or inquiries.

Case Study 3: Operation EUROPA

Country: Romania

General information: Trafficking in minors from Romania to Western Europe

Countries involved: Origin – Romania; destination – Spain, France, Belgium and the UK

Criminal operation:

A criminal network of Romanian citizens operating from a small Romanian town recruited Romanian children from poor families, provided them with travel documents, money and notarized letters granting permission to cross the border without their parents and arranged for their accommodation and transport to countries of destination in Western Europe. Upon their arrival in Spain, France, Belgium and the UK, the minors were exploited and forced to beg and to commit petty crimes.

Response by the authorities:

The criminal investigation in rem began in September 2006 and included the use of electronic surveillance, interviews with identity-protected witnesses, photo recognition, technical expertise and the investigation of bank accounts, including money transfers totalling more than EUR 2.7 million.

International co-operation:

An agreement to set up a JIT with UK judicial authorities was signed in September 2008 and was extended until the end of 2010. As part of the JIT, Romanian investigators interviewed the minors exploited by the network and some of their parents in the UK. The authorities in the UK provided Romanian investigators with the minors' criminal records, which showed that the minors were caught begging and shoplifting. In addition, the UK team participated in searches carried out by Romanian police in Romania in April 2010.

The criminal investigation in personam started in April 2010. The Bucharest Criminal Court issued 34 search warrants, which were executed simultaneously the following day, resulting in the arrest of 17 suspects. The Romanian police also seized nine houses and eight luxury vehicles, EUR 24,600, GBP 19,115, RON 43,700, 11 kilograms of gold and various weapons, including 22 firearms, 300 rounds of ammunition, knives, swords and bulletproof vests.

The suspects were charged with trafficking in minors, money laundering, setting up of an organized criminal group, and illicit possession of guns and ammunition. The indictment was sent to court in July 2010, and included charges for an additional eight suspects in absentia, in addition to the 17 that were arrested.

Main findings and lessons learned:

- Cross border co-operation is crucial;
- The use of joint investigative teams has proven effective;
- By focusing on the proceeds of crime, officials were able to seize assets of significant value.

Case Study 4: SOM from China

Countries: China and Europe

General information: Chinese migrants paying to be smuggled from China to Europe

Countries involved: Origin – China; transit – Czech Republic, Germany; destination – France

Typical operation:

1. A financier, who is often a relative of the would-be migrant from China contacts a smuggling co-ordinator, who is typically quite known and easy to reach in China, to organize the smuggling operation, and negotiates the price, terms and payment conditions.
2. The cost of the smuggling operation is pre-agreed between the co-ordinator in China and a co-ordinator in Europe.
3. Payment is always done in stages or after the execution of the pre-agreed smuggling service, and the money is paid in China, where it remains. If the smuggling stage is carried out successfully, the migrant informs the financier, who then pays the agreed amount for the respective stage.

The money is sent to a regular bank account, which in these cases was in the name of the Chinese co-ordinator's wife, who is in contact with both her husband and the financier. Cash payments are rare.

4. Method 1: A local stage co-ordinator in the country of transit or destination is in touch with a local money lender of Chinese origin. The money lender or his spouse holds a bank account in China. The required amount is then transferred from the account of the Chinese co-ordinator to the Chinese account of the money lender. Once the money has arrived in the account in China, the lender uses cash in his possession in Europe to pay the stage co-ordinator in cash and the stage co-ordinator in turn pays the local smugglers in cash.

Method 2: The local stage co-ordinator in the country of transit or destination, who needs cash in Europe to pay the local smugglers, receives cash from a local money collector. Similarly to the money lender, this money collector is integrated into the Chinese community in Europe. Chinese workers who have earned untaxed cash in Europe and who would like to send it to their relatives in China, give this money in cash to the money collector. Often without the involvement of the smuggler, the money collector or his or her employee flies to China with a suitcase of cash to pay it out there. Using this method, however, because the stage co-ordinator needs cash in Europe, he and the money collector simply exchange the sums: The money collector provides to the stage co-ordinator cash which has been collected from workers and the workers' families in China are paid by the wife of the Chinese co-ordinator using the money received from the original financier of the smuggling operation. This system serves both the stage co-ordinator and the money collector well, because it reduces the risks associated with transferring money internationally or carrying it across borders.

