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# Human Trafficking and Smuggling of Migrants

CFATF



GAFIC

[CFATF WORKING GROUP ON  
TYPOLOGIES]

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## ACRONYMS

|           |   |
|-----------|---|
| APG       | Asia Pacific Group  |
| CFATF     | Caribbean Financial Action Task Force   |
| CWGTYP    | Caribbean Financial Action Task Force Working Group on Typologies                                       |
| FATF      | Financial Action Task Force   |
| FATF/WGTY | Financial Action Task Force Working Group on Typologies   |
| FIU       | Financial Intelligence Unit   |
| FSRB      | FATF-Style Regional Body  |
| HT        | Human Trafficking   |
| IOM       | International Organization on Migration   |
| LEAs      | Law Enforcement Agencies  |
| ML        | Money Laundering  |
| MLAT      | Mutual Legal Assistance Treaty  |
| MONEYVAL  | Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism |
| MOU       | Memorandum of Understanding   |
| SARs      | Suspicious Activity Reports   |
| SOM       | Smuggling of Migrants   |
| STRs      | Suspicious Transaction Reports  |

## EXECUTIVE SUMMARY

Human Trafficking (HT) and Smuggling of Migrants (SOM) activities are identified as being “highly profitable”. The goal of this project is to increase understanding and raise regional awareness of HT and SOM; and related Money Laundering (ML) and Terrorist Financing (TF) techniques within the Caribbean region.

The Caribbean Financial Action Task Force Working Group on Typologies (CWGTYP) identified a need for an exercise of this nature to be conducted within the Caribbean region. The team is cognizant of the studies already pursued on HT and SOM (HT/SOM) by the FATF and other FSRBs such as MONEYVAL and APG. It is believed that our work could be viewed as following-on from FATF’s typology’s work entitled “*Human Trafficking*”<sup>1</sup>, focusing on the activities within our geographical domain.

The objectives of this Typology Report are to identify any trends or patterns within jurisdictions and across the region for money laundering and terrorist financing associated with HT and SOM; to identify the magnitude of the criminal offences of HT and SOM on a regional level; to identify HT and SOM techniques; to assist Law Enforcement Agencies and FIUs in the identification, seizure and confiscation of proceeds linked to HT and SOM; and to identify gaps, if any, in the information sharing process with a view to enhancing future collaborations within jurisdictions and across borders.

A questionnaire was prepared and circulated to CFATF member countries. It was designed to collect data for the period January 2007 to June 2011.

Information contained in the FATF’s typology on “Human Trafficking” is also incorporated in this report as that document also utilized findings of a number of HT/SOM reports/studies and initiatives undertaken by other FSRBs, jurisdictions and international organizations.

Responses were received from 20 countries (five (5) Spanish-speaking and 15 English-speaking).

The answers revealed that HT and/or SOM are criminalized in most jurisdictions (HT 85% and SOM 60%).

Ninety-four per cent (94%) of the respondents indicated that they have special investigative units responsible for HT.

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<sup>1</sup> FATF/WGTY(2011)14

Sixty per cent (60%) of the countries have conducted investigations and prosecutions regarding HT and SOM although most of the investigations and prosecutions were conducted within the Spanish-speaking countries.

Most of the jurisdictions indicated there is a unit responsible for investigating money laundering linked to HT and SOM.

The majority of the jurisdictions were unable to identify funds or money laundering and terrorist financing activities linked to HT and SOM.

There are a number of information sharing mechanisms available when conducting HT and SOM investigations and prosecutions.

The main findings are:

- Jurisdictions have conducted HT/SOM investigations leading to convictions but have found few funds linked to these activities
- Low-level filing of STRs/SARs related to HT/SOM
- There are many information sharing gateways available but few instances of information sharing have been recorded
- Inadequate record-keeping mechanisms to store and retrieve related data
- Limited skills associated with conducting HT/SOM and related ML investigations
- Most of the HT/SOM investigations had an element of “sexual exploitation”.
- The main obstacles affecting the conduct of HT/SOM and related ML investigations are:
  - i. Inadequate human resources;
  - ii. Insufficient technical, human and financial resources;
  - iii. No / improper facilities and services for dealing with victims;
  - iv. Time constraints; and
  - v. Lack of awareness of HT and SOM and associated ML risks.

These challenges can be addressed by strengthening the institutional infrastructure; and capacity building.

## INTRODUCTION

Human Trafficking (HT) and Smuggling of Migrants (SOM) activities are identified as being “highly profitable” criminal activities.

According to the United Nations Convention against Transnational Organized Crime (UNODC)<sup>2</sup> data, HT is so lucrative that it has become the third highest earning criminal activity, surpassed only by trafficking in drugs and arms trafficking.

HT/SOM activities have been known to cause great harm to victims. Figures from the International Organization on Migration (IOM) reveal each year approximately one million people are trafficked worldwide, of which about 80 percent are women and 50 percent are children. The UNODC<sup>3</sup> reported there are 127 countries of origin of victims of trafficking who were exploited in 137 countries of destination during 1996-2003. Various international agencies agree that HT is amplified due to extreme poverty, family disintegration, lack of orientation and sexual abuse, which are situations that violate the victims thus making them easy targets for traffickers. The combating of HT/SOM demands a worldwide approach. In this sense, the Caribbean Financial Action Task Force (CFATF) joins the global effort. Undertaking this study demonstrates willingness on the part of the CFATF member nations to deal with these crimes.

The goal of this project is to increase understanding and raise awareness of HT and SOM and related money laundering and terrorist financing techniques within the region.

The CWGTYP identified a need for an exercise of this nature to be conducted within the region. The team is cognizant of the studies already pursued on HT/SOM by the FATF and other FSRBs such as MONEYVAL and APG. It is believed that our work could be viewed as a follow-on from the FATF’s existing typologies work, and at the same time the findings of this exercise have the potential to be an add value to the law enforcement agencies within our geographical domain.

## PURPOSE OF THE STUDY

This study seeks to identify ML/FT risks associated with HT/SOM activities within the Caribbean region. It is also hoped that it will increase the understanding and raise regional awareness of HT and SOM and related ML/FT activities.

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<sup>2</sup> UNDOC (2010) Issue paper quoted in FATF “Human Trafficking” report

<sup>3</sup> UNDOC (2006) Trafficking in Persons & Global Patterns

## **LIMITATIONS TO CONDUCTING THE STUDY**

There was a late start to the project coupled with delays in the submission of completed questionnaires. Limited participation by some team members also contributed to the delay.

The collection of data to conduct this study was a challenge and the possibility exists that the findings are not a true representation of the HT/SOM situation in the region. Some jurisdictions did not respond whilst some of those that responded did not provide any responses to some sections of the questionnaire. Thus that relevant information exists, but was not provided for use in this report.

Multiple agencies within jurisdictions were involved in the data collection process and this resulted in delayed/limited responses from some respondents. There was no response from five (5) jurisdictions.

Additionally, the limited capacity to identify HT/SOM activities, and to conduct related investigations might have led to under-reporting of HT/SOM activities. Also there is the likelihood that HT/SOM activities may have been recorded/classified under other crime types, or not at all.

## **AIMS**

To increase understanding and raise regional awareness of HT and SOM, and related money laundering and terrorist financing techniques within the Caribbean region.

## **OBJECTIVES**

The specific objectives of this typology report are:

- To identify any trends or patterns within jurisdictions and across the region for money laundering and terrorist financing associated with HT and SOM;
- To identify the magnitude of the criminal offences of HT and SOM on a regional level;
- To identify HT and SOM techniques;
- To assist Law Enforcement Agencies and FIUs in the identification, seizure and confiscation of proceeds of crime linked to HT and SOM; and
- To identify gaps, if any, in the information sharing process with a view to enhancing future collaborations within jurisdictions; and across borders.

## **METHODOLOGY**

**Co-chaired by the Financial Intelligence Units (FIUs) of St. Kitts-Nevis and Honduras, the project team was comprised of members from the FIUs of the Virgin Islands, Antigua and Barbuda, Venezuela, Trinidad & Tobago, Jamaica, and Bermuda, with assistance provided by the CFATF Secretariat**

A questionnaire was prepared and circulated to CFATF member countries. It was designed to collect data for the period January 2007 to June 2011. This report reflects the responses received from 20 countries in addition to a review of literature bearing the topic “*Human Trafficking*”.

## **REPORT STRUCTURE**

Human Trafficking (HT) and Smuggling of Migrants (SOM) are two distinct crime types bearing some similar operating characteristics. The distinction of these offences will be outlined in Section 1 of this report. The responses to the questionnaire will be analysed in Section 2 whilst findings of the study will be presented at Section 3.

