



**Role of Customs in Identifying and Combating  
Trade Based Money Laundering in Guyana  
Invoice Frauds or Mis-invoicing**

**The elusive TBML versus the ever vigilant, conquering, compelling & counterattacking Regulators  
and Law enforcement.**

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## **The Role of Customs in identifying and Combating Trade Based Money Laundering**

### **Invoice Fraud (Modification and Fabrication)**

#### **EXECUTIVE SUMMARY**

The purpose of this whitepaper is to highlight the risks involved with Trade Based Money Laundering, to give a brief outline of the various forms in which Trade Based Money Laundering manifests itself within the trade environment, to point out instances of money laundering in Guyana, to highlight how TBML affects the economy, to highlight the various ways in which TBML can be combated and to state the challenges involved in combating TBML. Trade Based Money laundering Techniques and Countering the Financing of Terrorism has been at the forefront of many Governments. The ability to deal in any product type and any market makes it even more difficult to recognize as it subtle co exists with Genuine and legitimate trade. Extreme risk profiling, careful scrutiny and keen observation has been the hall marks of successful law enforcement agencies in their determination to unearth any trade based money laundering scheme. The dependence on nations to foster trade, commerce and other ties, has led money launderers to find any avenue to exploit. Nations that depends heavily on Revenue from imports and also the creation of job and profits from export, have suffered by the penetration of Trade based money laundering schemes. Many nations are stifled by such trade. Trade Based Money laundering is seen as an easy avenue to launder proceeds from the illicit narcotic drug trade. The narcotics dealers and the illicit drug trade abuse genuine trade and commerce, by its ability to generate many seemingly legitimate documents: Receipts, invoices, Bill Of Lading, bill of sale, titles, Export certificate and even products and Commodities. However the greatest suffering and loss to any nation is our valuable human resource, who has at their easy access, almost any type of Narcotic, ranging from Cocaine to heroin, marijuana, hashish etc. and who becomes addicts.

This ready made illegal business allows drug proceeds to be repatriated to the home countries of Drug dealers, even allowing them to procure and purchase almost any commodity money could buy. These items are then imported by the Narcotics dealers, in the form of 'genuine' trade. On many occasions these items are even smuggled back home, thus creating even further havoc. By creating a spirit of awareness among its citizens, advising and counseling, paying focus on health and developing the human resource, can create a strength to resist addiction and restrict employment it that trade. Also persons will be more aware and law enforcement can rely heavily on informants to crack many Trade based money laundering schemes, along with their extra vigilance. 'Several factors make trade attractive to money launderers. These include growth in volume and value of world trade and the relative ease of disguising the true nature of the trade, especially by comparison with other money laundering avenues, which are subject to closer scrutiny. There is anecdotal evidence that increased reporting and scrutiny of financial transactions, as a result of anti-money laundering/counter terrorism financing (AML/CTF) initiatives, is making trade more attractive as a vehicle for money laundering (FATF 2006). The concern is that, unless TBML is addressed, it will increase and become entrenched' While TBML methods such as over- and under-invoicing and merchandise substitution are not new, there is a growing awareness of TBML among governments, experts, business and individuals<sup>1</sup>.'

## **ROLE OF THE CUSTOMS, EXCISE AND TRADE ADMINISTRATION**

The Customs, Excise and Trade Administration of The Guyana Revenue Authority is mandated with other sections of the Guyana Revenue Authority to collect revenue as part of their functions to assist in budgetary allocations. The GRA is Guyana's largest Revenue collection agency and is responsible for over 90% of all revenue collected. Hence Income Taxes, Property Taxes, Customs Duty, VAT and Excise Taxes are all collected and form total revenues collected to be used to manage the overall financial affairs of the Country.

The Customs, Excise and Trade Administration is thus focused to ensure they can maximize revenue collection, promote trade and facilitate commerce, assist in voluntary compliance and responsible Enforcement and minimize Revenue leakages. Because of its country heavy dependence on Revenue and is Taxes based, and there is no other source of Income, deep reliance is placed on the Customs arm of the GRA to Minimize revenue leakages and Maximize it collection. Hence there is focus on preventing smuggling of Goods and Invoice Fraud. Containers are examined randomly to ensure that the Documents presented are consistent with the declared item, hence a physical examination is done to ensure the items are as declared with respect to quantities and items are consistent with the Declared Invoices. Hence a physical examination of the item is conducted to determine the exact quality and description of the commodity when compared juxtapose with the Invoice. This is done to properly determine the correct value of the declared product since Customs Duty, VAT and Excise Taxes are computed on the Cost Insurance and Freight Value of the Declared Item. Hence a higher CIF value means more taxes can be collected.

The GRA is responsible for over 90% of Total revenue collected, and this is allocated to fund all of the country's projects aimed at developing the human resource. As mentioned above, to correctly determine the proper value of a commodity directly affects its taxes, hence, keen focus is made carry out proper valuation of a product and careful examination where necessary.

Many countries have a harmonized code and have a Tariff Heading for each individual item that exists. Hence different products attract different Rates of Duties and some items of course attract higher rates than other others. Having said this, high duty items that are items of conspicuous consumption are very expensive and are luxurious in nature, will ultimately account for high taxes collected, however importers of such commodities are sometimes reluctant to pay such high Customs Duty, VAT and Excise taxes that are allocated. These items will ultimately be sold at a very expensive price as result of their high value and high taxes. Consumers may sometimes be reluctant to purchase these items at such high price but the demand of the article and its possession by others who value such items will ultimately prevail. At this point the importer will try to evade taxes in order to maximize profits and to satisfy consumers and keep their respective markets. The Customs, Excise and Trade Administration of the GRA has recognized that smuggling and under invoicing and false declaration will take place as strategies to evade paying high taxes.

The Customs, Excise and Trade Admin arm of the GRA has over the years improve their revenue collection, such collection is a collaborative effort of all the arms of this Revenue agency, hence the Income tax, VAT, compliance and property tax, Revenue protection Unit, Risk management, Audit, Intelligence and Internal Affairs have all contributed in the Guyana

Revenue Authority constantly breaking its yearly target. In the year 2000 its total revenue amounted to 100 Billion Guyana Dollars (\$500,000,000, Five Hundred Million USD) and it has successfully grown by an average of 6% per annum. The Total Revenue has amounted to an annual revenue in 2017 at 165 billion Guyana Dollars(USD\$800,000,000, Eight Hundred Million USD)

### **Reasons for Researching Trade Based Money Laundering in Guyana**

The researcher has carefully chosen this topic because his country Guyana is becoming a haven for Trade Based Money Laundering in the form of Invoice Frauds. The Finance Minister of Guyana said that “Guyana is among 14 Caricom countries listed as “major money laundering” nations in the March 2017 International Narcotics Control Strategy Report (INCSR), despite the implementation of a legislative framework.”

From the ACAMS website we learnt that According to the International Narcotics Control Strategy Report (INCSR) hundreds of billions of dollars are laundered annually by way of Trade-Based Money Laundering (TBML). It is one of the most sophisticated methods of cleaning dirty money, and trade-based money laundering red flags are among the hardest to detect.

By definition, TBML is the process by which criminals use a legitimate trade to disguise their criminal proceeds from their unscrupulous sources. The crime involves a number of schemes in order to complicate the documentation of legitimate trade transactions; such actions may include moving illicit goods, falsifying documents, misrepresenting financial transactions, and under- or over-invoicing the value of goods.

Many drug dealers and persons who earn illegally are creating Shell companies in an attempt to wash their earnings. These Buyers and sellers collude and conspire to manipulate the price of goods and services through deliberate false pricing. These companies understate, overstate and fabricate invoices to channel payments to suppliers and to receive payments from customers of their illicit trade.

There are some importers who have been under the eyes of the Law for some time; however without the appropriate laws and legislation in place, nothing was done to further investigate. However with the tabulation of new laws in Parliament dealing specifically with Money Laundering and the setting up of a Financial Intelligence Unit, much can be done to successfully investigate and gather substantial evidence to have a Prima facie case and successfully Prosecute Offenders under the Anti-Money laundering Laws. Guyana Revenue Authority officers attached to the Customs, Excise and Trade, Administration are now empowered by the Anti-money Laundering Act and Legislation passed in Parliament to investigate, seize and confiscate; persons, property and monies, respectively suspected to be the proceeds of Crime or from Suspected Unlawful Activity. The passage of such Laws give rise for Law Enforcement Officers to successfully go in pursuit of any such activities that is suspected to be linked to money laundering as to be confident that they can successfully prosecute offenders in found guilty of such crimes and have legislation to fully support such law full action they may initiate.

Several Persons suspected to be involved in money laundering has set up many front companies to wash their illegal money. A particular business person suspected to be heavily involved over the last thirty Years (30) in money laundering activities has established him-self as a prominent business man and has made enough money and has retired from smuggling cocaine to United States and Canada. Such activity was purportedly carried out by concealing the narcotics among fruits. The proceeds from such activity were used to purchase containers of textile and upholstery which were shipped to Guyana and under Invoiced and paid negligible

taxes. These items were sold at several of his stores country wide. The businesses still exist; there are four of such businesses in the Capital city and four other branches countrywide.

Another huge money launderer is a popular Chinese company, a huge company that has an agreement with the Government to extract lumber and export it to China. This huge company exports lumber in the vicinity of several Million United states dollars, however Law Enforcement has successfully made many interceptions of these shipments and has found Cocaine in the hollow of the Greenheart Lumber. These consignments were shipped in a single person's name, not having any ties to the Giant Company. The individuals found declined to disclose any connection and eventually took the Sentence of imprisonment. However Law Enforcement officers were tipped off that their families were compensated handsomely. The company would then Import several containers of items from China, very expensive food stuff from the United States and Canada. These commodities would then be Under Invoiced, Freight undervalued and incorrectly classified and even false declaration, since some items may be very high Duty (Customs Duty 150% and VAT 14%) even considered item of conspicuous consumption, to evade paying the appropriate taxes, hence committing an offence of breach of Section 218 (C) and 218 (D) of the Customs Act Chapter 82:01.

However with the introduction of Antimony laundering Laws many of these activates has declined. With Statutes in Parliament and enacting of many supporting Laws, Law enforcement Officials from within the Guyana Revenue Authority and The Guyana Police Force, joint operations may become imperative in the Battle against Money Launderers. By virtue of an Act in Parliament under the Constitution of Guyana, as laid down by Parliament and enacted in the Laws of Guyana, Certain levels of Officials with in GRA and the Guyana Police Force holding a rank above supervisory level, are hereby empowered to arrest persons suspected to be involved in Money Laundering Activities, or predicate crime etc. This relatively new development has sent a strong message to Money Launderers.

A popular Drug baron, who has been involved in the sale of Narcotics to United States and Canada, has a successful Used Auto Sale business. He used many 'Mules' to smuggle his Narcotics, mainly Cocaine bought from Colombia. He also owned many Local Businesses including a big night club to launder his illicit cash. Eventually he was barred from entering Canada, however his smuggling of Cocaine continued. Eventually he built an International Four Star Hotel and successfully obtained a License to operate a Casino. The Casino brought many money launderers who were Drug dealers who successful utilized the Casino to their advantage, to launder all their illicit cash. This Casino was a success. This Drug Baron also imported Containers of Items from abroad and even smuggle some into the country. This Drug dealer has since the Antimony Laundering Act passed, sold his Casino, but retained several hotels and night clubs and has become dormant with his Narcotics business. His used Auto Sale is a Great success however, with the Aid of Auditors and Lawyers, his Income Tax and other Taxes are compromised. He has evaded Taxes and only pays a fraction. The various arms of the GRA are in constant battle with his Accountants and Lawyers, over false declaration and not honoring his responsibility as a Citizen. Many demands were sent to him for sort payment of Taxes and estimates for additional taxes; however he did not honor any such request.

