



**DEPARTMENT AGAINST TRANSNATIONAL ORGANIZED CRIME (DTOC)
ORGANIZATION OF AMERICAN STATES (OEA)**

**50th (VIRTUAL) MEETING OF THE GROUP OF EXPERTS
FOR THE CONTROL OF MONEY LAUNDERING
July 13 – 14, 2021
Washington D.C. – USA.**

**OEA/Ser.L/L. 4.50
DDOT/LAVEX/doc.8/21
July 13th, 2021
Original: Spanish**

PROGRESS REPORT

**Study on money laundering from crimes of political corruption; illicit drug and arms trafficking;
and tax fraud**

Working Sub-Group on FIU and Law Enforcement Agencies

2021

Overview of the mandate:

Under the 2021-2023 work plan that the GELAVEX plenary approved at its Asunción virtual meeting on November 10, 2020, the Working Subgroup on Financial Intelligence Units and Criminal Investigation Agencies would work on:

- 1) A study on laundering of the proceeds of corruption, drugs and weapons smuggling, and tax fraud, with an emphasis on identifying typologies and reviewing laws in the countries of the group, with assistance from the Technical Secretariat and other areas of the OAS General Secretariat, such as MESICIC, along the same lines to be able to access court rulings;
- 3) Studies focused on analysis of end beneficiaries of money laundering, coordinated through the Technical Secretariat, with the work that other specialized organizations, such as GAFILAT and CFATF, may be conducting, and if appropriate, with participation from UINL;
- 4) Developing tools for strategic analysis in money laundering investigations: Country experiences with development and use of technological tools for improving operational and strategic analysis;
- 5) A study on the feasibility of implementing a consultation system for the region, with a view to implementing FATF Recommendation 12 regarding politically exposed persons (PEP), taking into account the legal restrictions on information protected by personal data protection laws in member states; and
- 6) A study on money laundering tied to the illegal extraction of minerals, with emphasis on analysis of criminal and administrative laws for this sector, including identification of practical cases, typologies, and existing measures to prevent illegal extraction, and management of assets associated therewith.

2021-2023 Work Plan

The Working Subgroup on Financial Intelligence Units and Criminal Investigation Agencies will be devoted to:

- 1) A study to identify, from a criminal investigation perspective, cases involving crypto-assets, focusing especially on successful investigations in any member state, with a view to sharing relevant information and best practices; and
- 2) A study on the laundering of proceeds of corruption, drugs and weapons smuggling, and tax fraud, with an emphasis on identifying typologies and reviewing laws in the countries of the group, with assistance from the Technical Secretariat and other areas of the OAS General Secretariat, such as MESICIC, along the same lines to be able to access court rulings.

Mandate No. 2 was divided into two parts: Part 1 to be worked on this year, 2021, focusing on the laundering of the proceeds of corruption and tax fraud; and Part 2, to be executed in 2022, will consider drug and arms trafficking.

Objectives

The objectives of this study are as follows:

1. General objective

To undertake a study of criminal types and typologies in the area of money laundering with corruption and tax fraud as predicate crimes. This was mandated by the Group of Experts for the Control of Money Laundering (GELAVEX) at the plenary meeting in Asunción in 2020.

2. Specific objectives:

- To know the regulations in the countries of the region as regards the criminal forms of corruption and tax fraud that are predicate crimes for money laundering.
- To identify, through OAS and Financial Action Task Force of Latin America (GAFILAT) studies, typologies of money laundering with corruption as a predicate crime in the countries of the region.
- To analyze instruments devised by the countries of the region for the purpose of identifying typologies of money laundering with corruption as a predicate crime.

Methodology

Various information open sources will be consulted to prepare this study – sources such as laws of the countries of the Region, published on various official websites; publications on the subject by various international organizations; and information provided by the delegates of the countries at the request of the subgroup. Specifically, the delegations of Chile and Mexico will take the lead on the study and will review and organize the information, bearing in mind the following methodology:

- a. From information published on domestic laws websites, the rules criminalizing corruption- and tax fraud-related predicate crimes of money laundering will be identified, and the following general research question will be put forward: *What kinds of regulations are there in the countries of the region on corruption and tax fraud as predicate crimes for money laundering?*
- b. Typologies of laundering with corruption as a predicate crime will be identified through information provided by money laundering prevention agencies and criminal investigation agencies. The following is also posed as a general research question: *What typologies of corruption and tax fraud have been identified in the region as predicate crimes for money laundering?*
- c. Conclusions will be drawn from the material reviewed for the study in order to answer the questions asked and give an opinion on these issues arising in the region.