The conclusion will highlight issues for consideration in order to effectively identify and conduct investigations into HT/SOM matters and provide assistance in the identification of the ML/FT risks associated with HT/SOM.

The Annexes feature the identification of the various pieces of HT/SOM legislation enacted within respective jurisdictions; as well as the source/destination countries uncovered during HT/SOM investigations and illegal migration offences. This area will also showcase the questionnaire that was circulated to CFATF community.

## SECTION 1 – DEFINITION OF HT AND SOM

Human Trafficking (HT) and Smuggling of Migrants (SOM) are two distinct types of offence bearing similar features.

The purpose of this section is to briefly present the elements of HT/SOM and the differences and similarities existing between them.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, defines trafficking in persons as *“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation 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 organs”*.

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, establishes that *“Smuggling of migrants shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident”*.

### COMPARING HT AND SOM<sup>4</sup>

HT/SOM are two criminal activities that involve the movement of individuals for illicit financial gains. According to the OAS<sup>5</sup> document, HT/SOM *“may involve similar activities of recruiting, transporting, etc.”* and are *“usually perpetrated by criminal networks”*.

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<sup>4</sup> UNODC (2010) Issue paper on organized crime involvement in trafficking in persons and smuggling of migrants

<sup>5</sup> Combating Trafficking in Persons in the Americas – A Concise Guide to Understanding and Investigations” prepared by the Organization of American States

“The Smuggler is the person who facilitates the illegal crossing. The smuggled person is the customer. Both commit illegal acts.

The Trafficker is the person that recruits, transports, receives, transfers or harbors a person by using the means (deception or force) in order to exploit the person who is referred to as the victim. The victim should never be criminalized.”

Competent authorities involved in conducting HT/SOM investigations must be aware of the distinguishing and similar features of these two activities. Countries should make it a policy priority to ensure that LEAs are properly trained in conducting HT/SOM investigations. There should also be simultaneous parallel financial investigations of HT/SOM to identify the proceeds of these criminal activities. This will assist in the identification of ML risks; institutions used to launder funds; and prevent increase in criminal economic power. “

**Elements of HT/SOM**

|                         | <i>Trafficking of Persons</i> | <i>Smuggling of Migrants</i> |
|-------------------------|-------------------------------|------------------------------|
| <b>Consent</b>          | <i>Becomes irrelevant</i>     | <i>Required</i>              |
| <b>Exploitation</b>     | <i>Required</i>               | <i>Not required</i>          |
| <b>Transnationality</b> | <i>Not required</i>           | <i>Required</i>              |

**Consent:** *The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.*

**Exploitation:** *Smuggling ends with the arrival of the migrants at their destination, whereas trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers.*

**Transnationality:** *Smuggling is always transnational, whereas trafficking need not be. Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.*

## SECTION 2 – ANALYSIS OF THE QUESTIONNAIRE

This section of the report has been prepared based on the answers received from the 20 countries that responded to the questionnaire on HT and SOM. The responses came from five (5) Spanish-speaking and 15 English-speaking countries.

| Responding Countries     |                         |                   |                        |                          |
|--------------------------|-------------------------|-------------------|------------------------|--------------------------|
| Honduras                 | Jamaica                 | Montserrat        | Nicaragua              | St. Vincent & Grenadines |
| St. Kitts & Nevis        | St. Lucia               | Trinidad & Tobago | Turks & Caicos Islands | Venezuela                |
| Curacao                  | Commonwealth of Bahamas | Cayman Islands    | Bermuda                | Antigua & Barbuda        |
| Commonwealth of Dominica | Dominican Republic      | Guatemala         | Guyana                 | Virgin Islands           |

The questionnaire was designed to collect data for the period January 2007 to June 2011.

### Legislation

#### *Is Human Trafficking and/or Smuggling of Migrants a crime in your jurisdiction?*

##### Human Trafficking (HT)

Seventeen (17) countries confirmed that Human Trafficking (HT) is a crime in their jurisdiction. It is noted that 16 of these countries identified that they have the relevant legislation and definition of HT. One (1) of the 17 countries (Curacao) indicated that HT is a crime, but did not identify the name of the legislation or provide a definition for HT.

On the other hand, three (3) jurisdictions (Trinidad and Tobago; Bermuda; and Turks & Caicos Islands) reported that they do not have human trafficking legislation. Trinidad and Tobago indicated that there is a bill (. <sup>6</sup>“Trafficking in Persons Bill, 2011”) before Parliament to make HT a crime in that jurisdiction.

Most of the HT legislation is similar, in that it delineates the same main elements to identify this criminal activity. These are the “*recruitment, transporting, transferring, harboring*

<sup>6</sup> The Trafficking in Persons Act, No. 14 of 2011 was enacted on January 2, 2013 making HT an offence in Trinidad & Tobago. The Act also prescribes for the establishment of a Counter Trafficking Unit to identify and protect victims; and investigate and prosecute offenders.

*and receiving of a person by means of threat, use of force or other means of coercion, abduction, fraud, deception, abuse of power or position of vulnerability”.*

The answers revealed that some countries’ legislation have expressions such as sexual exploitation; pornography; human slavery; forced marriage; forced pregnancy; and human organs and tissue trafficking clearly identified as HT offences.

Based on the responses from the jurisdictions that have criminalized HT, in some of these countries the offence is captured either under its own legislation e.g. “Trafficking in Persons Act”, “Human Trafficking” or it falls within the context of another piece of legislation such as the Penal Code, Criminal Code, and Immigration Act.

In one of the jurisdictions, HT was captured under two pieces of legislation – Trafficking in Persons Act and the Immigration Act.

### **Smuggling of Migrants (SOM)**

There were nineteen (19) responses to this section.

Twelve (12) of the twenty (20) countries confirmed that the Smuggling of Migrants (SOM) is a crime in their jurisdiction. Of the remaining eight (8) countries, seven (7) stated SOM is not an offence; and no response was received from one (1) country.

Eleven (11) of the twelve (12) countries identified the supporting legislation for, and definition of, SOM.

Most of the legislation defines SOM as facilitating the illegal entry, transit or exit of a person to a state either by air or land in which they are not permanent residents, looking for an illegal financial or material benefit.

One (1) country indicated that persons who collaborate, finance and participates by action or omission are also responsible for SOM.

Based on the responses from the jurisdictions that have definitively criminalized and legislated for SOM, the majority of the respondents do not have specific legislation that captures this activity. SOM appears to be criminalized within the context of legislation that covers other criminal activities e.g. Penal Code, Criminal Code, Immigration Act.

### **Financial Information**

*What was the estimated amount of funds linked to HT and/or SOM investigation/conviction?*

The majority (80%) of jurisdictions declared no indication of funds linked to HT/SOM investigations/convictions.

Twelve (12) jurisdictions conducted HT and SOM investigations during the data gathering period. The statistics reveal a total of five hundred and eight (508) investigations was conducted – 338 (HT); and 170 (SOM) – and there were 95 convictions – 82 (HT) and 13 (SOM).

While four (4) jurisdictions indicated the linkages of funds to HT/SOM activities only three (3) provided the amount of funds identified. The three (3) jurisdictions show an aggregate of approximately <sup>7</sup>US\$267,000.00 linked to HT/SOM.

Two (2) countries Antigua & Barbuda and Commonwealth of Dominica estimated <sup>8</sup>XCD\$300,000 and XCD\$250,000 respectively linked to HT; and the Virgin Islands reported US\$65,000.00 linked to SOM.

HT/SOM are both identified as lucrative criminal activities. Based on the number of investigations/convictions the funds identified are minimal. This appears to indicate no/inadequate financial investigations are being conducted when dealing with HT/SOM matters.

Capacity building is recommended to address this issue. It is also recommended that sufficient human resources be employed to deal with these matters.

#### ***STRs/SARs received related to HT/SOM***

Of the twenty (20) respondents only three (3) countries reported having received STR/SAR directly related to HT/SOM.

A total of 21 STRs/SARs was recorded during the period 2008-2011. Most (72%) of the STRs/SARs related to SOM.

- The Antigua and Barbuda FIU received 16 STRs/SARs. The majority of these reports (15) are related to SOM.
- The Cayman Islands (CI) FIU reported two (2) STRs/SARs related to SOM – one each in 2008 and 2011.

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<sup>7</sup> The dollar value throughout this report is in United States Currency unless otherwise stated.

<sup>8</sup> XCD = Eastern Caribbean Currency (the local currency). US\$1=XCD\$2.7169

- Guatemala reported three (3) STRs/SARs - one linked to SOM; and two linked to HT.

The responses indicate the majority of reports were filed by the banking sector.

Of the three (3) jurisdictions that indicated the filing of STRs/SARs only one (1) of them (Antigua & Barbuda) identified funds linked to HT and ML activities.