There are also many Drug dealers who have front companies. The average salary of Guyanese at a Managerial level with the Government is around an estimate of USD\$1,200.00, while Deputy Heads are paid around usd\$2,000.00. The minimum wage is around USD\$250.00. Ordinary officers earn around USD\$400.00. Some drug dealers who has establish 'front companies' that are presumable doing well, can be detected if a careful scrutiny and keen

observation of the activities and life style is studied. For eg. The profits from their imports via their business would yield an average monthly income of USD\$8,000.00, after Taxes. Their expenses must be taken into account. With an average staff of eleven persons, that includes an Accountant, Customs Broker, a supervisor at the Wholesale Bond, two clerks, cashier, handyman, driver, cook, Gardner and security guard. The salary for his employees can amount to USD\$3,800.00 per month. His weekly expenses for food, including groceries, greens, meat, fruits etc. can amount to USD\$250.00, an average monthly of USD\$1,000.00. His entertainment per week with friends at expensive pubs, restaurants can average around USD\$100.00, monthly at around USD\$400.00. His family entertainment per week with restaurants, cinemas and fast food can amount to USD\$150.00, a monthly of USD\$600. His expenses on petrol for his Luxury high end vehicles, per week would amount to USD\$75.00, monthly of USD\$300.00. Monthly Medical checkups at Doctors for entire family may amount to an average of USD\$350.00. Average monthly spending on Clothing and other Luxury items may amount to USD\$400.00. His monthly electricity bill for Home and Wholesale bond average at USD\$150.00, cell phones average per family per month at USD\$400.00. His expensive taste for Alcohol and Cigarettes can amount to monthly sum of USD\$500.00. His Monthly total expenses amounts to approximately over USD\$7,500.00. He is also able to Bank sums of money into his account.

When taking into account his monthly average spending, we have not taken into account his yearly overseas holiday Vacation. This includes trips to Disney Land and lavish spending. This lavish and expensive lifestyle cannot be supported by a monthly income of USD\$8,000.00, Hence it can be construed that this individual has other sources of Income, other than the obvious one, this is deemed legitimate. Law Enforcement officers are constantly battling to gather sufficing evidence to successfully prosecute these Drug dealers. This type of Businessman also markets commodities that the Customs, Excise and Trade Administration Officers of GRA has not collected Taxes from, that quantity that he sells. Such businesses also grossly under invoice and makes false declaration with respect to the quantity of High duty items and lower duty ones, oftentimes the lower duty items are made to appear more by a compromised invoice and a small quantity figure made out for the High value and high duty ones. This switching around of figures and products is a tactic that is employed by Money Launderers, especially Chinese Importers. The majority of Importers to Guyana are Chinese nationals who have huge sums of unexplained wealth at their disposals.

Guyana has seen an influx of Chinese importers who by far outnumber any group of importers. They, of course purchase their containerized goods from China and they dominate the most expensive most lucrative business spots in the City. These importers always under invoice, and manipulate their freight and Commodity codes of their Customs declaration. Officers of the Guyana Revenue Authority, attached to Customs, Excise and Trade administration constantly has to scrutinize their documents, taking up extra time, before assessment of their Taxes. The GRA is heavily understaffed and has been trying to secure staff with the relevant experience and knowledge, however with Brain Drain; many valuable and precious human resource of the Revenue Authority has migrated. This constant migration of seasoned staff over the years has put a dampening effect on the GRA, hence placing Officers with extra duties. As a result many examinations that have to be conducted one hundred percent cannot always be done because of limited Officers stationed at the respective wharves and Transit sheds. Also a deterrent factor also to be considered when requesting a hundred percent (100%) examination are: the transit sheds have limited space and in order to conduct a 100% examination, extra space to de-stuff the containers are needed, secondly, the cost factor attached to examine cargo means hiring labor

and equipment which the transit sheds operators charge a renting fee, thirdly, the storage fees attached for containers after the grace period may have expired is very costly, hence the GRA after considering the high duties and Taxes per Container, e.g.USD\$15,000.00, and in favor of Facilitation Trade and commerce and encouraging investments, has decided upon many occasions to allow the Cargo, to be revenue Protection Unit and classification adjusted by the Customs Excise and Trade and have resulted in an overall increase in Taxes from USD\$10,000.00 to USD\$17,000.00 per Forty Feet container(40ft).The GRA officers has recognized activities in many importers that is tantamount to Money Laundering, especially Chinese and other importers too, however some Suppliers are hesitant to cooperates with Local authorities.

There is also the presence of heavy smuggling of Alcohol, wine, beers and cigarettes, primarily because of their expensive nature, high demand and very high Customs Duty and Taxes attached. Alcohol, especially well cured brands of whiskey carries exorbitant price and with an almost two hundred and fifty percent Taxes (250%), which includes Customs duty, Excise tax and VAT makes it an even more lucrative trade to smuggle this commodity across Guyana's borders. An average estimation of Taxes computed from a Forty Feet Container of Alcohol, which included Gray Goose whiskey, Johnny Walker blue and black etc., amounts to USD\$150,000.00, (thirty Million Guyana dollars). Many importers has paid this figure in Taxes on numerous occasions, however there is the suspicion that many consignments were smuggled and conceal among the legitimate ones that Taxes has been accounted from. Again with GRA limited number of Officers, keeping tab of this Trade has become increasingly difficult, taking in to consideration Guyana Wide borders to the South, East and west. Brazil borders the South and south westerly, while Venezuela to the west and Suriname to the east. Many Drug dealers who purchase Cocaine from Colombia, and smuggle it through Guyana Borders into Guyana, also smuggle Alcohol. Guyana is viewed as a major trans-shipment point of Drugs smuggled from Colombia and destined to Europe. Our large un-inhabited borders make it possible. The alcohol is used by the Drug dealers for their private consumption at their respective recreational activities. This makes it even more difficult to detect and investigate since it is not advertised publicly, but concealed and consumed privately, hence robbing the revenue of millions of Dollars annually. Many smuggled alcohol are repayments for drugs sold to the United States and Canada. Small shipping vessels unload alcohol from large ocean carriers and make their way in Guyana, undetected. Alcohol smuggled into Guyana is bought from the United States and Canada. There is a high demand for certain types of Alcoholic beverage at international hotels, pubs and Bars where Foreigners, primarily from the States etc. The Hotels and night club industry cater for person's exquisite needs, hence Alcohol sales thrive. However this Alcohol is sold publicly, and anyone can purchase, as a result of being detected that this commodity is smuggled, it is sold at fairly high price at Pubs etc. Casino operators purchase high volume of alcohol to satisfy their customers. These customers are Drug dealers who are in the process of laundering their illicit drug proceeds. Their exquisite taste is satisfied and this Alcohol is smuggled among Containerized cargo.

The Guyana Revenue Authority, Customs Excise and Trade administration has introduced with the help of the Canadian government, the Excise stamping system for Alcohol. This System ensures that all types of alcohol that has paid it relevant taxes are stamped with a machine readable one; hence Officers from the GRA can utilize their scanning device over the stamp and recognize that this shipment of alcohol has been taxed and other particulars can be known also. Cigarettes are also smuggled similar to alcohol and also sold at Pubs etc. It is also

smuggled to satisfy the taste of the Wealthy and famous, who smuggle this commodity for personal usage at their private gathering. This item is also smuggled from the United States and Europe into Guyana via Containers concealed among other items. Drug dealers whose Cocaine are sold abroad purchase this commodity and smuggle into Guyana, with the Drug proceeds. Some of these Cigarettes are sold to Casino, Pubs and hotels to satisfy exquisite taste of its patrons. This commodity attracts very high duty almost similar to Alcohol; hence Millions of Dollars in Revenue is lost yearly. The Customs Excise and Trade administration in order to fulfill its mandate in maximizing revenue collection and prevent its leakage and unleash its arsenal of antimoney laundering tactics, has embarked on many strategies all aimed at curtailing Drug smuggling. The Banks has also recently introduced their policies regarding antimoney laundering consistent with regulatory practices, since Guyana has passed laws and legislation criminalizing money laundering.

There are a large number of Legitimate Chinese Importers who pay their necessary Taxes and are Law abiding citizens. However among those legitimate traders there exist others whose source of income is questionable. For instance a forty feet container from Panama or China costs an average of USD\$40,000.00 FOB, with a freight of 3,000.00. This Customs declaration; the Documents for this consignment however reveals an invoice that declares a CIF value of USD\$20,000.00. This declaration is selected by the Customs Excise and Trade Administration, Risk Management Unit, for document review. The physical documents are sent to the Revenue Protection Unit for Classification and Valuation review. After ascertaining the appropriate values and correct classification, the importer signs a form accepting an increase in the CIF value of his goods in accordance with the Valuation principle of the Fifth Schedule of the Laws of Guyana. The classification is in accordance with the Harmonization code and tariff schedule. The importer can challenge any such changes if he is satisfied. The Customs Tariff Tribunal is set up in accordance with the Customs Act that allows any importer to challenge any such values that are ascribed to goods belonging to him; however the Commissioner General of the GRA has discretionary powers to ascribe a value he sees fit in accordance with the Customs act chapter 82:01. However the Customs tariff Tribunal sits and examines classification issues relating to the proper commodity code with respect to the Harmonization code. The importer can challenge the classification of his goods. Hence if he believes that his furniture is for office use, paying only 10% duty and VAT at standard rate of 14%, however Customs officials argue that same are furniture for Home, by virtue of design, comfort and style, it will attract Customs Duty of 20% and VAT at standard rate of 14%. In most cases the supplier will compromise the description to suit the importer and will not give a proper invoice reflecting the true status of the products. After the decision of the Tribunal in accordance with the customs act, the Revenue Protection Unit will prepare the necessary forms for the importer to sign as accepting an increase in Taxes. The importer will then pay the increase in taxes after the preparation of his Customs declaration to reflect such changes as instituted by the Revenue Protection Unit of the GRA. The importer's consignment of a forty feet container now values at USD\$43,000.00, CIF, will pay an increase of USD\$12,500.00, after submitting his Customs declaration paying taxes of USD\$6,500.00. The total taxes payable now after an increase is USD\$17,000.00. Hence the overall Value of the container, which includes taxes is now USD\$60,000.00. However this Chinese National employees six persons and Himself and three family members operate the establishment. The staffs' salary amounts to USD\$2,500.00. However an item of clothing sells very cheap when compared to other importers. For example a gents long pants is sold for USD\$10.00, towels for USD\$5.00, shirts for USD\$5.00, while other importers for example some Indian Nationals; pants

are sold for USD\$12.50., Towels for USD\$6.50, shirts for USD\$6.50. The Goods are of the same quality and similar style.

A careful assessment of the profits generated by the Chinese nationals barely amounts to USD\$2,000.00, after paying his staff. This amount has to be shared among family members who assist in the managing of the business. His electricity, water and phone bills has not being accounted for, also his personal living expenses including his vehicle's petrol and his clothing, medical etc. However there person live a life style far different from a meager USD\$1,000.00, remaining for himself. How he funds his lavish and luxury life, tells a different story. He is receiving funds from other income, and that can be from the sale and smuggle of Narcotics to the United States and Europe. To curtail and prevent the smuggling of narcotics to the United States and Europe, the GRA Customs Dept. has acquired a scanner to assist in ascertaining the true nature of the exported products. For instance, the Customs, Excise and Trade administration has with the aid of other Departments, namely the Drug Enforcement and the Goods examination unit, successfully intercepting narcotics concealed in Lumber.

Guyana has secured overseas markets for many of its locally produce items and locally grown items. There is a large export market for local grown foods from Guyana. Fruits, Vegetables and provisions are exported to Canada and the United States. Many of the products are shipped as containerized cargo to abroad. Canada has the largest export market for Guyana's products. Frozen fish that is blast frozen is also a main export commodity. Over the years, the GRA officers has kept a keen eye of exports, primarily to Canada and has successfully intercepted fruits, namely pumpkin that was stuffed with Cocaine, however with their vigilant eyes, and with genuine exporters, lawful trade continues unabated.