Main findings and lessons learned:

- Most of the money never leaves the country of origin;
- Informal banking systems and money lenders play an important role;
- Traditional bank accounts and transfers are used, but only domestically. There are no international transfers;
- Cash payments are made primarily to real smugglers;
- SOM models are significantly different from THB models:
- In THB: the money is generated in the country of destination, where most of the exploitation and most of the criminal investigations and prosecutions take place;
- In SOM: most of the money never leaves the country of origin, which makes investigations and proceedings more difficult for authorities in the destination country.

Case Study 5: Detecting THB online

Country: The United States

General information: Financial institution's use of proprietary data, public source information and analysis to identify suspicious THB activity

Countries involved: The United States

Criminal operation:

In 2010, US media reported that a popular classified advertisements website derived one third of its multi-million USD annual revenue from advertising adult services. At the same time, internet articles and LEA announcements provided details on law enforcement crackdowns of prostitution rings believed to have used the advertising service to obtain a client base. In addition, an FBI case alleged that members of an organized crime family operated a prostitution service on the adult services section of the website, offering the sexual services of approximately 15 girls, aged 15-19.

Response of financial institution:

The compliance department at a large FI in the United States conducted a review of publicly-available information on the subject and concluded that adult service providers that advertise via online services present a high trafficking risk and that classified advertising services on the website require specific payment amounts for ad placement. In addition, the review identified code words that are used in ads to promote sex with trafficked minors.

The FI examined data associated with its accounts and services, using several criteria to identify customers suspected of posting ads that promote sex with trafficked minors. By identifying accounts used to make payments to the website, the pool of suspect accounts was significantly narrowed. The FI carried out a subsequent comparison of customer phone numbers with those listed in advertisements using the abovementioned identified code words and shared the results with LEAs. As of October 2011, the FI's suspicious activity reports had led to 238 investigations, many with links to child sex exploitation.

Main findings and lessons learned:

- FIs can analyse their financial and customer data to identify and report suspicious activity related to THB;
- FIs can make use of publicly-available data to improve their analysis of suspicious activity related to THB.

Case Study 6: Ukrainian THB and smuggling in the United States

Country: The United States

General information: Eastern European women lured to the US and forced to work as prostitutes

Countries involved: Origin – Ukraine, the Czech Republic; destination – US;

Criminal operation:

Two Ukrainian immigrants created a corporation called Beauty Search Inc. that presented itself as a talent agency, while in fact luring Eastern European women to the US. Once the women arrived in the US, they were forced to work at strip clubs and as prostitutes. The women were located through newspaper advertisements and smuggled through Mexico to the US using various types of visa fraud and counterfeit documents.

According to evidence from one of the victims, a 23 year old Czech female after being smuggled through Mexico to the US, was forced to sign a contract agreeing to repay a smuggling debt of over USD 25,000, and then forced to work as a dancer at a night club in order to repay the debt. Every week, people from the THB organization came to her apartment to collect up to USD 1,500 from her earnings in order to repay her debt. In addition, the victim was coerced into believing that the THB organization would assist her in obtaining legal residence in the US.

Response of authorities:

The investigation was initiated when two trafficking victims sought the assistance of law enforcement, after escaping with the help of a strip club patron. During the investigation, special agents from Homeland Security Investigations (HSI) identified and interviewed two additional Ukrainian female victims and all four statements were corroborated. Law enforcement used the information the women provided to identify the methods used by the group and to take down its operation.

HSI agents executed several search warrants, which resulted in the seizure of two weapons, a Mercedes Benz, a Cadillac Escalade and more than USD 500,000 in cash, mostly from safe deposit boxes. In June 2007, the main target of the investigation, a Ukrainian immigrant, pled guilty to involuntary servitude and money laundering and was sentenced to 14 years in prison. In addition, he was ordered to pay USD 1,570,450 in restitution. Two other principal targets were charged for money laundering and involuntary servitude and received similar prison sentences. A total of nine main conspirators were convicted of charges including smuggling of migrants and money laundering.