It was observed that in Nicaragua, where HT investigations were conducted and convictions obtained, there was the identification of institutions used to launder funds. However, there was no recorded filing of STRs/SARs within this jurisdiction. This might have been one of those instances where the discovery was made by the LEA and/or the filings were not recorded either by the institution or FIU, as being linked to HT/SOM.

The low-level filing of STR/SAR may be indicative that:

- The reporting entities are either not meeting legal reporting obligation or are unaware of and unable to identify ML/FT risks associated with HT/SOM activities;
- FIU personnel unable to identify ML/FT risks associated with HT/SOM and matters not properly recorded to reflect HT/SOM; and
- HT/SOM and related ML activities are more likely to be identified from law enforcement investigations

Countries should:

- Develop training and awareness programmes to sensitize the reporting sector and competent authorities about the linkages between HT/SOM and money laundering activities;
- Utilize the enforcement of sanctions for non-compliance with reporting obligations;
- Ensure FIUs, LEAs, and prosecutorial authorities share information upstream and downstream allowing for a more efficient and effective information sharing process.

### **Institutions used to launder proceeds of HT/SOM**

The majority of the countries did not provide information in response to this section.

Upon review it was observed that the majority of these respondents indicated that they have never conducted any HT/SOM investigations; there were no identified funds linked to HT/SOM; and no-receipts of STR/SARs related to HT/SOM. Hence the identification of institutions used to launder proceeds of HT/SOM, in these instances, would not be relevant.

Three (3) jurisdictions that conducted HT/SOM investigations identified the credit union, money remittance institution and the bank as being used to launder proceeds of HT/SOM.

Guatemala declared that the transfers of funds were conducted through credit unions and money remittance institutions. In the case of Honduras (Hon), money was layered through donations (specifically “office equipment and furniture”).” Nicaragua indicated the use of money remittance institutions where amounts ranging from \$300.00 - \$500.00<sup>9</sup> were transferred as individuals “*move from south to north*”; and Antigua and Barbuda identified a bank.

Trinidad and Tobago provided information, although outside of the assessment period, to further highlight the use of money remittance institutions in financial activities related to HT/SOM. Trinidad and Tobago indicated that an analysis was done on STRs/SARs that were filed in 2006 by a money remittance institution. This suggested that “suspected prostitution activity” was involved. The financial information gleaned from this analysis indicated that approximately US\$362,000.00 was sent in 325 transactions from Trinidad and Tobago to several destinations in the Caribbean and South America.

HT/SOM are not criminalized in Trinidad and Tobago. This jurisdiction has indicated there was a bill before Parliament to criminalize HT<sup>10</sup>.

The three (3) responses indicate the use of cash-based trades to launder funds; and commingling funds with legitimate business. These risk sectors - money remitters, credit unions, and banks - confirm the use of these institutions identified by the “Human Trafficking” produced by the FATF.

Competent authorities should:

- Implement measures to heighten awareness of ML risks within reporting sectors. This would increase STRs/SARs reporting level
- Conduct training sessions with reporting sectors to build capacity in combating HT/SOM and related ML activities.
- Ensure adequate and sufficient resources are available to conduct HT/SOM and related ML investigations.

## **Investigation**

Law Enforcement Agencies (LEAs)/Special Investigative Units (SIUs) for HT/SOM

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<sup>9</sup> The unit of currency was not indicated and as such we assume US currency.

<sup>10</sup> The Trafficking in Persons Act, No. 14 of 2011 was proclaimed on January 2, 2013 making HT an offence in Trinidad & Tobago. The Act also prescribes for the establishment of a Counter Trafficking Unit to identify and protect victims; and investigate and prosecute offenders.

All of the responding countries where HT/SOM is a crime indicated having competent authorities responsible for investigating these offences.

Based on the answers from the respondent jurisdictions, most of the responses identified more than one authority responsible for the investigation of HT/SOM. The authorities are:

- Police Force – featured 20 times
- Immigration – featured 12 times
- Coast Guard – featured 2 times
- Customs – featured 2 times

The answers to this question also support the findings of the FATF Human Trafficking Typologies (FATF/WGTY(2011)14) where most of the responses indicated there are several competent authorities within the same jurisdiction to investigate HT/SOM.

Additionally it should be noted that most of the investigative authorities that were featured in the FATF study were also identified in these present findings – Police; Immigration; Customs; and Coast Guard.

Seven (7) jurisdictions stated there was a specialized unit mandated to investigate HT:

1. St. Vincent & the Grenadines: “The Anti-Trafficking in Persons Unit”
2. Jamaica: “Trafficking in Persons Unit” within the Police Force
3. Honduras: “Unidad Trata De Personas de La DNSEI
4. Guatemala: “Unidad Contra la Trata de Personas
5. Dominican Republic: “Departamento contra el tráfico ilícito de migrantes y trata de personas de la dirección general de persecución del ministerio publico
6. Guyana: “Counter Trafficking in Person’s Unit” – Ministry of Human Services
7. Nicaragua: “Research Unit Trafficking National Police”

Honduras declared that HT and SOM each has its own separate investigative agency.

Trinidad and Tobago also reported that there are plans to establish a special unit to be named the <sup>11</sup>“Counter Trafficking Unit” by the first half of 2012.

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<sup>11</sup> The Trafficking in Persons Act, No. 14 of 2011 was proclaimed on January 2, 2013 making HT an offence in Trinidad & Tobago. The passing of this legislation also established the Counter Trafficking Unit.

As there is more than one competent authority in the various jurisdictions responsible for investigating HT/SOM there is a greater demand for a structured multi-agency approach to combating HT/SOM. This would ensure there is effective and efficient coordination amongst members; realize the effective handling of the investigation and prosecution; serve as a vehicle to promote relevant information sharing; and aid the development/strengthening of appropriate record-keeping mechanisms from which statistics can be made available upon demand.

There is also a need for the development of clear objectives outlining each agency's role in combating HT/SOM and related ML activities. .

### **Investigative Unit for ML linked to HT/SOM**

Fourteen (14) of the twenty (20) countries declared that they have a special unit of investigation for money laundering linked to HT and SOM. .

Five (5) jurisdictions indicated there was no special investigative unit; and one (1) jurisdiction did not respond.

Of the fourteen (14) responses eight (8) jurisdictions indicated that the FIU is the unit in charge of the investigation for ML linked to HT/SOM; and five (5) indicated special units established within the Police.

One (1) jurisdiction indicates the FIU, in addition to a unit established within the Police Force, are both tasked with conducting ML linked to HT/SOM.

The vigorous pursuit of concurrent parallel financial investigations is strongly encouraged. The responses indicate a large number of HT/SOM investigations. However the amount of funds with linkages to HT/SOM and related ML activities is low when compared to the number of investigations and convictions.

Given the establishment of a separate agency within the majority of jurisdictions to investigate ML linked to HT/SOM –

It is incumbent upon the authority responsible for investigating HT/SOM to involve these agencies where warranted.

- The establishment of policies and procedures that promote and guide the sharing of information; and avoidance of duplication of work.
- There should be heightened awareness to highlight ML/FT risks associated with HT/SOM; and the plight of the victims of these offenses.
- Competent authorities need to ensure that there are adequate and sufficient resources to execute duties. Capacity building within relevant agencies could bring about greater detection of HT/SOM.

**Investigations/prosecutions/conviction**

There were fifteen (15) responses to this section.

Twelve (12) countries indicated that they have conducted investigations and prosecutions regarding HT and/or SOM.

Three (3) countries stated there were no investigations and prosecutions regarding HT and/or SOM; and five (5) countries did not respond. Of these eight (8) countries it was observed that HT/SOM was not an offence in three (3) of these countries; and SOM was not an offence in one (1).

Statistics reveal 74% of matters investigated and prosecuted are within the HT category.

The data also reveals convictions were obtained in 24% of HT matters that were prosecuted; and 8% convictions were obtained for matters prosecuted within the SOM category. One jurisdiction received 100% conviction ratings in all HT/SOM matters that were prosecuted while some matters in other jurisdictions did not reach the prosecution stage.

It is also noted that the vast majority of investigations, prosecutions and convictions were conducted within the Spanish-Speaking countries. The English-Speaking countries’ responses accounted for only 10% of these activities. It is difficult to ascertain why the Spanish-Speaking countries have a higher count of combating these activities.

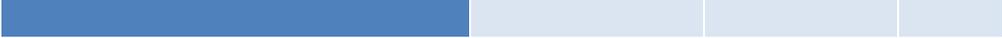
Of the seventeen (17) countries where HT/SOM are offences the responses indicate more than 50% of these countries have conducted investigations and prosecutions. However, the responses reveal a low count of these matters within some jurisdictions. For instance, within the English-Speaking countries four (4) of the seven (7) countries each recorded fewer than four (4) investigations, prosecutions and convictions conducted within the data-gathering period.