A large non-profit organization that has been in existence for more than two and a half decades constantly imports containerized cargo from the United States. 'Food for the Poor' organization has assisted Guyanese in many situations where urgent and needed help was necessary. Elderly persons, sick persons, persons living in poverty are all form part of its agenda. The Food for the Poor as its name suggest has successfully fulfilled all the respective criteria of a charitable organization and has successful obtained a Duty Free concession from the Government of Guyana to have all its imports totally Duty free. The organization has secured a Letter, termed the C.G letter, The Commissioner General's letter, hereby allowing all its import to be exempted from Tariffs and Duties. The Ministry of Finance issues the permission to the Remission and Tax exemption Unit of the Guyana Revenue Authority to issue the C.G letter. This letter is valid for a respective time span and in some circumstance, per quantity of items.

However the Customs Excise and Trade administration has noted, after keen observation of the Customs declaration, along with Invoices and Bill of Lading etc. that the Commercial invoices for 'Food for the Poor' has been Over Invoiced in the figures of over USD\$995,000.00, C.I.F. value for a Forty feet container of Cargo. This figure sometimes are Invoiced at USD\$1,000,000.00, One Million United states Dollars) for consignment. Because these consignments for 'Food for the Poor' are exempted from taxes, the Invoice value has no impact on the Goods, which are Duty free. However over Invoicing from Food For the Poor United States affiliate, may derive some benefits of transferring value to this consignment and with intent to defraud the United States of America's Government of Taxes. This high Invoice value has been consistent for over a year, and it is clear that this type of activity shows purposeful and intentionally crafting and compromising this Invoice authenticity to reflect a much higher value, to defraud the United States of America of Income Tax and other related taxes. This false claim that the consignments value is very high would show the Food for the Poor United States affiliate

having great expenses and their budgetary allocation of financial resource would be limited, since a great portion of the funds are purportedly sent to its Guyanese branch. However these Funds would be misappropriated and instead used to fund corrupt persons personal budget instead of being spent on charitable works. Hence this fund would be directed to the management's personal usage.

### **Evidences of Money Laundering in Guyana**

Almost daily in Guyana, the researcher's country, there is a case in court regarding money laundering by a business entrepreneur. As such their existing businesses will simply be an entity that is used to wash their dirty money. A few notable cases of such Trade Based Money Laundering are as follows:

#### Case one:

GEORGETOWN, Guyana — ,A Guyanese businessman and pilot who is entangled in a web of troubles that has placed him in an uphill battle with almost every major US law enforcement agency including the FBI, Homeland Security, and the Internal Revenue Service (IRS) now has a bigger issue to be worried about.

In court papers seen by the Guyana Guardian and confirmed by the New Jersey US Attorney's office, it has been confirmed that US prosecutors are now pressing for Lall to be sentenced to life in prison on a battery of drug trafficking charges.

The suspect had first come into the media spotlight after customs officials in the US territory of Puerto Rico had unearthed more than US\$600,000 that was stashed away on his private jet when he had made a stop there to refuel his aircraft on his way to Guyana in November 2014.

After that incident, he was initially out on bail, but Federal agents moved in on him in July 2015, and arrested him on several new charges for which he was remanded in custody.

#### Case two

(CMC) The Guyana Customs Anti-Narcotics Unit (CANU) says it is seeking international assistance as investigations continue into the recent G\$550 million drug bust in East Bank Essequibo.

The police report that on May 14, CANU agents conducted a raid at premises in the area and searched a truck laden with several pallets of 1×6 dressed lumber prepared for export to the United States. According to CANU, several boards were drilled randomly and revealed a white substance suspected to be cocaine.

The cocaine being unearthed following the discovery, the truck, its driver and porters were escorted to CANU headquarters where a detailed search of the cargo was completed. The search revealed cocaine in random boards scattered among genuine boards in each pallet. The compromised boards all had a dug out cavity with vacuum sealed plastic packets containing the drug.

CANU said its investigation revealed that the truck was hired to pick up and transport the lumber from a saw-mill and then transport it to a wharf in Georgetown. Three men – Hakeem Mohamed,

Tazim Gafoor and Nazim Gafoor — were held after the discovery but they were subsequently released when the 72-hour maximum period for detention without charge expired.

### Case Three

A [Guyanese](#) criminal who was active in drugs trafficking, money laundering and arms smuggling. He trafficked [cocaine](#) from [Colombia](#) into the United States and used construction and [forestry](#) businesses to launder money. He was considered to be Guyana's most powerful drug lord. In US embassy cables published by Wiki leaks he control over Guyana is compared with [Pablo Escobar's](#) erstwhile control over [Colombia](#).

### Case Four

In April 2009, after almost a year of investigation, 14 persons, including current and former Customs and Trade Administration employees and two brokers, were yesterday charged over a multi-million dollar ‘Polar Beer’ fraud at customs.

In a four-hour hearing before acting Chief Magistrate Melissa Robertson at the Georgetown Magistrate’s Court, a total of 72 individual and joint charges, ranging from fraud and forgery and conspiracy to commit a felony, were read to fourteen of fifteen defendants.

Rajcoomar was slapped with 13 fraud charges for allegedly forging invoices and customs declarations in favor of Kong Inc.; between September 2006 and October 2007, purporting that they were for assorted drinks and aerated beverages. The man was additionally slapped with eight counts of forgery, in a joint charge with Sam, with whom he is accused of forging documents of customs declaration, purporting that they were for assorted drinks, between June and December 2007. Additionally, the duo was jointly charged with 13 counts of forgery, for forged customs declaration forms in favor of Kong Inc. on October 29, 2007.

## **How Trade Based Money Laundering is manifested in Guyana**

Within this research, trade-based money laundering is defined as the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illicit origin. The researcher will be investigated primarily misrepresentation of invoices for the goods and services of trade.

The basic technique is mis-invoicing. To slip money into a country, undervalue imports or overvalue exports; do the reverse to get it out. A front company for a Columbian cartel might sell \$1m-worth of Clothing to a Guyanese importer while creating paperwork for \$3m-worth, giving it cover to send a dirty \$2m back home.

In Guyana and countries internationally misrepresentation of invoices and invoice frauds are commonly used in various formats:

- Over invoicing
- Under invoicing
- Utilizing multiple invoices for one set of goods
- Phantom invoicing
- False description of goods

### **According to fatf-gafi.org**

#### **Over- and Under-Invoicing of Goods and Services**

Money laundering through the over- and under-invoicing of goods and services, which is one of the oldest methods of fraudulently transferring value across borders, remains a common practice

today. The key element of this technique is the misrepresentation of the price of the good or service in order to transfer additional value between the importer and exporter.

**Under-Invoicing:** By invoicing the good or service at a price below the “fair market” price, the exporter is able to transfer value to the importer, as the payment for the good or service will be lower than the value that the importer receives when it is sold on the open market.

1. Under-invoicing is a form of intentional transfer which involves the undervaluing of the market value of a commercial transaction on an invoice.
2. The exporter is able to transfer value to the Importer (by moving money into a country) as such while avoiding the investigations that accompany any direct form of money transfer.
3. The importer then markets the goods on the general public at a market price for far higher than what were paid for it.

#### **Features of Under-invoicing**

1. This form of Trade Based Money Laundering involves honest and dishonest buying and selling of goods that transfer value.
2. The value of the good is adjusted (shows a lesser value) in order to transfer a higher value or to settle outstanding balances between an importer and exporter.

**Over-Invoicing:** Alternatively, by invoicing the good or service at a price above the fair market price, the exporter is able to receive value from the importer, as the payment for the good or service is higher than the value that the importer will receive when it is sold on the open market.

#### **Multiple invoicing of goods and services**

Unlike over- and under-invoicing, there is no need to misrepresent the price of the good or service on the commercial invoice. A complicated web of transactions is used whereby the same good or service is invoiced more than once, often using a number of different financial institutions to make the payments. Even if a case of multiple payments relating to the same shipment of goods or delivery of services is detected, the money launderers can explain the situation on the basis of amendment of payment terms, corrections to previous payment instructions or the payment of late fees, for example.

#### **Over- and under-shipments of goods and services**

By manipulating export and import prices, a money launderer can overstate or understate the quantity of goods being shipped or services being provided. There may be no actual supply of goods or services, only paperwork agreed by the importer and exporter. Financial institutions may unknowingly be involved in financing the phantom trade.

#### **Adverse Effects of Trade Based Money Laundering in Guyana**

- **Closing of businesses:** when Trade Based Money Laundering is given the opportunity to flourish in a country, the persons who are involved will set up Shell companies to wash their dirty money. Obviously there will be no profit motive and these businesses will be able to sell their goods at a very cheap price making it impossible for a legitimate business to compete with. Many businesses have been closing within Guyana over the past five years due to Trade Based Money Laundering.
- **Unemployment:** when businesses are forced to close their operations, their staff is made redundant and this increases the unemployment rate in the country. Guyana as it is has a major unemployment problems and this only makes it worse.
- **Reduction in Tax Collection:** as businesses close and employees being made redundant, taxes are lost both in the form of corporation tax and income tax.

- **Drop in the Standard of Living:** as the unemployment level increases the standard of living within the country drops, as a result, children drop out of school because parents cannot afford to send them to school, persons become more dependent upon overseas remittances to survive, persons become more sickly due to lack of proper food and nutrition.

### **Role of Customs in Identifying and Combating Trade Based Money Laundering**

The Customs Service (Customs) of Guyana is a government agency charged with the responsibility of protecting the country from potential risks arising from international trade and travel, while facilitating the legitimate movement of people and goods across the country's border.

Third world countries like Guyana depend heavily on tariffs to finance much expenditure on the country's national budget. Some of these expenditures include:

- ❖ Payment of public servants (government workers: teachers, nurses, police officers, army personnel, Ministry workers)
- ❖ Funding of Government pension to senior citizens in Guyana
- ❖ Assist in maintaining the Public Hospitals in Guyana
- ❖ Funding infrastructural development (building and repairs of roads, etc.)
- ❖ Financing the Deficit on the country's Balance of Payment

### **The Customs Department of Guyana is expected to do the following:**

- intercept contraband (such as illegal drugs or smuggled items)
- check travellers and their baggage, cargo and mail
- calculate and collecting Customs duties, excise taxes and Goods and Services Tax (GST) on imports
- protect businesses in Guyana against illegal trade
- enforce import and export restrictions and prohibitions
- collect accurate import and export data

### **Challenges faced by the Customs Department in Combating Trade Based Money Laundering**

The Customs Department in Guyana has been facing many challenges which prevent it from effectively combating Trade Based Money Laundering. Some of these include:

1. **Lack of records of businesses:** in Guyana many businesses are not registered legally, therefore, neither the Tax nor Customs Department is aware of their existence.
2. **Lack of resources:** the Department does not have an adequate amount of staff to effectively visit businesses on a regular basis to ensure that they are trading honestly.
3. **Collusion:** in many cases Customs brokers colludes with business entrepreneurs to evade tariffs.

### **Systems introduced to combat TBML in Guyana by the Customs**

The Guyana Revenue Authority has set up a Risk management and Revenue Protection unit aimed at ensuring imports are screened to ensure all Containerized cargo, Skids, Boxes and barrels, packages etc. imported from various countries fulfill certain criteria with respect to declared values and taxes computed. Hence items imported from China and India meets a less rigorous criterion with respect to values. Items imported from the United States, Canada, France, Spain etc. normally goes through a tighter Valuation scrutiny to determine their exact values in order to compute their correct taxes, However China, Panama, Curiosa and India are by far the larger supplier of Goods to Guyana and as such the Risk Management Unit selects documents

based on its Risk Profiling Unit and such documents are sent to a Revenue Protection for classification check to ensure items are correctly classified according to the Harmonized Code and Tariff Heading. Hence some items may for instance declared as rubber parts and attracts a Customs Duty of 5% and VAT at 14%, a compound Taxes of 19.8%, however upon careful scrutiny of the Declared Documents, i.e. Customs Form, Commercial Invoice and Bill Of Lading, determines that this commodity should be classified under another heading based on an Valuation principle, what the product is Principally manufactured for, rather its usage takes priority more than what the item is constitute of. Hence an item manufactured principally of rubber but its usage is classified for Vehicle body parts, its Taxes can be computed differently, attaching Customs Duty of 30% and VAT at standard rate of 14%, compounded taxes of 46% when compared with a meager 19.8% as explained earlier. Hence the owner of companies in order to maximize on profits and please their customer, they evade Taxes by making false declaration, or Invoice fraud. Many companies avoid paying high Taxes by committing Invoice fraud this is tantamount to False Declaration. Hence Government's Revenue is compromised by this type of activity. Large sums of revenue are lost due to this kind of activity, as a result Government consultation with various Countries yielded great result with the introduction of various sections of the Guyana Revenue Authority and the setting up of a Customs Tariff Tribunal to deal specifically with matters of determining the correct classification and consistency of products. The setting also of the Valuation Committee to deal specifically with Under Invoicing and also the Risk Management and Revenue Protection Unit armed with competent and seasoned officers who portfolios are Classification and valuation Officers. This Unit is particularly tasked with determining the correct classification of commodities that are imported and has by importers whom purportedly incorrectly classified purposefully these items to avoid paying a higher Tariff (Customs Duty and VAT)

The Officers by extension has the mandate to challenge any item this is deemed to be incorrectly classified and even to request a physical examination to determine the constituency and proper Valuation of the product.