Progress to date: Extracting information on types of corruption and tax fraud as predicate crimes for money laundering

In this study, the Organization of American States member countries were shared between Chile and Mexico, each compiling information from the laws of the countries assigned, to determine what types of acts of corruption are predicate crimes for money laundering.



Once the information was obtained, a comparative table was drawn up with the information on the countries based on type of acts of corruption that are predicate crimes for money laundering. In phase 2, this will be complemented with the typologies of laundering with predicate crimes of corruption.

From this comparative table, conclusions will then be drawn about the same topics.

First comparative table with laws:

Country	Body(ies) of Law(s)	Predicate crime
1. Antigua and Barbuda	<p>Money-Laundering (Prevention) Act</p> <p>Corruption (Prevention) Act</p>	<p>Money laundering means: (a) engaging, directly or indirectly, in a transaction that involves money, or other property; or (b) receiving, possessing, managing, investing, concealing, disguising, disposing of, or bringing into Antigua and Barbuda any money or other property.</p> <p>Knowing or having reasonable grounds to suspect that the money, or other property, is derived, obtained, or realized, directly or indirectly, from some form of unlawful activity.</p> <p>3. (1) A person commits an offence if he — (a) corruptly solicits or accepts, whether directly or indirectly, property or a benefit or advantage for himself or another person for doing an act or for omitting to do an act in the performance of his functions as a public official; (b) in the performance of his duties as a public official performs or omits to perform any of his duties in a public body for the purpose of obtaining any property, a benefit or advantage for himself or any other person; (c) offers or grants directly or indirectly to a public official any property or a benefit or advantage, for doing or omitting to do any act in the performance of his functions as a public official; (d) fraudulently uses or conceals any property or other benefit derived by an act or omission to act under paragraphs (a), (b) or (c); (e) allows his private interest to conflict with his public duties or to improperly influence his conduct in the performance of his functions as a public official;</p>



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		<p>(f) improperly uses for his benefit or that of a third party any classified or confidential information that he has obtained in his duties as a public official;</p> <p>(g) communicates to another person any classified or confidential information obtained in the performance of his duties as a public official with a view to assisting that person to obtain any property, benefit, or advantage; or</p> <p>(h) improperly uses for his benefit or that of a third party, any property belonging to a public body to which he has access as a result of or in the course of the performance of his functions as a public official.</p>
2. Argentina	Penal Code, Article 303 2) b)	Money laundering committed by public officials in the exercise or course of their duties.
3. Bahamas	<p>Proceeds of Crime Act, 2018</p> <p>Penal Code, Title XVI</p> <p>Title XXIX</p>	<p>The objectives of this Act are: (a) to consolidate and strengthen provisions relating to (i) preventative and investigative measures against money laundering, terrorism financing, terrorism, corruption, proliferation of weapons of mass destruction, human trafficking, and related offenses.</p> <p>A person engages in money laundering where he knows or reasonably should have known or suspected that (a) the property he acquired or is acquiring is the proceeds of a crime; (b) he used or is using the proceeds of a crime; or (c) possessed or possesses the proceeds of a crime.</p> <p>235. Withholding of public money, etc., by public officer.</p> <p>261. Corruptly accepted reward for restoring property, etc.</p> <p>453. Corruption, etc., by public officer or juror.</p> <p>454. Giving of false certificate by public officer.</p> <p>455. Destruction, etc., of document by public officer.</p> <p>463. Accepting bribe to influence public officer or juror.</p> <p>464. Corrupt promise by judicial officer or juror.</p> <p>465. Corrupt selection of juror</p>



<p>4. Barbados</p>	<p>Money Laundering and Financing of Terrorism (Prevention and Control) Act 2011-23.</p> <p>Corruption (Prevention) Act Part II</p>	<p>466. Unlawful sale or purchase of office.</p> <p>A person engages in money laundering where: (a) the person engages, directly or indirectly, in a transaction that involves money or other property or a benefit that is proceeds of crime; or (b) the person receives, possesses, conceals, disposes of, or brings into or sends out of Barbados any money or other property or a benefit that is proceeds of crime.</p> <p>4. Bribery of persons holding public office. 5. Bribery of foreign public official. 6. Bribery of an official of a public international organization 7. Influence peddling 8. Acquiring private interests in a contract, agreement, or investment in relation to a public official. 9. Bribery with regard to contracts and proposals. 10. Bribery with regard to auctions. 11. Corrupt transaction with agents.</p>
<p>5. Belize</p>	<p>Money Laundering and Terrorism (Prevention) Act.</p> <p>Corruption (Prevention) Act.</p> <p>Criminal Code, Title XVI</p>	<p>A person commits the offence of money laundering if the person knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of crime, (a) converts or transfers that property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his action; (b) conceals or disguises the true nature, source, location, disposition, movement, rights with respect to or ownership of that property; (c) acquires, possesses, uses or otherwise deals with that property; or (d) participates in, associates with or conspires to commit, attempts to commit, or aids and abets, or facilitates, counsels or procures the commission of any of the above acts.</p> <p>22. Act of corruption. 24. Contract corruption offences. 28. Corrupt acts of agents.</p>