The differing judicial procedures within the region and the varying levels of attention given to HT/SOM investigations/prosecutions within jurisdictions might provide the reason behind the varying figures. These could be the subjects of a further study.

The following table illustrates the total number of investigations, prosecutions and convictions based on the responses to the questionnaire.

**Table 1 – INVESTIGATIONS/PROSECUTIONS/CONVICTIONS**

| Description    | HT  | SOM | Total      |
|----------------|-----|-----|------------|
| Investigations | 338 | 170 | <b>508</b> |
| Prosecutions   | 141 | 13  | <b>154</b> |
| Convictions    | 82  | 13  | <b>95</b>  |



Given that HT/SOM is also captured under the umbrella of other pieces of legislation such as the Penal Code and Immigration Act, it may also be indicative that instances exist that are not formally recorded or reported as HT/SOM but rather they are incorporated in normal police/immigration activities especially where no specific unit exists with responsibility for HT/SOM.

All of the English-speaking countries identified several challenges to conducting HT/SOM investigations. The main obstacles identified are resource constraints and limited knowledge and skills in combating these phenomena.

If these challenges were to be addressed, it might improve the efficiency of the investigative agencies leading to increased count.

To improve the investigative and prosecutorial initiatives the following is suggested:

- capacity building is encouraged for competent authorities;
- the development of information gathering and retrieval mechanisms to record and disseminate accurate information on HT/SOM
- structured inter-agency meetings amongst competent authorities
- enactment of relevant legislation to criminalize HT/SOM to conduct investigation; and facilitate information sharing on national and international levels

The following Tables 2 and 3 illustrate the total number of investigations, prosecutions and convictions for HT/SOM, by country, based on the responses.

**Table 2 – HT INVESTIGATIONS/PROSECUTIONS/CONVICTIONS BY COUNTRIES**

| Human Trafficking |           |        |                   |          |         |                         |    |           |           |                    |            |       |
|-------------------|-----------|--------|-------------------|----------|---------|-------------------------|----|-----------|-----------|--------------------|------------|-------|
| Description       | Nicaragua | Guyana | Antigua & Barbuda | Dominica | Jamaica | St Vincent & Grenadines | VI | Honduras. | Guatemala | Dominican Republic | Venezuela. | Total |
| Investigations    | 26        | 17     | 1                 | 10       | 0       | 3                       | 14 | 45        | 199       | 4                  | 19         | 338   |
| Prosecutions      | 20        | 7      | 1                 | 5        | 0       | 0                       | 6  | 38        | 43        | 2                  | 19         | 141   |
| Convictions       | 16        | 1      | 0                 | 2        | 1       | 0                       | 3  | 17        | 22        | 1                  | 19         | 82    |

**Table 3 – SOM INVESTIGATIONS/PROSECUTIONS/CONVICTIONS BY COUNTRIES**

| Smuggling of Migrants |                   |                |    |          |                    |           |       |
|-----------------------|-------------------|----------------|----|----------|--------------------|-----------|-------|
| Description           | Antigua & Barbuda | Cayman Islands | VI | Honduras | Dominican Republic | Venezuela | Total |
| Investigations        | 2                 | 1              | 1  | 37       | 128                | 1         | 170   |
| Prosecutions          | 0                 | 1              |    | 0        | 11                 | 1         | 13    |
| Convictions           | 0                 | 1              |    | 0        | 11                 | 1         | 13    |

The responses also suggest that more attention needs to be paid by law enforcement and legislators to raise the awareness level of HT/SOM matters and related money laundering activities.

*The tables below illustrate the HT/SOM investigations/prosecutions/convictions that involved other activities*

|                         | ANTIGUA AND BARBUDA | Cayman Islands | Honduras |          |          |           |           | Guatemala |           |           |           | Dominican Republic |           |           |          | Venezuela |          |          | Total      |
|-------------------------|---------------------|----------------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|--------------------|-----------|-----------|----------|-----------|----------|----------|------------|
|                         | 2011                | 2007           | 2007     | 2008     | 2009     | 2010      | 2011      | 2008      | 2009      | 2010      | 2011      | 2007               | 2009      | 2010      | 2011     | 2007      | 2010     | 2011     |            |
| Sexual Exploitation     | 1                   | 1              | 2        | 1        | 1        | 26        | 16        | 1         | 34        | 67        | 68        |                    | 2         | 1         | 2        |           |          | 4        | 227        |
| Forced Labour of Minors |                     |                |          |          |          | 1         |           |           |           |           |           |                    | 1         |           |          |           |          |          | 2          |
| Trafficking of Women    |                     |                |          |          |          | 3         |           |           |           |           |           |                    |           |           |          |           | 1        | 1        | 5          |
| Others                  |                     |                | 1        | 1        | 1        | 1         |           |           | 2         | 16        | 11        | 14                 | 51        | 61        |          | 1         | 1        | 4        | 165        |
| <b>TOTAL</b>            | <b>1</b>            | <b>1</b>       | <b>3</b> | <b>2</b> | <b>2</b> | <b>31</b> | <b>16</b> |           | <b>36</b> | <b>83</b> | <b>79</b> | <b>14</b>          | <b>54</b> | <b>62</b> | <b>2</b> | <b>1</b>  | <b>2</b> | <b>9</b> | <b>399</b> |

| Convictions             |          |          |          |           |           |          |           |                    |          |          |           |
|-------------------------|----------|----------|----------|-----------|-----------|----------|-----------|--------------------|----------|----------|-----------|
|                         | Dominica |          | Honduras |           | Guatemala |          |           | Dominican Republic |          |          | TOTAL     |
|                         | 2007     | 2008     | 2010     | 2011      | 2009      | 2010     | 2011      | 2007               | 2009     | 2010     |           |
| Sexual Exploitation     |          |          |          | 3         | 1         | 2        | 5         |                    |          | 1        | 12        |
| Forced Labour of Minors |          |          |          | 1         |           |          |           |                    |          |          | 1         |
| Trafficking of Minors   |          |          |          | 1         |           |          |           |                    |          |          | 1         |
| Trafficking of Women    |          |          |          | 1         |           |          |           |                    |          |          | 1         |
| Other                   | 1        | 1        | 3        | 4         | 3         | 3        | 7         | 3                  | 2        |          | 27        |
| <b>TOTAL</b>            | <b>1</b> | <b>1</b> | <b>3</b> | <b>10</b> | <b>4</b>  | <b>5</b> | <b>12</b> | <b>3</b>           | <b>2</b> | <b>1</b> | <b>42</b> |

| PROSECUTION             |                     |          |          |          |           |           |           |           |           |                    |          |          |          |           |          |           |
|-------------------------|---------------------|----------|----------|----------|-----------|-----------|-----------|-----------|-----------|--------------------|----------|----------|----------|-----------|----------|-----------|
|                         | ANTIGUA AND BARBUDA | Dominica |          | VI       | Honduras  |           | Guatemala |           |           | Dominican Republic |          |          |          | Venezuela |          | TOTAL     |
|                         | 2011                | 2007     | 2008     | 2011     | 2010      | 2011      | 2009      | 2010      | 2011      | 2007               | 2009     | 2010     | 2011     | 2009      | 2011     |           |
| Sexual Exploitation     | 1                   |          |          |          | 16        | 16        | 2         | 12        | 28        |                    |          | 1        | 2        |           | 2        | 80        |
| Servitude               |                     |          |          |          |           |           |           |           |           |                    |          |          |          | 1         |          | 1         |
| Forced Labour of Minors |                     |          |          |          |           |           |           |           |           |                    | 1        |          |          |           |          | 1         |
| Other                   |                     | 3        | 2        | 1        |           |           |           |           | 1         | 10                 |          |          |          |           |          | 17        |
| <b>TOTAL</b>            | <b>1</b>            | <b>3</b> | <b>2</b> | <b>1</b> | <b>16</b> | <b>16</b> | <b>2</b>  | <b>12</b> | <b>29</b> | <b>10</b>          | <b>1</b> | <b>1</b> | <b>2</b> | <b>1</b>  | <b>2</b> | <b>99</b> |

The statistics reveal “Sexual Exploitation” is prevalent in HT/SOM activities followed by “Other”. It is unknown what activities were identified within the “Other” category as the jurisdictions did not disclose this information. Given this is an activity that is related to HT/SOM efforts could be made to identify same. This would provide competent authorities with more information to combat HT/SOM.