The system is: importers present their Custom Declaration with Commercial Invoices, Bill of Lading and any Relevant Document to support the transaction. This information is keyed into the GRA Customs Software, Total Revenue Integrated Processing System (TRIPS) stating the CIF value of the Imported items, List of Items imported, their value, their quantity and the respective classification, harmonized code and Commodity codes, stating the rates of Duty. Management has an enterprise view of this information and the Risk Management Committee determines by doing a risk profile analysis what Documents based on full filling certain Criteria with respect to declared CIF value, Taxes declared, Container Size, Country of Import, Quantity and type of product, should be sent to the Revenue

The classification structure of the schedule of Rates is based on the Harmonized Commodity Description and Coding System. The Classification numbers are based on the Standard International Trade Classification. The General Rules for the Interpretation of the Harmonized System provide the principles on which classification under that System is based and are an integral part of the classification of the Schedule of Rates.

Protection Unit for Document Review, with the Intent of Collection more revenue based on incorrect Classification, poor Valuation and vague description.

Guyana Revenue Authority Total revenue collected in 2005 was in the vicinity of 100 billion(Five Hundred Million,USD\$500,000,000.00) As a direct result of the Risk Management

Unit and other Units in the GRA aimed at maximizing revenue collection and preventing the leakage, Revenue increased sharply over the years at an average of 5% per annum.

The Revenue Protection Unit Views the Physical Document that the Risk Profiling Committee selects. These Documents are scrutinized to determine the correct value declared etc. as mentioned earlier. The Revenue Protection Unit accesses the respective values using the Valuation principles.

The Fifth Schedule of the Customs Act Chapter 82:01 of The Laws of Guyana Deals specifically with the Value of Imported Goods. In this schedule, Customs Value of imported goods means the value of goods for the purposes of levying ad valorem duties of Customs on imported goods. Hence Classification and valuation officer can increase declared value on Invoices based on the Valuation principle of **Identical Goods**. 'Identical Goods' means goods produced in the same country as the goods appraised which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical. Also, as per the Fifth Schedule on the Value of Imported Goods, of the Customs Act, Officers also utilize this Valuation principles of **Similar Goods**; which means, goods produced in the same country as the goods being appraised which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially inter-changeable. The quality of the goods, their reputation and the existence of a Trade mark are among the factors to be considered in determining whether goods are similar.

Hence Classification and Valuation Officers of the Revenue Protection Unit, of the Guyana Revenue Authority, examines Invoices and Utilizes Invoices from Other Importers of Identical Goods or Similar goods whose respective values are higher than the ones appraised and institute increase in Value to match. The Importer are notified and given to opportunity to challenge such increases or accept. The latter being the most common since most Documents selected by the Risk Management Unit are questionable when it comes to Invoice values. The Revenue Protection Unit also questions the classification of items declared on Invoices. Hence some items for instance, Tires for road service vehicles are imported used or new, however the used tires of course are lower in value and attracts a lower rate of Taxes of 5% Duty and 14% VAT, while the New tires are higher in value and attracts a higher rate of 30% and VAT at 14%. This item must be examined 100% to properly determine its value and consequently it's rates of Duty. Vehicular body parts for Internal Combustion Engines attracts Customs Duty at thirty Percent (30%) and VAT at 14%, under Harmonized Commodity Code 8708:99:0000 however Importers, to order to evade Taxes normally classify it under a different tariff heading for example Under 4017:00:20 in order to attract 5% Duty and VAT at 14%.

The Revenue Protection Unit of the GRA powers are drawn from the Customs Act Chapter 82:01 of the laws of Guyana, hence their investigation and perusal of Documents to determine the correct Classification, Customs Duty and Value is Justified. Importers are constantly committing Invoice fraud with respect to Values and improper description. The Customs, Excise and Trade Administration of the Guyana Revenue Authority works along diligently with the arms of the GRA to combat this type of false declaration. Many Customs Declaration C72 form, along with Commercial Invoices and Bill Of Ladings are carefully examined to establish consistency. The Bill of Lading gives a proper description of the Container size, its special storage facility (If Container is a Reefer for cold storage, perishable items) its number and seal. The Bill of lading states also declares the amount freight's value, normally in

United States Dollars. The Bill of Lading also gives a description of the items shipped and where necessary an Engine or Chassis number of Vehicle and other unique identifier pertaining to it. For instance its year model, Vehicle type, engine capacity and number of doors, where applicable. In some instance a description of the products and its quantity. Hence it can be deduced that scrutiny and keen observation of the Bill of Lading juxtapose with the Invoice can assist in proper valuation and classification. Often times the Bill of Lading's description of items varies from the Commercial Invoice, sometimes the difference is very subtle but sometimes it is noticeable. A marked difference in product type, quality or description warrants an examination of the Consignment prior to the processing of the Customs Declaration (documents) in order to correctly determine its value and proper classification. As result the Customs, Excise and Trade administration, along with the Law Enforcement and Investigation division, will jointly conduct a hundred percent (100%) examination of this consignment. The Container is emptied far enough to ensure Customs, Excise and Trade Officers can safely determine its quantity and type of items. There are many instances where importers have to pay a fine in Lieu of condemnation of Court Proceedings for Breach of Section 218(C) and 218(D) of the Customs Act Chapter 82:01. The Head of the Guyana Revenue Authority, The Commissioner- General or his counter parts the Deputy Commissioner of Customs, Excise and Trade may use their discretionary powers to waive a treble Duty Paid fine and allow the Full Taxes to be paid along with an ordinary fine. This serves as a deterrent for such similar offences to occur in the future. The scrutiny of documents allow the Customs, Excise and Trade administration to carefully determine an item's correct value and proper classification, hereby increasing the ability of the GRA to maximize its revenue collection and fulfill its mandate for Budgetary allocations.

The Bill of Lading Freight's declaration also plays an integral role in accessing a consignment's correct value and proper computation of Taxes and eventual collection of Revenue. The Cost Insurance and Freight (CIF) Value is used by Customs, Excise and Trade Administration to access the Taxes on Imports, hence the Commercial Invoice issued by the Supplier constitutes the Free on Board (FOB) value and upon inclusion of the freight, we have the CIF value. Invoice fraud can occur when there is collusion between the suppliers who issues an Invoice that is well below the actual selling price to the importer. The supplier is satisfied that he has the uncompromising and continuous patronage of the importer. This relationship becomes much more complicated and harder to distinguish authentic Invoice when suppliers are from countries where International Customs Cooperation is compromised, for example China. Suppliers do not cooperate with Authorities from other countries, and also the language barrier even poses further difficulties.

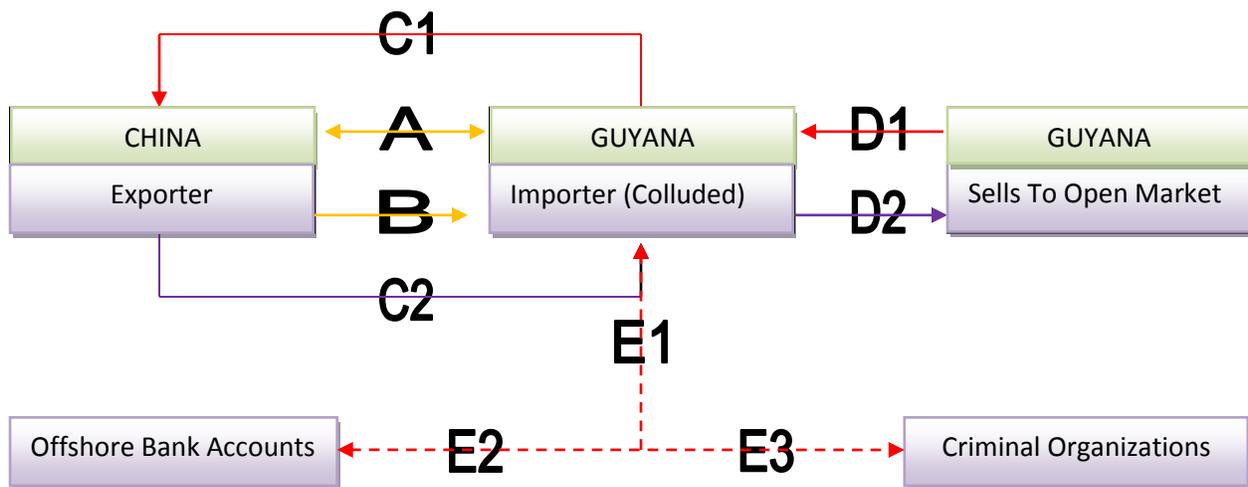
Of course the Valuation principle from the Fifth Schedule of the Customs Act as mentioned earlier is performed. However Invoice fraud is also done by not only manipulating the Invoice, but also the Bill of Lading's freight is compromised. Collusion occurs among the importers and the shipping agents who declare a lower freight to compute the Cost Insurance and Freight value. The invoice's value is manipulated and so is the Bill Of Lading's value. Hence the 'Freight Certified' stamp and a declared Value on the Bill of Lading stating 'Lien Cancelled' is made to reflect a lower value. A lower Cost Insurance and Freight Value mean lower taxes will be computed from this consignment and ultimately lower Revenue Collected. Hence this poses more strain on the GRA officers of the Customs, Excise and Trade Administration in Revenue collection. There are instances where the Invoice is made to reflect a CIF value, by the Colluding Supplier. As a result the Freight on the Bill of Lading is made to appear that it has been paid already abroad, 'Freight Prepaid' by the Colluding Shipping agent staff, who is compromised by

the importer. The unsuspecting GRA officers of the Customs, Excise and Trade Administration are placed in a further conundrum in determining the correct value for the consignment. The declaration on the bill of Lading should be 'Freight Collect' when the Invoice is declared as free on Board and upon inclusion of the Freight that is declared as 'Freight Collect' the proper value is arrived at, i.e. the Cost Insurance and Freight value.

This new development has given rise to many consignments accepted at lower values and less taxes paid. Because of the high computation of Taxes on Imports, for e.g. sealed beam lights for internal combustion engines vehicles, attract Customs Duty at 45% and VAT at 14%, however it is declared under another commodity code to reflect 20% and 14%. These calculations are done on the CIF value of the imports for that consignment. Importers will utilize almost any conceivable way to avoid heavy taxes and will devise any strategy to circumvent the high taxes payable. For instance a twenty foot Container of Sealed Beam lights from China or Japan will pay as much as Two and a half million in taxes (US\$12,500.00) however importers will declare low invoice values and corresponding lower freight and finally incorrect classification to only pay probably around nine hundred thousand dollars (USD\$4,500.00) in Taxes.