		<p>284. Corruption, oppression, and extortion. 285. False certificates 286. Destruction, etc., of documents. 288. Withholding public money, etc. 289. Bribery of officers. 290. Agreement for influencing officers. 291. Corrupt promises by judicial officers or jurors. 292. Corrupt selection of jurors 293. Unlawful sale of offices. 295. Corruption, intimidation, and personation.</p>
6. Bolivia	Criminal Code, Chapter III Article 185 bis.	(Legitimizing ill-gotten gains). Acquire, convert, or transfer assets, resources, or rights derived (...) from crimes committed by public officials in the performance of their duties.
7. Brazil	<p>Law N° 9,613, Chapter I, Article 1.</p> <p>Criminal Code, Special Part, Title XI, Chapter I: Of crimes practiced by public officials against the administration in general.</p>	<p>Concealing or disguising the nature, origin, location, disposal, movement, or ownership of goods, rights, or securities originating, directly or indirectly, from criminal offenses.</p> <ol style="list-style-type: none"> 1. Misappropriation. 2. Culpable misappropriation 3. Misappropriation by another's mistake. 4. Inserting false data into information systems. 5. Unauthorized modification or alteration of information systems. 6. Book or document theft, concealment, or destruction 7. Improper use of public funds or revenues. 8. Excessive taxation 9. Passive corruption. 10. Enabling smuggling or embezzlement 11. Malfeasance. 12. Administrative advocacy 13. Arbitrary violence. 14. Abandonment of duties. 15. Illegally performing public duties in advance or for an extended period 16. Violation of official secrecy. 17. Violation of bid secrecy.
8. Canada	Criminal code. Part XII.2 – Proceeds of crime.	462.31 (1) (Laundering proceeds of crime). Everyone commits an offence who uses, transfers



	Part IV – Offences against the Administration of Law and Justice.	<p>the possession of, sends or delivers to any person or place, transports, transmits, alters, disposes of, or otherwise deals with, in any manner and by any means, any property or any proceeds of any property with intent to conceal or convert that property or those proceeds, knowing or believing that, or being reckless as to whether, all or a part of that property or of those proceeds was obtained or derived directly or indirectly as a result of (a) the commission in Canada of a designated offence; or (b) an act or omission anywhere that, if it had occurred in Canada, would have constituted a designated offence.</p> <p>119. Bribery of judicial officers. 120. (a) Bribery of officers. 121. Frauds on the government. 122. Breach of trust. 123. Municipal corruption. 125. Influencing or negotiating appointments or dealing in office.</p>
9. Chile	Criminal Code Volume II, Title V, regarding Article 27 of Law N° 19,913	<p>IV. Malfeasance. V. Embezzlement of public monies. VI. Fraud and illegal exaction. IX. Bribery. IX bis. Bribery of foreign public officials.</p>
10. Colombia	Penal Code, Article 323, related to Articles 397, 398, 399, 399-A, 400, 400-A, 404, 405, 406, 407, 411, 411-A, 412, 413, 414, 419, and 429	<p>Whoever acquires, safeguards, invests, transports, transforms, stores, conserves, guards, or administers goods derived directly or indirectly from (...) crimes against the public administration.</p> <ol style="list-style-type: none"> 1. Embezzlement. 2. Extortion. 3. Bribery. 4. Influence peddling 5. Illicit enrichment. 6. Malfeasance in office. 7. Improper use of classified or secret information. 8. Improper use of confidential insider information.
11. Costa Rica	Law on narcotics, psychotropic substances, illegal drugs, related	Generic type of money laundering, requiring that an offense from which financial interests are