Trinidad & Tobago indicated that an analysis was done on STRs/SARs that were filed in 2006 by a money remittance institution, outside of the assessment period, suggested “suspected prostitution activity”. According to Trinidad & Tobago, several persons (women) of different nationalities – Colombians, Venezuelans, Guyanese, Surinamese and Dominican Republic – were remitting money out of Trinidad to several destinations in the Caribbean and South America. The financial information gleaned from the analysis indicated that approximately US\$362,000.00 was sent in 325 transactions.

Antigua and Barbuda presented a case highlighting regular large cash deposits into a bank account. According to the case, the owner of a “Night Club” solicits the services of young women (generally non-nationals) to perform in the night club with offers of airfare into the jurisdiction, accommodation, free meals and a nightly wage. According to Antigua and Barbuda, upon arrival into the jurisdiction their travel documents are held and the young women are coerced into prostitution to “contribute” to their migration fees that were supposed to be provided freely. Their non-compliance would be accompanied by threats of possible arrest and deportation.

Prostitution cases, especially those involving migrants, should be accompanied by a financial/ML investigation. In the event that HT is being used to fuel the prostitution trade. The parallel investigations would assist in combating these offences given that ML investigations would focus on the money trail intended to “taking the profits” out of sex exploitation activities.

The English-speaking countries identified “Source” and “Destination” countries when conducting HT/SOM; and Illegal Migrants investigations. This information is shared in Annex I. According to these responses the source countries for these activities are Haiti; Iran; Albania; Brazil; Dominican Republic; Sri Lanka; St. Lucia; Commonwealth of Dominica; Guatemala; and Cuba.

The destination countries identified were Canada; Trinidad & Tobago; USA; UK; Guadeloupe; Turks & Caicos; and St. Vincent and the Grenadines.

Competent authorities should ensure the reporting entities are aware of these jurisdictions when analysing STRs/SARs for transactions involving these jurisdictions might involve HT/SOM activities. Likewise LEAs are to be cognizant of the traveling routes to detect HT/SOM and victims of these activities especially women and children in HT activities.

### **Matters linked to ML**

The majority of jurisdictions were unable to identify HT/SOM activities linked to ML.

Only Antigua and Barbuda indicated ML linked to an HT case involving “Sexual Exploitation”. The case revealed that irregular large cash deposits were placed into a bank account. Funds are believed to have been generated from illegal sexual activities involving a “Night Club”. The case explained that the owner of a “Night Club” solicits the services of young women (generally non-nationals) to perform in the night club with offers of airfare into the jurisdiction, accommodation, free meals and a nightly wage. Upon arrival into the jurisdiction their travel documents are held and the young women are coerced into prostitution to “contribute” to their migration fees that were supposed to be provided freely. Their non-compliance would be accompanied by threats of possible arrest and deportation.

This jurisdiction also provided the attendant ML indicators:

- (a) Use of cash – multiple currencies & large cash deposits to bank account
- (b) Use of bank – unusual large cash deposits to business account
- (c) Co-mingling of funds – legitimate and illegitimate funds
- (d) Rapid repayment of loans in cash
- (e) Use of business to conceal illegitimate origin of funds

It is noted that four (4) jurisdictions indicated the linkages of funds to HT/SOM but only three (3) provided the amount – an aggregate of \$267,000.00. Of the three (3) jurisdictions, Antigua and Barbuda declared ML linkages to HT/SOM.

HT/SOM activities are identified as “highly profitable” thus given the number of investigations and convictions, the amount of funds identified appear minimal.

The vigorous pursuit of concurrent parallel financial investigations is strongly encouraged; in addition to capacity building.

Five (5) jurisdictions did not respond to the question.

### **Sources of Detecting ML**

When asked what are the main sources of detecting ML arising as a result of HT/ and/or SOM, the majority of jurisdictions were unable to identify sources.

Two (2) jurisdictions – Guatemala and VIs – declared from investigations conducted by law enforcement agencies; and Antigua and Barbuda stated from STR/SAR.

The following is captured from some of the countries that were unable to identify the main sources of detecting ML:

- Non-receipt of STRs/SARs;
- No HT/SOM investigations conducted; and
- HT and/or SOM is not criminalized

The reporting sector needs to be aware of the ML risks involving HT/SOM offences. Any awareness programme should include source and destination countries as it relates to HT. The training of AML/CFT compliance officers and other personnel in the detection of funds linked to HT/SOM should also be explored. Failure to report STRs/SARs or any delay in reporting STRs/SARs robs law enforcement, and by extension the Competent Authorities, of vital information that could counter the effects of HT/SOM and further strengthen the country's AML/CFT system.

Countries should:

- Develop training and awareness programmes to sensitize the reporting sector and competent authorities about the linkages between HT/SOM and money laundering activities;
- Utilize the enforcement of sanctions for non-compliance with reporting obligations;
- Capacity building in conducting HT/SOM and related ML investigations
- Ensure FIUs, LEAs, and prosecutorial authorities share information upstream and downstream allowing for a more efficient and effective information sharing process.

**What Information Sharing Mechanisms (domestic and international) are available when conducting HT/SOM investigations/prosecutions?**

The majority of countries indicated that there is a number of information sharing gateways that allow them to share information when conducting HT/SOM investigations/prosecutions.

Most of the responses identified LEA-to-LEA arrangements; MOUs; the Mutual Legal Assistance Treaty (MLAT), Letters of request; and interactions with Interpol.

One (1) country declared there is “No mechanism in place”.

The responses reveal that there is a multi-agency approach to conducting HT/SOM and related ML investigations within most jurisdictions. While there are a number of sharing mechanisms across the region, countries need to ensure that there are requisite and effective sharing mechanisms on the domestic level. Jurisdictions are encouraged to develop information sharing operating procedures with the intention of expediting the information sharing process; and making all agencies aware of the various information sharing gateways.

**Sharing with other jurisdictions when conducting HT/SOM investigations**

Nine (9) of the twenty (20) responding countries indicated that they have shared information with other jurisdictions during investigations and prosecutions for HT/SOM.

Four (4) countries stated they have not shared; one (1) stated it is “Unknown” if information was shared; and four (4) did not respond.

It is noted that one of the countries that did not respond has conducted HT/SOM investigations and is recorded as having a 100% conviction rate in all matters undertaken.

This seems to suggest that investigations conducted were either restricted only to this country or if shared were not recorded.

The following observations were made pertaining to the four (4) countries indicating that there was no sharing:

- The non-sharing by two (2) of the four (4) countries might have been on account of one of them not conducting any investigations; and HT/SOM is not an offence in the other country. Hence there would be no need to share information under the circumstance; and in this instance the no response could be interpreted to mean “Not Applicable”.
- The non-sharing of information by two (2) of the four countries that recorded having conducted HT/SOM investigations seems to suggest that investigations conducted were either restricted only to those countries or if shared were not recorded.

### **Information Shared while conducting HT/SOM investigations/prosecutions related to ML**

Of the twenty (20) countries, twelve (12) indicated that the sharing of information while conducting HT/SOM investigations/prosecutions was not related to Money Laundering.

Eight (8) countries did not respond.

### **Difficulties in Conducting HT/SOM and ML investigations**

The majority of responses highlighted several obstacles preventing competent authorities in the various jurisdictions from conducting HT/SOM and related ML investigations/prosecutions.

The respondents identified inadequate human resources; insufficient technical and financial resources; unwillingness of victims to return to jurisdiction to give evidence; and lack of awareness of HT/SOM.

Most of the challenges echoed could be addressed through the development and strengthening of institutional infrastructure; and capacity building.

### **SECTION 3 – OBJECTIVES**

The overall objective of the typology study is to increase understanding and raise regional awareness of HT and SOM as predicate offences to money laundering and terrorist financing.

The findings of the study reveal the need to:

- a. strengthen institutional infrastructure;
- b. undertake capacity building ; and
- c. Raise the awareness level of HT/SOM

The Questionnaire was developed to capture data to address the objectives outlined below:

**1. To identify trends or patterns within the various jurisdictions and across the region for money laundering and terrorist financing associated with HT and SOM.**

Twelve (12) jurisdictions conducted HT/SOM investigations totalling 508 – 338 (HT); and 170 (SOM); and obtained a total of 95 convictions – 82 (HT) and 13 (SOM).

The statistics from the investigations reveal a high count of “Sexual Exploitation” accompanying these activities.

Of all the investigations only one (1) jurisdiction identified a case where funds were linked to ML activities. The case identified “regular large cash deposits” into a bank account and funds suspected to have been generated from illicit sexual services. In this case young women (non-nationals) were placed in a “Night Club” and coerced into prostitution to “contribute” to their migration fees.