This Diagram is hypothetical scenario

**UNDER INVOICING: DIAGRAMIZED**

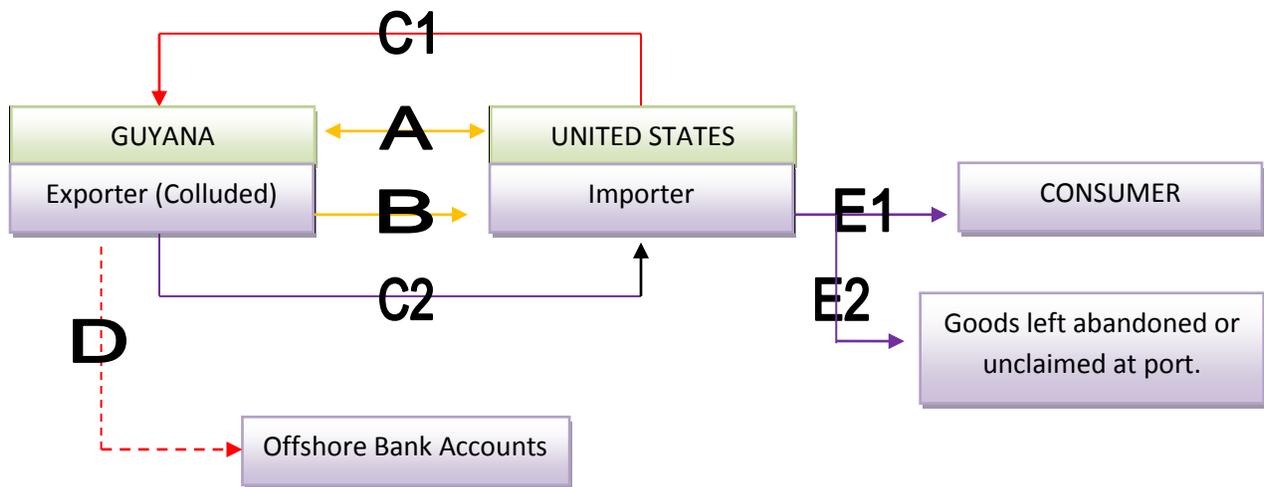


Explanations:

A	Exporter from China and Importer from Guyana are colluding with each other to intentionally transfer funds offshore with real value of US\$2,000,000 (two million US dollars).
B	The Exporter from China issues an invoice reflecting US\$1,000,000 (one million US dollars).
C1	The Guyanese Importer pays the Chinese Exporter US\$1,000,000 (one million US dollars), as normal trade.
C2	The Chinese Exporter ships the goods to the Guyanese Importer

D1	Guyanese Importer then publicly sells the goods at the market value
D2	The Importer will then receive US\$2,000,000 (two million US dollars).
E1	Importer will keep the proceeds of the sale.
E2	Importer will then deposit the proceeds into an offshore account to split with the Explorer.
E3	The funds used for criminal operations who most likes

**OVER INVOICING: DIAGRAMIZED**



Explanations:

A	The Exporter and Importer are colluding to fraudulently alter the value and transport goods out of Exporter's country and into the Importer's country. The Exporter and Importer enters into a contract for goods worth US\$1,000,000 (one million US dollars).
B	The Exporter fraudulently issues an invoice for US\$2,000,000 (two million US dollars).
C1	The Exporter then ships the goods directly to the Importer.
C2	The Importer then pays the inflated cost of the goods via a Letter of Credit or an Open Account.
D1	The Exporter then deposits the US\$1,000,000 (one million US dollars) into an Offshore Bank Account, which may be a criminal organization.
E1	The importer sells the goods to consumers to earn the US\$1,000,000 (one million US dollars).
E2	Sometimes if the goods are of low value and the intention was only to transfer the inflated US\$1,000,000 (one million US dollars), then those goods may remain abandoned or unclaimed at the port.

This scenario can be applicable to two situations:

1. The Exporter is transporting goods with very low value, then intentionally misrepresent the value of the goods on the invoice to a high value with the intention of transferring funds to an offshore account. The Importer pays the inflated cost via a Letter of Credit or an Open Account. In this scenario the goods may remain on the port abandoned or unclaimed because the transfer of funds would have already been effected.
2. The Exporter is transporting goods with very low value, but add an illegal element to the goods. An exporter of wood from Guyana drills the wood and adds narcotics (example cocaine) then intentionally misrepresent the value of the goods on the invoice to a high value with the intention of including the cost of the cocaine, so that the payments will cover the illegal drugs cost. In this case the wood will be sold separately from the narcotics.

**There has been many great International Efforts and initiatives of many nations to combat Trade Based money Laundering.**

1. The People Republic of China has written an article on the various ways to combat Invoice Fraud. The headline of the article reads The New PRC invoice Rules you need to know<sup>2</sup>.
2. The Hong Kong Association of Banks has published A Guidance paper on combating Trade Based Money Laundering. Trade-based money laundering has been recognized by the Financial Action Task Force (FATF) in its 2006 study as one of the main methods by which criminal organizations and terrorist financiers move money for the purpose of disguising its origins and integrating it back into the formal economy. A number of other competent authorities and industry groups, such as the Wolfsberg Group, have also highlighted the risks in this area. This twenty Eight page document seek to explain also sanctions United Nations Security Council sanctions and other National and regional Sanctions. It also explains Import/Export Discount Invoicing<sup>3</sup>.
3. The Financial Action Task Force has issued a very useful Document on Trade Based Money Laundering Study <sup>4</sup>. FATF\*GAFI. There are three main methods by which criminal organizations and terrorist financiers move money for the purpose of disguising its origins and integrating it into the formal economy. The first is through the use of the financial system; the second involves the physical movement of money (e.g. through the use of cash couriers); and the third is through the physical movement of goods through the trade system. In recent years, the Financial Action Task Force has focused considerable attention on the first two of these methods... The international trade system is clearly subject to a wide range of risks and vulnerabilities that can be exploited by criminal organizations and terrorist financiers. In part, these arise from the enormous volume of trade flows, which obscures individual transactions; the complexities associated with the use of multiple foreign exchange transactions and diverse trade financing arrangements; the commingling of legitimate and illicit funds; and

the limited resources that most customs agencies have available to detect suspicious trade transactions. The study concludes that trade-based money laundering represents an important channel of criminal activity and, given the growth of world trade, an increasingly important money laundering and terrorist financing vulnerability. Moreover, as the standards applied to other money laundering techniques become increasingly effective, the use of trade-based money laundering can be expected to become increasingly attractive. Over- and Under-Shipments of Goods and Services In addition to manipulating export and import prices, a money launderer can overstate or understate the quantity of goods being shipped or services being provided. In the extreme, an exporter may not ship any goods at all, but simply collude with an importer to ensure that all shipping and customs documents associated with this so-called “phantom shipment” are routinely processed. Banks and other financial institutions may unknowingly be involved in the provision of trade financing for these phantom shipments. taxable income from the operations of the affiliate in a high-tax jurisdiction to its operations in a low-tax jurisdiction. Similarly, the foreign affiliate might understate the value of the goods and services that it provides the domestic parent in order to shift taxable income from its high-tax jurisdiction to the low-tax jurisdiction of its parent. Both of these strategies would shift the company’s profits to the low-tax jurisdiction and in doing so, reduce its worldwide tax payments.<sup>4</sup>

4. The Forbes of India Magazine in its article states “Digitization Of Compliance Process a must to prevent Trade Based Money Laundering” It also goes to state ‘the biggest and most powerful economies look for trading partner that is strongly regulated and has a clean record, supplemented by the ease of doing Business<sup>4</sup>. This article was published by Thomas Reuters on 16<sup>th</sup> of January 2018 by Anurag Jain, Head of Risk Business, Thomas Reuters, South Asia<sup>5</sup>
5. In an article published by Law360, quoted, ‘Trade Based Money Laundering is on the Rise’. The article goes to say that TBL is the process of disguising the proceeds of crime and moving value through the use of Trade Based transactions in an attempt to legitimize their illicit origin. It also goes on to say that ‘Like money laundering through the financial system, TBML may occur in three stages<sup>6</sup>
6. The Drug Enforcement Administration of the United States Government report states that Bitcoin is used for trade based money laundering. The article is very useful and gives a better understanding of bitcoin and preventative measures issued to protect industries in safeguarding their assets and from being used for money laundering activities. The article states. ‘A new report from the U.S. Drug Enforcement Administration (DEA) claims that bitcoin is being used to facilitate Trade Based Money Laundering Schemes’<sup>7</sup>.
7. Thomson Reuters Launches TRAC to Combat Trade Based Money Laundering First of its kind end-to-end solution offering holistic risk management of trade finance as trade based money laundering becomes a growing global problem. Singapore/Hong Kong – Thomson Reuters announces today the launch of TRAC, its new anti-money laundering solution to combat trade based money laundering (TBML) and drive transparency and efficiency across trade finance <sup>9</sup>.

Asia /Pacific Group on Money Laundering. The APG has issued a Typology Report on Trade Based Money Laundering. This Document was Adopted by APG members at its 15<sup>th</sup> Annual Meeting. In its Executive summary it states, “Trade Based Money Laundering (TBML) was recognized by the Financial Action Task Force (FATF) in its landmark 2006 study as one of the three main methods by which criminal organizations and terrorist financiers move money for the purpose of disguising its origins and integrating it back into the formal economy<sup>10</sup>.”

8. Morison Menon article states<sup>11</sup>. The FATF has defined “[Money Laundering](#)” as the processing of criminal proceeds to disguise their origin in order to legitimize the illegally-gained proceeds; and “Trade Based Money Laundering” (TBML) as the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illicit origins.

In recent years, global and regional regulators have implemented stringent measures pertaining to Anti-Money Laundering & Terrorist Financing, which has made it difficult to launder money through the traditional channels<sup>11</sup>.

A very useful article entitles “Trade-Based Money Laundering: Overview and Policy Issues <sup>12</sup>”, by Rena S. Miller Specialist in Financial Economics Liana W. Rosen Specialist in International Crime and Narcotics James K. Jackson Specialist in International Trade and Finance June 22, 2016, Congressional Resource Service. **Summary:** Trade-based money laundering (TBML) involves the exploitation of the international trade system for the purpose of transferring value and obscuring the true origins of illicit wealth

Oracle Financial services has a very comprehensive paper titled, “Trade Based Money Laundering- A comprehensive Approach to combat TBML <sup>13</sup>”. This Document probes deep into analyzing and understanding the complexity of this Activity, TBML. **Introduction to Trade Finance – The Basics:** Trade Finance is the financing for trade activity in both domestic and international markets. A trade transaction requires a seller of goods and services as well as a buyer. Various intermediaries such as banks and other financial institutions can facilitate these transactions by financing the trade.

Trade Finance includes activities such as lending, issuing letters of credit, factoring, export credit and insurance<sup>12</sup>.

- ❖ The Anti Fraud Network- An international Network of Professionals specializing in recovering the proceeds of Fraud issued- Trade Based Money Laundering: A case study <sup>14</sup>. This paper seeks to address the various methodology master minds of Crimes adopts to execute their heinous activities.-- The Financial Action Task Force’s (FATF) best practice paper on Trade Based Money Laundering is useful<sup>14</sup>.
- ❖ The Australian Government- The Australian Institute of Criminology has prepared a document that reveals some areas where great cooperation

between the United States and countries in South America can assist to alleviate Trade Based money Laundering<sup>15</sup>.

- ❖ The United States Department of Treasury, through its Resource Center propagated its efforts to Combat Terrorist Financing. To this effect we will examine this effort. The Treasury Department performs a critical and far-reaching role in enhancing national security by implementing economic sanctions against foreign threats to the U.S.<sup>16</sup>
- ❖ John S. Zdanowicz of Florida has published a comprehensive article on Trade Based Money Laundering and Terrorist Financing. For years, individuals who study international trade pricing patterns have reported on the evidence that abnormal pricing in trade was being used to move money across borders, undetected by governments and law enforcement agencies<sup>17</sup>.
- ❖ The Monetary Authority of Singapore issued its Guidance On Money Laundering and Countering the Financing of terrorism controls in Trade finance and correspondent Banking<sup>18</sup>.

### **Passage of Anti-Money Laundering Laws**

Many Countries now armed with the respective Anti-Money Laundering Laws and legislation as tabulated in parliament and Laid down in the Laws of their country, and the materializing of an Anti-Money Laundering Unit, would now have its mandate to formally investigate such corrupt practices and gather enough evidence to have a prima Facie case and successfully prosecute offenders under that legislation. The agency would also harness support from the American Government and other nations who would also assist in investigation of such companies, whom knowingly with intent to defraud the state of revenue, over invoiced their goods. Such corrupt practices only put genuine importers and other charitable organization under more scrutiny and pressure. This method and corrupt practice of Over Invoicing is more predominant in exports, rather than Imports, for some countries where imported goods are heavily taxed based on Value and Commodity Code classification while exports may carry negligible taxes.