Main findings and lessons learned:

- Co-operation from THB victims was crucial;
- Perpetrators of THB may use newspaper advertisements to lure their victims;
- A talent agency managing Eastern European women was used as a front;
- Lack of legal status makes illegal migrants particularly vulnerable to exploitation, enabling perpetrators to threaten them with jail and deportation;
- Perpetrators confiscated victims' passports and identity documents, and used counterfeit documents to smuggle them into the country;
- Victims of THB were maintained in social and linguistic isolation.
- Marriage fraud was used to obtain visas for smuggled migrants;

Case Study 7: African THB in the United States

Country: The United States

General information: Young African girls lured to the US and forced to work at hair braiding salons

Countries involved: Origin – Togo: destination – US

Criminal operation:

A husband and wife were running a THB organization in the New Jersey area. The organization was using fraudulent documents to smuggle underage girls from Africa and forcing them to work in hair braiding salons. One or more members of the group would travel to Togo to seek girls who had won the US diversity visa lottery, pay them for the visas that they won, and then find other individuals who wanted to send their daughters to the US for better education. The young girls, who were between 12 and 16 years old, would then assume the identities of the girls who had originally won the visa lottery, obtain legal documents from Togo with that identity and presented themselves to the local US embassy to fraudulently seek entry to the US. However, once the girls arrived in the US, the perpetrators took their passports, made them work at New Jersey hair braiding salons and did not pay them for their work. The girls did not attend school, worked up to 14 hours per day, and were held captive in a single small room housing six to eight girls at a time. In addition, the organization fraudulently obtained green cards for the girls using false identities .

Response of authorities:

The investigation began after law enforcement received information about the THB organization from a confidential source. The investigation revealed a large amount of US currency in the suspect's residence as well as Western Union transfers that had been sent to Africa. It is believed that other profits were smuggled from the US via flights to Africa.

During the course of the investigation, eight major conspirators were arrested for visa fraud, THB, forced labour and smuggling and harbouring aliens. Several conspirators pled guilty or were convicted at trial, including the primary suspect who was sentenced to 27 years in prison and ordered to pay nearly USD 4 million in restitution to a total of 24 victims. The other conspirators were sentenced to prison terms ranging from 26 to 292 months. Many of the victims refused to co-operate with law enforcement and to testify against the perpetrators. However, the girls were given the status of victims of THB, which allowed them to make use of a mechanism to stay in the US legally.

Main findings and lessons learned:

- Lack of co-operation from victims is an issue in THB investigations;
- The criminal group systematically used visa fraud to bring victims to the US;
- The criminal organization made use of both money transmitters (such as Western Union) and cash couriers to transfer money to the country of origin;
- This severe case of trafficking minors resulted in a harsh sentence of 27 years of imprisonment and nearly USD 4 million in restitution to victims.

Case Study 8: SOM to the United States

Country: The United States

General information: Family business of smuggling migrants through Mexico to the US

Countries involved: Origin – Mexico, others; transit – Mexico: destination – US

Criminal operation:

Three residents of California, consisting of a couple and their daughter, operated a family-run alien smuggling organization that smuggled three to ten illegal immigrants per week through Mexico to the US for over 20 years. While the couple served as the heads of the organization, their daughter served as a money courier and two other affiliates served as transporters and money couriers. The organization received more than USD 600,000 in wire transfers in the period that was examined and purchased over USD 3 million in real property. Although during a three-month period one of the smugglers received 13 wire transfers totalling USD 27,000 and another received a total of USD 32,000, the smugglers were listed as unemployed or as housewives or babysitters and had no legitimate sources of income.

Response of authorities:

The investigation was initiated in the state of California after an analysis of suspicious Western Union wire transfers. The amounts transferred, which were round amounts of about USD 2,000 per transaction, were received from common countries of origin for illegal immigrants to the US, and were consistent with the average smuggling fee that illegal immigrants paid to be smuggled from Mexico into the US. Following the investigation, seven suspects were arrested for charges including alien smuggling, false statements and filing a fraudulent tax return. The suspects were sentenced to prison terms ranging from time served to 37 months incarceration.

Main findings/lessons learned:

- The organization made extensive use of money transmitters via Western Union;
- The case was initiated following an analysis of round-amount suspicious transactions from common countries of origin;
- Smugglers purchased expensive real estate without a legitimate source of income.

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Organization for Security and
Co-operation in Europe

Wallnerstr. 6, 1010 Vienna, Austria
Tel: +43 1 51436 6000
Fax: +43 1 51436 6299
email: info@osce.org
www.osce.org/cthb
www.osce.org/ocea
www.osce.org/tnt