This jurisdiction also provided the attendant ML indicators:

- (a) Use of cash – multiple currencies (Euro, US and XCD)
- (b) Use of bank – unusual large cash deposits to business account
- (c) Co-mingling of funds – legitimate and illegitimate funds
- (d) Rapid repayment of loans in cash
- (e) Use of business to conceal illegitimate origin of funds
- (f) Frequent large cash withdrawals from one bank while a deposit of equal amount was made at another bank

Prostitution cases, especially those involving migrants, should be accompanied by a financial/ML investigation. In the event that HT is being used to fuel the prostitution trade. The parallel investigations would assist in combating these offences given that ML investigations would focus on the money trail intended to “taking the profits” out of sex exploitation activities.

The English-speaking countries identified “Source” and “Destination” countries when conducting HT/SOM; and Illegal Migrants investigations. This information is shared in Annex I. According to the responses the source countries for these activities are Haiti; Iran; Albania; Brazil; Dominican Republic; Sri Lanka; St. Lucia; Commonwealth of Dominica; Guatemala; and Cuba.

The destination countries identified were Canada; Trinidad & Tobago; USA; UK; Guadeloupe; Turks & Caicos; and St. Vincent and the Grenadines.

Competent authorities should ensure the reporting entities are aware of these jurisdictions when analysing STRs/SARs for transactions involving these jurisdictions might involve HT/SOM activities. Likewise LEAs are to be cognizant of the traveling routes to detect HT/SOM and victims of these activities especially women and children in HT activities.

The majority of jurisdictions were unable to identify funds and ML/TF indicators linked to HT and SOM.

While four (4) jurisdictions indicated the linkages of funds to HT/SOM activities only three (3) jurisdictions provided the amount of funds identified - an aggregate of approximately US\$267,000.00 linked to HT/SOM.

HT/SOM activities are identified as “highly profitable” thus given the number of investigations, the amount of funds identified appear minimal.

This seems to suggest that competent authorities conducting HT/SOM investigations / prosecutions are neither aware of the ML/FT risks associated with HT/SOM nor was there the pursuit of parallel financial investigations to follow the money trail to freeze and seize assets.

Given that the majority of jurisdictions were unable to identify funds and ML/FT indicators linked to HT and SOM, the following conclusions were arrived at:

- a. In the majority of cases there is no pursuit of the money trail
- b. There is no structured domestic inter-agency cooperation

- c. No / limited knowledge of ML/TF risks associated with HT/SOM
- d. No / limited statistic/data is maintained
- e. No / limited ability to conduct HT/SOM investigations

To assist in the identification of trends/patterns within the various jurisdictions and across the region for money laundering and terrorist financing associated with HT and SOM institutional strengthening and capacity building ought to be considered.

These can be accomplished through training and awareness sessions; and equipping competent authorities with adequate and sufficient human, financial and technical resources.

- Training/Awareness sessions would serve to guide:
  - a. Competent authorities (LEAs, prosecutors, judiciary and FIUs) to differentiate between HT/SOM and other criminal activities. This would assist in the investigation/prosecution of HT/SOM; and seizure and confiscation procedures.
  - b. Reporting Entities to identify ML/FT risks associated with HT/SOM. This would encourage the filing of STRs/SARs by reporting entities ; and
  - c. FIUs to produce and disseminate relevant intelligence to assist in conducting investigations/prosecutions; and forfeiture/confiscation proceedings

## **2. To identify the magnitude of the criminal offences of HT and SOM within the region**

The majority of jurisdictions have criminalized HT/SOM; and conducted relevant investigations.

A total of 508 HT/SOM investigations were conducted within the region – HT 338 and SOM 170 resulting in 95 convictions.

Most (90%) of these investigations were recorded in the Spanish-Speaking countries.

Information provided in the “*Additional Information*” section of the Questionnaire revealed three (3) English-speaking countries encountered a number of activities in relation to “Illegal Migrants”. During the period 2007-2011 approximately 4,500 illegal migrants were discovered in/entering the jurisdictions – Turks and Caicos Islands, British Virgin Islands and Trinidad & Tobago.

Turks and Caicos Islands: Approximately 4,000 illegal migrants were apprehended during 2009-2010. These individuals attracted a repatriation cost of approximately \$2mil (USD). According to the authorities there is a multi-agency unit identified as SPICE (Special Police Immigration Customs Enforcement) to combat illegal migrants and human trafficking. It is noted that this jurisdiction indicated that HT is not criminalized and no information was provided to indicate any future plans to address the deficiencies.

British Virgin Islands: During 2007-2011 approximately 207 Illegal Migrants were intercepted. In most cases the surviving migrants were repatriated.

Trinidad and Tobago – According to police reports approximately 220 Illegal Migrants were arrested during the period 2010-Jan.2011.

Some of the “Illegal Migrants” cases might have been HT/SOM and the matters were dealt with from an illegal entry perspective.

In order to assist in assessing the magnitude of HT/SOM activities, jurisdictions should implement the following:

1. Institutional Strengthening –

- a. To ensure competent authorities are equipped with sufficient and adequate human, financial and technical resources to conduct investigations; deal with victims e.g. the provision of interpreters for foreign language; and follow money trail.
- b. To provide safe and secure facilities for victims of HT/SOM activities during investigations.
- c. To establish/maintain proper record-keeping inclusive of the modus operandi of how HT/SOM was operationalized; and identified.

2. Capacity building –

- a. Raise awareness to ensure staff within the relevant agencies have the ability, knowledge and skills to identify ML/FT risks associated with HT/SOM; and conduct HT/SOM investigations. In this way LEAs and FIUs can differentiate between HT/SOM and other activities; and Reporting Entities can identify ML/FT risks linked to HT/SOM.
- b. To encourage the filing of STRs/SARs to assist the investigation of HT/SOM and seizure and confiscation procedures

- c. To identify the ML and TF risks associated with HT/SOM; and formulate mitigating factors

### **3. To identify techniques used to investigate HT and SOM offences**

There was no specific question posed in the questionnaire to address this issue.

However, based upon the case submitted by one (1) jurisdiction competent authorities should be on the alert for HT/SOM when making enquiries into matters involving prostitution. The monitoring of entertainment facilities such as “Night Clubs” where migrants (especially women) are present is also encouraged. The case presented by the jurisdiction linking HT to ML activities provides the basis for this suggestion. In the HT matter it would appear that the technique used by the trafficker in that case was to invite individuals (young women) into the jurisdiction under the pretence that all travel expenses would be given freely. Upon arrival, the young women were placed in a “Night Club” and coerced into prostitution to cover their migration fees.

The respondents highlighted the main challenges in conducting HT/SOM investigations. These are:

- Resource constraints: human, technical and financial
- Unwillingness of victims to return to jurisdiction to give evidence;
- Lack of awareness of HT/SOM
- No/limited knowledge of how to conduct HT/SOM investigations

The challenges expressed by the respondents appear to be worldwide issues as these were also echoed in the “*Human Trafficking*” typology produced by FATF.

Most of the challenges echoed could be addressed through the development and strengthening of institutional infrastructure; and capacity building.

HT/SOM are identified as being highly profitable. The responses reveal the prevalence of “Sexual Exploitation” within the HT/SOM investigations. This seems to suggest that HT/SOM activities might be mainly to support the illicit sexual activities within the region. When a LEA is conducting enquiries into an illicit sexual activity the elements of HT/SOM should also be taken into consideration.

There should be strong collaboration between the general police section and the specialised units responsible for conducting HT/SOM and ML investigations. In this way jurisdictions will be able to identify and appropriately address the HT/SOM offences.

#### **4. To assist Law Enforcement Agencies (LEAs) and FIUs in the identification, seizure and confiscation of proceeds linked to HT and SOM**

Only one (1) jurisdiction identified HT/SOM funds with linkages to ML.

While the techniques used in the commission of HT and SOM offences are unknown, the responses revealed a possible purpose for these activities. In most of the identified investigations it was noted that HT and SOM matters occurred for “sexual exploitation” purposes. Thus it can be assumed that HT and SOM activities within the region are for the most part accompanied by some form of sexual exploitation.

Thus it would be prudent for LEAs to also consider conducting HT and SOM investigations upon encountering illicit sexual activities such as prostitution.

Of the twelve (12) countries that conducted HT and SOM investigation, only one (1) country provided a case study that revealed trafficked individuals were used in a night club to provide sexual services.

One (1) jurisdiction identified legal challenges as there is a loophole in the HT legislation. It was explained that there are no provisions for preparatory/inchoate offences, such as conspiracy to commit HT, with appropriate penalties.

Given these findings there is a need for institutional strengthening; and capacity building.