### **Customs Department can do the following checks:**

1. Check to verify that traders are importing goods, which they sell
2. Enforce imports and exports licenses for businesses
3. Conduct routine checks on their financial records of businesses to verify the quantity of goods imported as against goods sold
4. Implement border patrols to prevent smuggling of illegal goods over the border

5. The Customs Authority should carefully examine customs declaration presented by organizations suspected of Over Invoicing.
6. There should be greater scrutiny of their Invoices, receipts and Bills of Lading.
7. Customs should demand all original of Customs documents including a United States export declaration, or export declaration from country of export.
8. The demand for importers to submit original Documents issued by Customs personnel abroad.
9. Local Customs Authority to establish more formal communication through the Local Embassies, e.g. The United States embassy, to verify authenticity of certain documents presented to Local Customs.

### **Verification of Nature of Business**

In Guyana, it is a common practice of businesses to import goods which they are not licensed to sell or which does not comply with the nature of their businesses. Periodic checks by the Customs Department will be able to update records should there be a diversification in the existing business.

### **Licenses for Imports and Exports**

Guyana is one of those third world countries that have a Deficit Balance of Payment; hence, the trade imports are consistently higher than exports. As a result almost every possible item is being imported even items that the country produces. An import license will be most effective to monitor the value of imports and to verify the nature of the goods being imported.

Guyana is most renowned for its rainforest and most diverse species of wild life, unfortunately many of this wildlife are exported illegally internationally. An effective export license tracking procedure will be able to identify illegal items that are being exported.

### **Auditing Books**

Guyana is rapidly becoming notorious for drug trafficking, these illicit businesses disguise behind legitimate shell businesses. Therefore when the financial records are being checked, it will be possible to detect if these businesses are:

- I. Trading in the items they import
- II. Verification from the stock room to the invoices to ensure that the items imported are of the same quantity.
- III. To ensure that all transactions are recorded

### **Border Patrols**

Guyana is located next to three countries which are involved in production at a large scale, on the contrary as cited before that Guyana is not involved in large scale production, resulting in smuggling of goods over the three borders of Guyana. Active customs patrol can avert future smuggling across borders.

## **Trade Based Money Laundering complexity and the ability of Launderers to abuse many Legitimate Trades.**

The Auto sale business has many genuine auto dealers however money launderers have also abused such businesses to launder their illicit earnings. The Money Launderers/ Auto Sale operator successfully secures market for his fellow accomplices who needs to purchase High End European cars. The drug/auto dealer has many connections with companies that sell these cars. He then orders these cars on behalf of his clients. Being acquainted with the dealer, the sellers offer him quality for a marketable price. After the smuggle and sale of Cocaine to the United States of America and Canada, some of the illicit proceeds are Banked in those countries and the rest is used to purchase the cars. Of course because it is difficult to travel with more than USD\$10,000.00, and having to make a declaration, the money is used to pay off for these high end automobiles which are then shipped to Guyana. The auto dealer then has to pay the necessary taxes based on the CIF value, the engine capacity, and year model of the Vehicle. The vehicles with the smaller engines, less expensive value and over four years old, attracts less Customs duty, Excise Tax and VAT. The average taxes on a vehicle that is having a cylindrical capacity of less than 1500, and over four years old, will pay a maximum Excise taxes of around USD\$7,000.00 and Minimum Excise of USD\$5,000.00. However if the automobile is under four years old, the taxes computed is calculated at 65.3% of the CIF value. Vehicles with larger engine capacity, having a cylindrical capacity of over 1800 and less than 2000, and under four years, will pay 81.83% of the CIF value. This taxes is high when considered a vehicle with a CIF value of USD\$15000, will attract Taxes in the vicinity of USD\$12,500. However if the vehicle's engine capacity is over 2000cc and is under four years old, it will attract a high computation of taxes calculated two hundred and forty seven percent (247%) of the CIF value. Hence an automobile valued at USD\$10,000, will attract Customs Duty, Excise tax and VAT to the sum of USD\$24,700, While a similar vehicle over four years old, taxes will compute at USD\$28,000. Vehicles with Engine capacity over 2500 cc will also attract enormous taxes over three hundred and fifty percent, hence a vehicle with a Cost Insurance and Freight value of USD\$10,000, will actually compute taxes to the sum of USD\$35,500, the actual cost of a real high end brand new vehicle's price, the augmented CIF value and Taxes of over USD\$45,500.

- As a result of the above mentioned vehicle's detailed calculation, importers, especially Money Launderers will try of circumvent such high taxes. After the sale of their Narcotics they will utilize a system to circumvent the authorities, and have their money delivered to Guyana. The importation of these high end vehicle which carries very high taxes, will solve that issue. After securing markets for such vehicles, the proceeds from the Sale of Narcotics, will be used to procure such vehicles. As mentioned above, the Money launderers/Auto dealers will under Invoice these vehicles value. Customs and Revenue Protection officers, will encounter great challenges in trying to utilize the Valuation principle mentioned earlier, in increasing the vehicles value in the hope of securing the relevant taxes. The Auto dealers will also tamper with the Vehicle's title and export certificate, to convey an incorrect engine's cylindrical capacity and even year's model. Many such Auto dealers will actually smuggle vehicles across the Border from Suriname, and utilize another vehicle's registration. They auto dealers will also seek their attorneys intervention, with Customs Official regarding the CIF declared value and accepting an increase. The Customs officials have to carefully scrutinize such documents

and carefully monitor the examination and subsequent release of such vehicles, since great sums of revenue is involved. On many occasions the Auto dealers are made to pay huge sums in fines, in lieu of condemnation of court proceedings. There were many occasions when customs declaration were submitted with Invoices, export documents, titles and Bill of Lading all attesting to Japanese vehicles under 1500 cc and over four years old. The Customs declarations were processed as Japanese motor vehicles. The relevant duties and taxes were paid in the sum of USD\$10,000. The necessary instructions were to release vehicles after subsequent taxes were paid and examination conducted to verify vehicle particulars. However upon conducting the physical examination it was discovered that the vehicles were actually European made vehicles and that their respective engine capacities were enormous (4000cc) and year model attested to latest one. The Vehicles were ‘Jaguars’ made cars and valued at USD\$25,000, each. Total Taxes payable on both Vehicles amounted to USD\$142,500. The importer was compelled to pay the relevant fines and additional taxes. This just goes to show the extent to which Money Launderers would go to, to evade paying the relevant Taxes. “The fundamental rule is that both the shipper and importer must furnish Customs officers with all pertinent information with respect to each import transaction to assist Customs officers in determining the tariff status of the goods. Examples of omissions and inaccuracies to be avoided are: Invoice descriptions are vague, listing only parts of numbers, truncated or coded descriptions, or lumping various articles together as one when several distinct items are included, A foreign shipper who sells goods at list price, less a discount, invoices them at the net price, and fails to show the discount. A foreign shipper sells goods at a delivered price but invoices them at a price f.o.b. the place of shipment and omits the subsequent charges.<sup>19</sup> .

### **Challenges Faced by Governments to Successfully Combat Trade Based Money Laundering and the financing of Terrorism.**

**The Association of Certified Antimony Laundering Specialist (ACAMS)** ,the premier and foremost institution whose training, learning and propagating centers and programs are outstanding has written an article identifying a few challenges faced by Law Enforcement Agencies in the United States, The headlines read.. “U.S. Terror Finance Task Force Hears Talk of Poor Data-Sharing with Banks February” 3, 2016 By Colby Adams. The article explains “The failure by U.S. agencies to properly instruct financial institutions on how to identify trade-based money laundering has impeded federal efforts to crack down on criminal networks, lawmakers and congressional witnesses said ...<sup>20</sup> .

In another article by the, ‘The Award Winning ACAMS Today’, Headlines read “How Can Trade Finance Anti-Money Laundering Monitoring be Improved?” .The articles goes on to say, “In recent years and today, financial institutions have been subjected to enormous regulatory fines and ongoing on-site visits by various government regulatory agencies. ....”<sup>21</sup> .

### **Governments continued efforts in combating Trade Based Money Laundering.**

FinCEN Launches Info Exchange with Fis, this article states, “The Financial Crimes Enforcement Network (FinCEN) has started a new information-exchange program with financial institutions, according to an announcement from the Treasury Department. The program, called FinCEN Exchange, will hold regular briefings with financial institutions and law enforcement to trade information about pressing [illicit finance threats](#). “Information provided after the briefings by financial institutions through SARs has helped the public sector map out and target weapons proliferators, sophisticated global money laundering operations, human trafficking and smuggling rings, corruption and [trade-based money laundering networks](#), among other illicit actors..”<sup>22</sup> .

**Large International Financial Organizations has also contributed in its fight against AML/CFT .**The International Monetary Fund article on - Anti-Money Laundering/Combating the Financing of Terrorism –The Fund's involvement in AML/CFT. The international community has made the fight against money laundering and the financing of terrorism a priority.....international efforts to combat money-laundering and the financing of terrorism<sup>23</sup>.

### **Trade Finance Series: Trade Based Money Laundering Published on 21<sup>st</sup> November 2017 by James E Byrne**

The London Institute of Banking & Finance launched its [Certificate in Trade Finance Compliance \(CTFC\)](#), which at its core is trade based anti-money laundering, in partnership with the Institute of International Banking Law & Practice (IIBLP) and Coastline Solutions.<sup>24</sup>

### **Governments efforts to combat the Financing of Terrorism.**

- The United States Department of Treasury presents through its press Center, issued this: Fact Sheet: Combating the Financing of Terrorism, Disrupting Terrorism at its Core. Terrorist organizations rely on financing and support networks to sustain operations and launch attacks. The U.S. Department of the Treasury’s Office of Terrorism and Financial Intelligence (TFI) has developed a sophisticated and comprehensive approach – including intelligence analysis, sanctions administration and enforcement, financial regulatory action, policy expertise, and outreach to the international community and financial sector..... The U.S. Treasury Department is the only finance ministry in the world to develop such an office, and TFI continues to play a leading role within the United States Government and the international community in combating terrorist financing<sup>24</sup> .
- The Federal Bureau Of Investigation site, ‘What We Investigate’ states, “Protecting the United States from terrorist attacks is the FBI’s number one priority. The Bureau employs a variety of disciplines and works closely with a range of partners to neutralize terrorist cells and operatives here in the U.S., help dismantle extremist networks worldwide, and cut off financing and other forms of support provided to foreign terrorist organizations by terrorist sympathizers. In particular, the FBI-led Joint Terrorism Task Forces (JTTFs) across the country...”<sup>25</sup>.
- Dennis Lormel Chief, Terrorist Financing Operations Section, Counterterrorism Division Federal Bureau of Investigation Before the Senate Judiciary Committee and Subcommittee on Technology, Terrorism and Government Information. Washington, DC. “On behalf of the Federal Bureau of Investigation (FBI), I would like to express my gratitude to the Subcommittee for affording us the opportunity to participate in this forum and to update the Subcommittee on our use of the tools established within the framework

of the USA PATRIOT Act and the work being conducted by our Terrorism Financing Operations Section.”

### **The Detrimental Effects of Not being proactive against the fight to eliminate Money Laundering and Terrorist Financing.**

The researcher has also examined the detrimental effect that the sale and usage of illicit Drugs, in particular Cocaine and marijuana has on the economy of Countries. This blatant disregard for human health and their safety has been abused by Drug dealers. The effect is greatest on our human resource and the valuable contribution that they could have made; their fullest potential cannot be realized. Such addiction cripples our Society and all the social ills become reality. Families are broken, children are left neglected and spouse abused. Juvenile delinquency becomes more rampant and more heinous offences are committed as teens become adults. Role models become harder to find when society becomes addicted to drugs, as crime and other serious offences becomes a norm. This serious problem grips the society and cripples the economy, since the human resource cannot develop to its fullest potential. The country inability to provide proper educational facility, inadequate health care, both preventative and curative, inadequate recreational facilities, improper religious centers and a flawed police force offering protection to its citizens. This becomes evident when drugs and crime controls our society and all our valuable and scarce resource are spent on rehabilitation and treatment of drug addicts. Industries began to fall as crime infests the society and certain areas where revenue was generated and Income earned, becomes threatened and closes. For instance in some Caribbean countries where tourists industry thrives and great income generated from such an Industry, it is drugs and crime that threatens and pushes fear for life and safety of tourist, and they decide not to make it a Tourist destination any more.