The following can be implemented:

- Measures put in place (and/or enforcement of existing ones) to accommodate the vigorous pursuit of the confiscation of the instrumentalities e.g. Night Clubs owned by the perpetrators, and all other assets deemed to be used in and/or derived from the commission of HT/SOM .
- The Reporting sector to be made aware of ML risks associated with HT and SOM. This could result in the filing of relevant STRs/SARs.
- Raising awareness among LEAs and FIUs to enable them to be able to identify and properly record HT and SOM activities.
- The LEAs to be able to differentiate between HT and SOM; and traditional illegal migration offences.
- Encourage greater collaboration, cooperation, and communication between agencies to enable them to follow the money trail.
- Structured domestic inter-agency meetings

- Review/strengthen laws – to identify loophole(s), if any, in HT/SOM legislation to make provision for preparatory/inchoate offences such as conspiracy to commit HT with appropriate penalties, if deemed necessary.

**5. To identify gaps, if any, in the information sharing process with a view to enhancing future collaborations within jurisdictions; and across borders.**

The responses revealed that there is a number of information sharing mechanisms in place across the region.

The majority of countries involved in HT/SOM investigations have shared information. It is noted that in some countries where HT/SOM investigations were conducted, the responses were void of information sharing involving other jurisdictions. It is believed that either these investigations were restricted to that jurisdiction or if other jurisdictions were involved and sharing was done, these instances were not recorded.

These findings reveal the need for institutional strengthening; and capacity building.

- Jurisdictions should be encouraged to have the necessary record-keeping mechanisms in place. In addition, the establishment of a regional database that could be periodically updated; and used as a means to develop HT and SOM trends and patterns. This could be an add-on feature to a system that is already utilized to capture regional crime data as a cost saving measure.
- The awareness and implementation of all sharing mechanisms.
- Structured domestic inter-agency meetings. This would expedite the information sharing process; and all agencies involved in the HT/SOM investigatory/prosecutorial processes would be more sensitized of each agencies respective role.
- Make adequate provisions to address associated costs when dealing with cross-border investigations e.g. travel expenses for LEAs and victims

## CONCLUSION

The majority of jurisdictions within the CFATF Community have criminalized HT/SOM. This indicates that the competent authorities have the necessary legislative powers to combat these offences. Eighty-five (85%) of respondents have criminalized HT either under its HT specific laws or captured under the umbrella of another law. SOM is an offence in 60% of respondent jurisdictions. The few countries that have not criminalized these offences should move swiftly to do so, especially that pertaining to HT considering the plight to trafficked victims.

During the period 2007-2011, a total of 508 HT/SOM investigations have been conducted within the region resulting in 95 convictions. Most of the investigations were conducted within the HT category. The responses also indicate that HT activities are associated with “Sexual Exploitation”.

However, for the most part the responses were void of information to satisfy the purpose of the study. Some countries submitted no / insufficient information to make a proper assessment of the ML activities associated with HT/SOM within the CFATF Community. One of the main obstacles identified by the jurisdictions in conducting HT/SOM investigations is the lack of knowledge of HT/SOM and how to conduct these investigations. Thus the limited/no knowledge could have impacted the responses when the questionnaire was circulated.

The responses reflected low-level STR/SAR reporting; minimal funds linked to HT/SOM and ML activities; and limited responses in the identification of institutions used to launder funds. Based on the challenges identified in conducting HT/SOM it can be concluded that if these matters were to be addressed the HT/SOM investigation count would likely increase. This in-turn would lead to more convictions and identification of illicit funds. The responses from three (3) jurisdictions identified the use of cash-based trades to launder funds; and commingling funds with legitimate business. The institutions identified for laundering funds related to HT/SOM activities were money remitters, credit unions, and banks.

Countries should make it a policy priority to strengthen institutional structure and pursue capacity building initiatives. This will ensure that competent authorities have sufficient

and well-trained personnel to conduct HT/SOM investigations and prosecutions. There should also be parallel financial investigations of HT/SOM to identify the proceeds of these criminal activities. This will assist in the identification of ML risks and prevent increase in criminal economic power.

## APPENDIX I

### HT/SOM and Illegal Migrants Investigations

#### Source – Destination Country

| Country | Source Country | Destination Country |
|---------|----------------|---------------------|
|---------|----------------|---------------------|

|   |   |   |
|---|---|---|
| <b>Antigua &amp; Barbuda</b>                | <b>Haiti, Iran &amp; Albania</b>  | <b>Canada, USA &amp; UK</b>                                 |
| <b>British Virgin Islands</b>               | <b>Brazil, Jamaica,<br/>Dominican Republic,<br/>Haiti, Sri Lanka,<br/><br/>St. Lucia,<br/>Commonwealth of<br/>Dominica, Guatemala,<br/>&amp; Cuba</b> |   |
| <b>Commonwealth of<br/>Dominica</b>         | <b>Haiti</b>  | <b>Guadeloupe</b>   |
| <b>Turks &amp; Caicos</b>                   | <b>Haiti</b>  | <b>Turks &amp; Caicos</b>                                   |
| <b>St. Vincent &amp; the<br/>Grenadines</b> | <b>China<br/><br/>Sri Lanka</b>   | <b>St. Vincent &amp; the<br/>Grenadines<br/><br/>Canada</b> |
| <b>Trinidad &amp; Tobago<sup>12</sup></b>   | <b>Colombia, Dominican<br/>Republic, Bangladesh,<br/>Korea, Venezuela,<br/>Philippines, Syria,<br/>Spain Nigeria,<br/>Indonesia</b>                   | <b>Suspected to be<br/>Trinidad &amp; Tobago</b>            |

<sup>12</sup> Illegal Migrants investigations

## APPENDIX II: Laws

| COUNTRY                  | HUMAN TRAFFICKING (HT)  | SMUGGLING OF MIGRANTS (SOM)   |
|--------------------------|---|---|
| Antigua & Barbuda        | Trafficking in Persons (Prevention) Act, 2010   | Migrants Smuggling (Prevention) Act, 2010                           |
| Bahamas                  | Trafficking in Persons (Prevention and Suppression) Act, 2008                           | The Immigration Act, Chapter 191, Section 47                        |
| British Virgin Islands   | Sec. 201A, (1) Criminal Code, 1997  | Sec. 201B, (1) Criminal Code 1997                                   |
| Cayman                   | The Trafficking of Persons (Prevention and Suppression) Law. 2007 (Sec. 3)              | Immigration Law (2011 Revision) Sec. 109 speaks to Human Smuggling. |
| Commonwealth of Dominica | The Immigration and Passport (Amendment) Act. No. 19 of 2003 (Sec. 27B)                 | Not an offence  |
| Guyana                   | Combating of Trafficking in Persons Act, 2005   | Not an offence  |
| Guatemala                | Decree No. 9-2009 – Law against sexual violence and trafficking of people               | Immigration Law Decree No. 95-98                                    |
| Honduras                 | Migration Act Legislative Decree No. 208-2003   | Penal Code, Code of Childhood and Adolescence                       |
| Jamaica                  | Sec. 4 of the Trafficking in Persons (Prevention, Suppression and Punishment) Act. 2007 | No response   |
| Montserrat               | Penal Code (Amendment Act, Cap. 4.02, Section 202C)                                     | Penal Code (Amendment Act, Cap. 4.02, Section 202B)                 |

| COUNTRY                  | HUMAN TRAFFICKING (HT)   | SMUGGLING OF MIGRANTS (SOM)  |
|--------------------------|--|--|
| Nicaragua                | Penal Code, Article 182  | Article 318 of Criminal Code   |
| Venezuela                | <sup>13</sup> Organic Law on the Right of Women to a Life Free of Violence, Official Gazette No. 38668 of April 23, 2007. Organic Law for the Protection of Children and Adolescents Official Gazette Extraordinary No. 10 of 5859 December 2007 | Organic Law on the Right of Women to a Life Free of Violence, Official Gazette No. 38668 of April 23, 2007. Organic Law for the Protection of Children and Adolescents Official Gazette Extraordinary No. 10 of 5859 December 2007 |
| Dominican Republic       | Law No. 137-03 On Illicit Migrant And Human Trafficking  | Law No. 137-03 On Illicit Migrant And Human Trafficking  |
| St. Kitts-Nevis          | Sec. 2 Trafficking in Persons (Prevention) Act, 2008; The Immigration Act No. 10 of 2002   | The Immigration Act No. 10 of 2002 (para. 5 of First schedule)   |
| St. Lucia                | Counter Trafficking Act, No. 7 of 2010   | Not an Offence   |
| St. Vincent & Grenadines | Prevention in Trafficking in Persons Act, No. 27 of 2011   | Not an Offence   |
| Turks & Caicos           | Not an Offence   | Not an Offence   |

<sup>13</sup> The “Organic Law against Organized Crime and Terrorist Financing (LOCDOFT)” took effect on April 30, 2012 with the publication of the Official Gazette No. 39,912.

|                   |   |                                    |
|-------------------|---|------------------------------------|
| Trinidad & Tobago | <sup>14</sup> Not an Offence (“ <i>Trafficking in Persons, Bill 2011</i> ” before Parliament) | Not an Offence                     |
| <b>COUNTRY</b>    | <b>HUMAN TRAFFICKING (HT)</b>   | <b>SMUGGLING OF MIGRANTS (SOM)</b> |
| Curacao           | An offence (no law provided)  | An offence (no law provided)       |
| Bermuda           | Not an Offence  | Not an Offence                     |

<sup>14</sup> The Trafficking in Persons Act, No. 14 of 2011 was proclaimed on January 2, 2013 making HT an offence in Trinidad & Tobago.