This action by tourist for fear of their lives, create great disadvantages and ultimately the society suffers. The industrious persons who contribute meaningful to such economy suffer the most. Many companies fear for their lives closes their doors and poverty overtakes such society. This is contributed by the sale narcotics. This indiscriminate sale of narcotics evens penetrates our schools, where Teens have easy access to purchase narcotics, and out of curiosity tries the prohibited substance. The blatant disregard for life and limb by Drug dealers only intensifies the corruption and chaos that occurs. Robberies occur more frequently as addicts needs to fulfill their crazy addiction and fear further creeps in to the minds of residents where such offences are perpetrated. Our children who attend schools are sometimes disoriented by fear and their grades suffer. Adults sometimes spends sleepless nights for fear of crime and commuting to and from work also becomes more dangerous, since robbers are waiting to pounce on innocent victims to rob them of almost anything that they posses. Shops and other business suffer also by constant robberies and even Commercial Banks are under attack. Persons doing business are often shot and even killed. Many businessman dies from Robbery with aggravation. This type of suffering is all totally associated with the Sale and abuse of drugs. Drugs dealers enjoy great profits at the blood, sweat and tears of the decent law abiding citizens of the Society. Money Laundering kills our society, since that blood money becomes evident profits for Drug dealers/money launderers. We must prevent the drug dealers from getting access to their gotten gains. Terrorist’s activities further disrupt progress and additional cost is placed on the economy to combat this heinous

activity. Citizens live in fear of attacks and the perception of potential attacks from persons of Middle Eastern identity causes even more issues. The cost to rebuild after terrorists activities places more burdens on society and the lost of valuable human resources from dastardly cowardly attacks. Our human resource suffer emotional and psychological disorder from fear of terrorists, this hampers productivity at school and work.

### **The Extent to which Trade Based Money launderers will go to in ensuring their illegitimate Trade continues.**

The Researcher has indeed found enough compelling evidence to make a formidable case, in proving that Money launderers will to great extent to launder their ill gotten gains. Trade based money laundering is an almost ready made method that Money Launderers has abused in every conceivable way to launder their ill-gotten gains. This method provides an easy way, since it involves trade, the spending of money, ordering and purchasing goods, receiving invoices etc. This blatant exploitation of Trade and commerce by Drugs dealers to launder their illicit money placed many genuine Importers and exporters of Commodities, under increasing pressure, as Law enforcement officers may exercise greater scrutiny in examination of their Customs Declaration and processing their documents. The examination of the goods may also require more scrutiny. This extra time in determining whether this Customs Declaration regarding importation of containerized cargo has been under Invoiced and proving that it indeed is, if it was, takes up valuable time which translates to Dollars since customers are awaiting their ordered goods, the wharves and transit shed charge additional rent and storage fees, all which translates to more expense, less profits.

### **Economies that Depends Heavily on Revenues Suffer because of Trade based Money laundering**

For some whose heavy dependence for revenue relies on Customs Duty and VAT, trade based money laundering means that valuable Revenue is lost, that could have been spent on health care, education or economies public servants salary. Hence because of this heavy dependence, some economies will ensure that great focus is placed on revenue collection and its revenue agencies will utilize all its resources to combat trade based money laundering, especially under invoicing, double invoicing and over invoicing. The revenue agencies will attack trade based money laundering with their arsenal of Customs and tax investigators, who diligently pursue offenders, in their quest to maximize revenue collection and minimize its leakage. These Countries that depend on revenue for their budgetary allocation, understands the benefits of high revenue collection versus the detriments of inadequate revenue collection. This loss of revenue due to smuggling and invoice fraud has had detrimental effects on many economies whose heavy dependence for the provision of vital services for the elderly and other vulnerable groups relies. Some economies can almost be crippled when revenue collection is lower than projected. Money launderers who abused trade based money laundering greatly rob the revenue of taxes and are in breach of the Laws of many Countries .Hence it can be understood, why some economies whose heavy dependence on revenue, will utilize all available resources to combat this illegal act of trade based money laundering, of invoice fraud, false declaration and also their heavy focus to eliminate the drug trade. ‘A commercial invoice should contain enough information for a Customs and Border Protection (CBP) Officer to determine if the goods being imported are admissible, and if so, the correct classification and valuation of goods is an important part of the importation and entry process, for further guidance, see the [Harmonized Tariff Schedule \(HTS\)](#).’<sup>26</sup>.

## **Solutions that Nations can offer to protect their citizens from the negative effects of Trade based Money Laundering and Terrorist Financing.**

Countries can also adopt the principles of morality and educate their citizens on the dangers of drugs, ensure it citizen's focus on their religion and ensure adequate levels of education can be access by all. Enlighten its citizens on being healthy and involved in sports and recreation, thus promoting a healthy environment. Ensure funds are allocated to facilitate proper health care and recreational centers country wide. The government can facilitate training on farming techniques and rearing of poultry and cattle provide lands and offer loans and provide access to remote areas where fertile soil exists, provide machinery and equipment to assist. Citizens can have an income, being meaningful employed and motivated. The dependence on the drug trade for an income can be eliminated by this alternative providence. Governments can also ensure their educational standard remains high by seeking international aid to provide training in computer sciences where students can create their own software, e.g. Computer games, payroll software, antimony laundering software for Banks, money services business etc. to detect and trigger alerts and report for suspicious activity etc. Promote artistes in singing, acting and dancing, and offer copyright and patent laws to protect intellectual property. Ensure that its citizens who are in the labor force, this is, those who are above sixteen years and up to sixty years are meaningfully employed. Ensure underemployment is eliminated and persons acquire jobs and are paid wages that are consistent with their qualification and experience. Encourage invocation and provide technical training to persons. Interest free loan to start a business is another great encouragement to promote entrepreneurship. All of these ventures provided by governments are great alternatives to persons working in the drug trade. They rather promote healthy lifestyle; encourage persons to realize their fullest potential. By examining psychologist Abraham Maslow theory of physiological needs, Governments can promote greater well being among workers, encourage greater motivation and its citizens can all realize their fullest potential. All of these activities can take place in a drug free world, where its citizens are healthy, educated and earn an income. Drugs dealers will have great difficulties in securing sales and market for their drugs and also difficulty in finding persons willing to be employed with them. In this hope with Almighty God's help, the smuggling and sale of illicit drugs can greatly diminish, less profits generated and money laundering can also become evidently less and eventually the drug trade can be seen as not so lucrative avenue anymore.

## **SOLUTIONS THAT CAN BE USED TO COMBAT TRADE BASED MONEY LAUNDERING AND CFT.**

It is an important aspect of any financial organization's agenda to institute sound measures as recommended by Government regulators regarding monitoring and assessing programs with regard to those listed below:

- a) Every Organization should retain the services of a Senior Antimony Laundering Specialist Officer, who should initiate the formal setting up of an Antimony Laundering Unit, which comprise trained antimony laundering officers and investigators who should have unfettered access to the board of Directors and managing Director. Such a unit should have a designated Compliance officer who has easy access around the bank's staff and records.

- b) Financial institutions should make it a priority to inform staff of their committed effort to detect and report suspicious activity that are indicative of terrorist financing and evidence of trade based money laundering.
- c) Many countries have sought the help of Developed countries in seeking technology as a means of detecting TBML. Also the introduction of technology especially in the areas of Customs & Trade and revenue agencies can greatly increase efficiency and also increase revenue. To this effect some computer Customized software such the Total Revenue Integrated Processing System from Crown Agents of UK has been tried and tested in many Caribbean countries and found to be a success, as many processes require administration and user privilege and also carefully monitoring and Risk management of Customs forms, invoices etc. Asycuda is also a very interesting Customized software, which eliminates to a great extent manual intervention and has a single window application platform. Many government agencies can correlate, collaborate and integrate their processes in regards to Imports or exports.
- d) Financial institutions should also make it a priority that staff be trained on detecting money laundering, of course different levels and type of staff would be given training that is relevant to their specific job type, hence the front line staff: tellers and cashiers would be trained extensively on detecting and reporting money laundering activities. Also staff should be exposed to particular training by Law Enforcement officers in detecting narcotics and should even have testing kits.
- e) Every institution should ensure that staff are fully aware of trade based money laundering techniques, be aware of interpreting documents; invoices etc. Also heavy emphasis should be placed on KYC and due diligence. Enhanced due diligence measures should also be exercised. A know your employees(KYE) measure is also a useful tool to be implemented, since many inside jobs are facilitated by employees whose advice to TBML can thwart law enforcement measures.
- f) It is imperative for financial institutions and Law Enforcement to carefully review documents tendered in relation to a transaction. ‘ Carefully access inconsistency and translations that do not make Economic sense: Underlying goods, size of transaction, value of transaction, counterparties involved in the transaction, are inconsistent with the customer’s usual business pattern, or deviate from the customer’s business strategy. Mis-declaration of value (e.g. over-valuation) of goods. The method of payment or financing appears inconsistent with the risk characteristics of the transaction. Unexplained, unnecessary or last minute changes to a specific transaction or payment instructions. Unusual payment terms, where payments and interest rates substantially deviate from expected market practice or prevailing rates. Tenor of the financing is not in line with the nature of the underlying commodity financed, which could be a perishable good. Transaction does not make economic sense. Goods are inconsistent with the country of import/export<sup>27</sup>.

- g) Institution can also be more proactive in developing techniques to combat and detect Trade based money laundering and TF schemes. There is a great publication issued by the Trade Finance Series: Trade Based Money Laundering Published on 21<sup>st</sup> November 2017 by James E Bryne. The London Institute of Banking & Finance launched its [Certificate in Trade Finance Compliance \(CTFC\)](#), which at its core is trade based anti-money laundering, in partnership with the Institute of International Banking Law & Practice (IIBLP) and Coastline Solutions.<sup>28</sup>
- h) Organizations should use their initiative and regularly conduct online and other researches to be able to understand and detect TBML and CFT techniques and also keep abreast with changes and recent innovations. Having said this, let us examine an article by the Gulf News Banking Published on February 14<sup>th</sup> 2018 which Headlines captivate, “DIFC firms need to do more to combat money laundering risks” — DFSA. DFSA lists 48-point recommendations to reduce risks associated with trade-based money laundering. DUBAI: Firms based in Dubai International Finance Centre should focus more on reducing the risks of trade-based money laundering (TBML), a report from the Dubai Finance Services Authority (DFSA) said<sup>29</sup>.
- i) Organizations always need to keep themselves updated so as to be ahead in the battle against Trade Based Money Laundering. Many useful advice and introduction of modern techniques have been utilized by many agencies. One of such modern technique to combat TBML was introduced by Thomson Reuters who launch TRAC to combat TBML. Trade Finance, Regulation, Audit and Control (TRAC) is a first of its kind end-to end solution offering holistic Risk management of Trade Finance.....<sup>30</sup>
- j) To be better able to combat this emerging and constantly adapting threat of TBML and CFT. Industry experts warn firms to be prepared to combat TBML and adopt water tight standards to deal with Risk issues globally.‘ Accuity, the global provider of risk and compliance, payments and counterparty know your customer (KYC) solutions, presented critical advice to industry professionals on how to prepare for the challenges they are facing with trade-based money laundering (TBML) and to ensure their firms are ‘regulator ready’.<sup>31</sup>
- k) A solution to further protect US from external transgression and dealing with persons from Non Cooperative Countries, the Office of Foreign Assets Control plays an important role in protecting the United States from Terrorist and severe all links to Countries having such ties. ‘OFAC is responsible for implementing economic sanctions against individuals and organizations suspected of terrorism.1 In this role, OFAC designates and maintains a list of those it considers to be “global terrorists.”2 Once on the list, a designee’s “property and interests in property” in the United States are immediately blocked.3 The designee is prohibited from conducting any financial transaction in the U.S. OFAC also has the ability to block the assets of those who have not even been

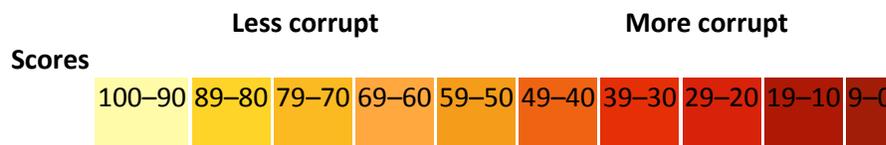
designated but are only under “investigation.”<sup>4</sup> Freezing assets is an important tool to help prevent the funding of terrorism<sup>32</sup>.