## APPENDIX III: QUESTIONNAIRE



**CFATF Working Group on Typologies (CWGTYP)  
TYPOLOGY PROJECT 2011  
HUMAN TRAFFICKING/SMUGGLING OF MIGRANTS - QUESTIONNAIRE**

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**CWGTYP – HUMAN TRAFFICKING TYPOLOGY PROJECT - 2011  
QUESTIONNAIRE – HUMAN TRAFFICKING**

The Working Group on Typologies of the Caribbean Financial Action Task Force (CWGTYP) was formally established in the Honduras Plenary, May 2011.

The approved CWGTYP Mandate indicates that the group will complete typological studies of the following areas:

- 1) movement of cash and negotiable instruments
- 2) treatment of human beings
- 3) proliferation of small arms and ammunition
- 4) Ponzi Schemes / Pyramids and Illegal Lottery

The CWGTYP decided to Develop a Regional Report on Typologies related to Human Trafficking and Smuggling of Migrants and the effects that these activities have on the Money Laundering and Terrorist Financing.

Through the following questionnaire, information will be collected to gather the most relevant information and cases of money laundering related to human trafficking and smuggling of migrants during the period January 2007 to January 2012.

All CFATF members are invited to submit completed questionnaires by **30<sup>th</sup> March, 2012** to [alejandra.quevedo@cftat.org](mailto:alejandra.quevedo@cftat.org) and [jefferson.clarke@cfatf.org](mailto:jefferson.clarke@cfatf.org).

If you have any additional information that may be relevant to this project please submitted along with the response to the questionnaire.

**BACKGROUND INFORMATION**

a. Jurisdiction:

|  |
|--|
|  |
|--|

b. Name of agency/institution that you belong:

|  |
|--|
|  |
|--|

c. Contact Name and title: (please give two names, if the first contact is regularly away from the office for long periods of time)

|  |
|--|
|  |
|--|

d. Contact details No.1

|                |  |
|----------------|--|
| E-mail address |  |
| Telephone      |  |

e. Contact details No.2

|                |  |
|----------------|--|
| E-mail address |  |
| Telephone      |  |

**DEFINITIONS**

1. Is Human Trafficking (HT) and/or Smuggling of Migrants (SOM) a crime in your jurisdiction?

|     |                              |                             |
|-----|------------------------------|-----------------------------|
| HT  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| SOM | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

2. If you answered yes to '1' please provide the definition, for HT and SOM under the current legislation of your jurisdiction.

i. Definition of HT:

ii. Definition of SOM:

|  |
|--|
|  |
|--|

**FINANCIAL INFORMATION**

3. What was the estimated amount of funds linked to HT and/or SOM investigation/conviction?

|                           | HT | SOM |
|---------------------------|----|-----|
| Estimated amount of funds |    |     |

4. Has your FIU received any STRs/SARs related to HT/SOM? *If yes, provide statistics for each year of the following years*

|          | 2007 |     | 2008 |     | 2009 |     | 2010 |     | 2011 |     |
|----------|------|-----|------|-----|------|-----|------|-----|------|-----|
|          | HT   | SOM |
| #STR/SAR |      |     |      |     |      |     |      |     |      |     |

5. What institutions, e.g. banks, money remitters, if any, were used to launder the proceeds of HT/SOM? Please provide the estimated amount for each institution.

|  |
|--|
|  |
|--|

**INVESTIGATION**

6. a. Are there any law enforcement agencies or special investigative units responsible for investigating HT and SOM in your jurisdiction?

|  |                              |                             |
|--|------------------------------|-----------------------------|
| HT   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <i>Please provide the name(s) of these agencies or unit:</i> |                              |                             |
| i.   |                              |                             |
| ii.  |                              |                             |
| iii.   |                              |                             |
| SOM  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

*Please provide the name(s) of these agencies or units:*

- i.
- ii.
- iii.

6. b. If there is no specific law enforcement agency or special investigative unit responsible for investigating HT and SOM, which agencies/departments in your jurisdiction are directly involved in combating HT and/or SOM?

*HT Please provide the name(s) of these agencies or unit:*

- i.
- ii.
- iii.

*SOM Please provide the name(s) of these agencies or unit:*

- i.
- ii.
- iii.

7. In your Jurisdiction, is there any special investigative unit responsible for investigating money laundering (ML) linked to HT/SOM?

Yes

No

*Please provide the name of the investigative unit:*

8. Has your jurisdiction conducted investigations and prosecuted cases of HT and/or SOM? *If yes, please provide the following:*

|                                   | <b>HT</b> | <b>SOM</b> |
|-----------------------------------|-----------|------------|
| a. Total number of investigations |           |            |
| b. Total number of prosecutions   |           |            |
| c. Total number of convictions    |           |            |

9. Among the HT/SOM instigations, prosecutions and convictions, how many of these involved the following:

| Years                          | Investigation |    |    |    |    | Prosecution |    |    |    |    | Conviction |    |    |    |    |
|--------------------------------|---------------|----|----|----|----|-------------|----|----|----|----|------------|----|----|----|----|
|                                | 07            | 08 | 09 | 10 | 11 | 07          | 08 | 09 | 10 | 11 | 07         | 08 | 09 | 10 | 11 |
| a. Sexual exploitation         |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| b. Hard Labour                 |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| c. Servitude                   |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| d. Forced labour of Minors     |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| e. Trafficking of minors       |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| f. Trafficking of women        |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| g. Trafficking in human organs |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| h. Other                       |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |

Please provide data for each year

10. Out of the number of cases from above that were investigated and prosecuted, were any of these cases linked to ML? Please provide statistics for each case and every year:

| Years                          | Investigation |    |    |    |    | Prosecution |    |    |    |    | Conviction |    |    |    |    |
|--------------------------------|---------------|----|----|----|----|-------------|----|----|----|----|------------|----|----|----|----|
|                                | 07            | 08 | 09 | 10 | 11 | 07          | 08 | 09 | 10 | 11 | 07         | 08 | 09 | 10 | 11 |
| a. Sexual exploitation         |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| b. Hard Labour                 |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| c. Servitude                   |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| d. Forced labour of Minors     |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| e. Trafficking of minors       |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| f. Trafficking of women        |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| g. Trafficking in human organs |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |
| h. Other                       |               |    |    |    |    |             |    |    |    |    |            |    |    |    |    |

11. What are the main sources of detecting ML arising as a result of HT and/or SOM (STRs, investigation by law enforcement agencies, etc)?

|                              | HT | SOM |
|------------------------------|----|-----|
| Main sources of detecting ML |    |     |

**INFORMATION SHARING**

12. What information sharing mechanisms (domestic and international) do you have in place to facilitate the sharing of information when conducting HT and/or SOM investigations/prosecutions?

|   | HT | SOM |
|---|----|-----|
| Information sharing mechanisms (domestic and international) |    |     |

13. Has your jurisdiction shared information with any other jurisdiction(s) when conducting HT and/or SOM investigations/prosecutions? *If yes, Please provide the names of the jurisdiction(s)*

|                  | HT | SOM |
|------------------|----|-----|
| Jurisdiction (s) |    |     |

14. Was any of the information shared when conducting HT/SOM investigations/prosecutions related to ML?

|  |
|--|
| <input type="checkbox"/> Yes           |
| <input type="checkbox"/> No            |
| <i>If yes, Please provide details:</i> |

**CASES, INDICATORS AND DIFFICULTIES.**

15. Are there any available case studies on ML linked to HT and SOM in your jurisdiction? *If yes please provide detailed information of the relevant cases:*

16. Have your jurisdiction detected any ML indicators and/or trends associated with HT or SOM? *If yes please provide detailed information.*

17. What do you consider to be the main obstacles to conduct HT and SOM investigations/ prosecutions/ convictions and ML investigations/ prosecutions/ convictions arising from HT and SOM? *Please provide a detail answer*

18. If you have any additional information such as: studies of HT/SOM, statistics (e.g. Number of victims, number of illegal deported, source, transit, destination jurisdiction, etc), that you wish to be consider on the report, please provide it along with the questionnaire.

*Thank you for your collaboration!*  
CFATF