- l) The World Customs Organization has published many useful articles as solution to combat trade based money laundering. Revenue risks in the Customs context include leakage through smuggling of highly taxed goods, such as alcohol, tobacco and motor spirits. They also include commercial fraud activities, such as undervaluation, misclassification, misuse of origin and preferential duties, drawback fraud, among others. The WCO has assisted many countries in their battle against TBML. In the area of customs valuation, a valuation database can be a useful risk assessment tool, particularly in developing countries. Prices in a database should be derived from previously-accepted Customs declarations and may be considered alongside other risk criteria when Customs have reasons to doubt the truth or accuracy of the declared Customs value. In such cases, the importer should be given the opportunity to provide further information to Customs before a final decision is taken<sup>33</sup>.
  
- m) A solution to counter the Financing of terrorism is the introduction of a wonderful piece of legislature that has successfully been passed in Parliament and has become an act. It has been enshrined in the Constitution of the U.S. After 9/11 attacks this was introduced. The **USA PATRIOT Act** is an Act of Congress that was signed into law by President George W. Bush on October 26, 2001. Its title is a ten-letter backronym (USA PATRIOT) that stands for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of **2001**". (USA PATRIOT ACT) Act of 2001 - **Title I: Enhancing Domestic Security Against Terrorism** - Establishes in the Treasury the Counterterrorism Fund.  
(Sec. 102) Expresses the sense of Congress that: (1) the civil rights and liberties of all Americans, including Arab Americans, must be protected, and that every effort must be taken to preserve their safety; (2) any acts of violence or discrimination against any Americans be condemned; and (3) the Nation is called upon to recognize the patriotism of fellow citizens from all ethnic, racial, and religious backgrounds.  
(Sec. 103) Authorizes appropriations for the Federal Bureau of Investigation's (FBI) Technical Support Center<sup>34</sup>.
  
- n) Strong attention and focus should be the agenda of financial institutions to the Five Pillars of The Bank Secrecy Act Anti-Money Laundering Compliance Program. This is considered the cornerstone of an organization’s effort to successfully combat ML and CTF.
  - a) 1. DESIGNATION OF A COMPLIANCE OFFICER
  - b) 2. TAILORED INTERNAL POLICIES, PROCEDURES AND CONTROLS
  - c) 3. ONGOING, RELEVANT TRAINING FOR EMPLOYEES
  - d) 4. INDEPENDENT REVIEW
  - e) 5. Now regulators have effectively added a fifth pillar to AML compliance programs—the establishment of a risk-based, customer due-diligence procedure.
  
- o) Organizations can also study Transparency International (TI) Corruption Index; this would provide assistance in detecting countries with high levels of corruption and

safeguard themselves from involving in trade and commerce<sup>35</sup>. This Transparency International e.V. is an international non-governmental organization which is based in Berlin, Germany, and was founded in 1993. Its nonprofit purpose is to take action to combat global corruption and prevent criminal activities arising from corruption. It publishes for example the Global Corruption Barometer and the Corruption Perceptions Index

A study published in 2002 found a "very strong significant correlation" between the Corruption Perceptions Index and two other proxies for corruption: black market activity and overabundance of regulation. All three metrics also had a highly significant correlation with real gross domestic product per capita (RGDP/Cap); the Corruption Perceptions Index correlation with RGDP/Cap was the strongest, explaining over three fourths of the variance.<sup>[9]</sup> (Note that a lower index on this scale reflects greater corruption, so that countries with higher RGDPs generally had less corruption.)

Legend:



2016 Corruption Perceptions Index table<sup>[10][11]</sup>

Rank	Country or Territory	2016 <sup>[12]</sup>		2015 <sup>[13]</sup>		2014 <sup>[14]</sup>		2013 <sup>[15]</sup>		2012 <sup>[16]</sup>
		Score	Change in score from previous year	Score	Change in score from previous year	Score	Change in score from previous year	Score	Change in score from previous year	Score
1	<a href="#">Denmark</a>	90	▼-1	91	▼-1	92	▲+1	91	▲+1	90
1	<a href="#">New Zealand</a>	90	▲+2	88	▼-3	91	—0	91	▲+1	90
3	<a href="#">Finland</a>	89	▼-1	90	▲+1	89	—0	89	▼-1	90
4	<a href="#">Sweden</a>	88	▼-1	89	▲+2	87	▼-2	89	▲+1	88
5	<a href="#">Switzerland</a>	86	—0	86	—0	86	▲+1	85	▼-1	86
6	<a href="#">Norway</a>	85	▼-2	87	▲+1	86	—0	86	▲+1	85
7	<a href="#">Singapore</a>	84	▼-1	85	▲+1	84	▼-2	86	▼-1	87

2016 Corruption Perceptions Index table<sup>[10][11]</sup>

Rank	Country or Territory	2016 <sup>[12]</sup>		2015 <sup>[13]</sup>		2014 <sup>[14]</sup>		2013 <sup>[15]</sup>		2012 <sup>[16]</sup>
		Score	Change in score from previous year	Score						
8	 <a href="#">Netherlands</a>	83	▼-4	87	▲+4	83	▬0	83	▼-1	84
9	 <a href="#">Canada</a>	82	▼-1	83	▲+2	81	▬0	81	▼-3	84
10	 <a href="#">Germany</a>	81	▬0	81	▲+2	79	▲+1	78	▼-1	79

## Conclusion.

In concluding it must be recognized that TBML & CFT have indeed presented great challenges to many institutions. It is regarded as a financial crime that can almost take any form in the marketing of a commodity, and almost any item can be abused. The main issue regarding TBML is that money launderers have found many limitless channels to launder their ply. It means that every time an illegal scheme is successful, we have lost another battle against the proliferation of the human race, our valuable resource, to drugs and crime. Money as a means of success has led to many demise of our Human resource. The world of business has gone faster with the newly introduced payment methods, increasingly every day. Many a TBML scheme has cost nations billions of dollars to combat.

However the ever ceasing commitment of many institutions as the FATF, Wolfsburg, WCO, ACAMS, FINCEN & OFAC to subdue this illicit trade has received many successes and many nations have benefited tremendously by those collaborated efforts. Their renewal commitment and never ending strive has led to many awareness among countries and the dismantling of many illegal schemes and plots. The United States Government has also contributed greatly in this area, by offering constant training and guide to other countries. This motivation and guaranteed success has given rise to many institutions to join the bandwagon of committed strategies, all in the hope of protecting their nation and its resource, from being exploited by TBML. No one specific method can be employed to defend against TBML, but diverse strategies and tactic has to be utilized in order for success to reign. Financial institutions and Government agency both alike employ different strategies to combat this trade.

Many persons are of the view that if this trade continues unabated, perhaps economic wealth can be gained as many industries will prosper on money laundering and job creation prevalent; however this view when taken seriously has no merits and only brings mishaps and destruction to many economies. There is no success if our vital human resource will be exploited. Of what gain is it attain the world of wealth but completely lose of our morality and decency. Money Laundering, TBML & CFT are indeed wrong and only breeds' destruction.

Our continuous effort should prevail unabated in the quest to eradicate this type of method, of money Laundering: TBML. It is an increased effort of Regulators and Law Enforcement to keep abreast with the changing technologies of TBML regarding payments methods etc. Transfer of Value from country to country and being able to study the Modus operandi of Criminal minds. To understudy the intention-mens-ria, knowledge and the guilty act, actus-rias, some amount of probing into minds of these types of individuals whom are involved in TBML. A careful study of character history and past activities of certain individuals can assist law enforcement investigation to probe further into the minds of criminal elements and their modus operandi. Such study will be able to help investigators safely predict Trade Based Money Launderers next move, and safely assist in breaking their plot.

All Criminals minds also work out an escape route and plan and may use many innocent persons as conduits to execute their ultimate move. Law Enforcement has had many experiences with such elements whose plans once thwarted, will find their escape route, leaving the jurisdiction, in an attempt to escape arrest and jail time, always has an excellent move the normally plan, leaving Officers without any guilty party to prosecute. My point is TBM Launderers can be elusive once they receive a tip off of any investigation.

'There is substantial indication that due to geographic and economic reasons, the Caribbean FTZ, can be used as hubs for TBML. Implementing of FATF's best practices and recommendations in law, policy and practice is good starting point for counteracting TBML. Criminals are dynamic and resourceful as the seek different ways to continue their illegal acts'<sup>36</sup>.

'The use of technology can also help in lowering the chances of TBML....The handling of trade at all stages should be treated as a financial transaction where the trade transaction makes economic sense and the due diligence needs to be performed on a risk based approach. The supporting documents should be reviewed for authenticity and correctness. Continuo's usage of adequate technology, mindful analysis of situations and a broad knowledge of TBML are keys elements to monitor trade transactions and to distinguish normal from unusual Trade activity'<sup>37</sup>.

The use of technology can dampen TBML, hence electronic Invoices, bills of Lading and customs declaration forms can all be used to combat this trade. More use of technology and less human intervention. Hence the heavy reliance on technology, carefully monitored by experienced staff can be a breakthrough in detecting TBML.

'The role of Customs in identifying Trade based Money Laundering. Customs is vital to the achievement of national, economic, fiscal and social development objective. Customs is responsible for monitoring the movement of goods, conveyances and people across frontiers which is a fundamental assertion of national sovereignty<sup>38</sup>. Customs is the premier agency for ensuring compliance with international trade agreements and the collection of accurate trade

statistics. Customs is uniquely placed to contribute directly to national and international efforts to combat transnational organized crime<sup>38</sup>.

The United States of America has enough resources to reliably combat the Financing of Terrorism, thru the passage of various mechanisms. The USA PATRIOT act is a very comprehensive tool. OFAC plays an integral role in protecting the US from dealing with parties suspected of having terrorist's ties and connection, this Office also confiscate and seize assets and monies also suspected to belong to Terrorists and their sympathizers.

In concluding it must be understood that TBML & CFT measures has been instituted globally and almost every Nation has some pieces of legislation that arms them to combat TBML & CTF. In this global effort, FATF has taken up the helm with other organizations to further strengthen and broaden awareness and knowledge. Some best practices have been issued as a guide to further strengthen and encourage vigilance. The resilience of many nations despite the challenges has continued unabated in their quest to subdue TBML.

In developing TBML controls you must complete your Risk Assessment to determine how your institution is exposed to TBML and understand some of the methodologies. It is important to note that Tax evasion is the dominant predicate offence for TBML<sup>39</sup>.

Home Land Security in their battle against TBML states, "These criminals will continue to manipulate and exploit legitimate banking, financial, and commercial trade systems to sustain and expand their illegal operations. HSI will continue to work aggressively to utilize its resources and ensure that money launderers and illicit actors are detected, apprehended, and brought to justice<sup>40</sup>."

Having said this, nations must continue their collaborative efforts in the passage of more Antimony laundering laws and legislation aimed at tackling money launderers severely. In the light of all of these efforts, trade based money laundering can be easily detected, rather Importers having recognized the benefits of paying their correct taxes and also recognized the increased efforts, cooperation and knowledge among nations, realized that they cannot win and will ultimately be fined heavy, even with jail sentences and seizures of the goods and even their businesses, decides to make lawful declaration to Customs in the form of legitimate and authentic invoices and bill of ladings.

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