	<p>activities, money laundering, and terrorism financing. Article 69:</p> <p>Criminal Code, Volume II, Title XV.</p>	<p>derived may be punishable by a prison sentence of more than four years.</p> <p>341. Bribery for own benefit 342. Aggravated bribery for the benefit of a third party. 344. Corruption of judges. 347. Negotiation incompatible. 348. Extortion. 350. Malfeasance in office. 354. Embezzlement. 356. Misappropriation.</p>
12. Cuba	<p>Decree Law N°317 On prevention and detection of transactions in combating money laundering, terrorism financing, arms proliferation, and the movement of illegal funds.</p>	<p>The Decree-Law expressly states what persons are covered by said regulation, without identifying public officials, or a nomenclature whereby they are understood to be included in this regulation.</p>
13. Dominica	<p>Money Laundering (Prevention) Act, Part II: Money laundering.</p> <p>Integrity in public office, Part VI</p>	<p>3. (1) an offense is committed by any person (a) receiving, possessing, managing, or investing; (b) concealing or disguising; (c) converting or transferring; (d) disposing of, bringing into or taking out of Dominica any property that is the proceeds of crime, knowing or believing the same to be the proceeds of crime. (2) A person who attempts, aids, assists, counsels, or conspires regarding the offenses mentioned in subsection (1), commits an offense.</p> <p>38. Offence of bribery. 39. Bribery for giving assistance, etc. in regard to contracts. (Influence peddling). 40. Bribery of prescribed officers by person having dealings with public bodies. 41. Aiding and abetting.</p>
14. Dominican Republic	<p>The criminal code of the Dominican Republic establishes corruption and influence peddling committed by persons</p>	<p>Law No. 155-17</p> <p>Money laundering: This is the process whereby natural or legal persons and criminal organizations seek to give illegal goods or assets derived from the</p>



	<p>holding public office as a crime.</p> <p>Article 510.- An act committed by any person holding public office or in charge of a public service or vested in a public elective office, who directly or indirectly and without the right to do so, requests or grants securities, offers, promises, gifts, or advantages of any kind.</p>	<p>preceding crimes described in this law a semblance of legitimacy.</p> <p>Predicate or Determining Offense: This is an offense that involves property or assets prone to money laundering. Predicate or determining offenses are considered to be illicit trafficking in drugs and controlled substances, any offense related to terrorism and financing of terrorism, smuggling of human beings (including illegal immigrants), trafficking in persons (including sexual exploitation of minors), child pornography, pimping, human organ smuggling, illicit arms trafficking, kidnapping, extortion (including in connection with electronic recording and filming by natural or legal persons), counterfeiting of currencies, securities, or securities, fraud against the state, embezzlement, extortion, taking bribes, giving bribes, influence peddling, malfeasance, and crimes committed by public servants in the performance of their duties, transnational taking of bribes, tax crimes, aggravated swindling, smuggling, piracy, product piracy, intellectual property crime, environmental crime, acting as a cover, contract killings, unjustified enrichment, forgery of public documents, counterfeiting and tampering with medicines, foods, and beverages, smuggling of merchandise, works of art, jewelry, and sculptures, and aggravated robbery, financial crimes, high-tech crimes and offenses, misuse of confidential or privileged information, and market manipulation. Likewise, any serious offense liable to a penalty of not less than three (3) years is considered a predicate or determining offense.</p>
<p>15. Ecuador</p>	<p>Comprehensive Organic Criminal Code, Article 317.3.3. C).</p>	<p>Money laundering: any person who, directly or indirectly, benefits in any way from assets of illicit origin.</p> <p>Conceals or hinders actual determination of the nature, origin, or provenance of assets of illicit origin.</p> <p>Lends personal or company's name for the commission of these crimes.</p>



	Article 278 et seq., offenses against the efficiency of the public service.	<p>It is punishable by imprisonment when the crime has been committed using public institutions, or public dignitaries, positions, or duties.</p> <ol style="list-style-type: none"> 1. Embezzlement. 2. Illicit enrichment. 3. Bribery. 4. Extortion. 5. Influence peddling. 6. Offer to engage in influence peddling. 7. Use of public force against orders from authority 8. Tampering with evidence and evidentiary items.
16. El Salvador	<p>Law against Money Laundering and Other Assets, Republic of El Salvador Legislative Assembly Decree N°498 and amendments thereto. Article 6.</p> <p>Criminal Code, Title XV, Chapter I, Article 310, and Title XVI, Chapter II, Articles 325, 326, 328, and 333</p>	<ol style="list-style-type: none"> 1. Illicit enrichment. 2. Unlawful negotiations. 3. Embezzlement. 4. Malfeasance in office. 5. Bribery.
17. Grenada	<p>Proceeds of Crime Act, Part V: Money laundering and other offenses.</p> <p>Corruption (Prevention) Act, Part II.</p>	<p>35. A person commits an offence if– (a) he acquires, transfers, or uses any property or has possession of it which, in whole or in part, directly or indirectly represents his proceeds of criminal conduct; or (b) knowing or suspecting that any property is, in whole or in part, directly or indirectly, another person’s proceeds of criminal conduct, he acquires, transfers or uses that property or has possession of it.</p> <p>36. A person commits an offence if he– (a) conceals or disguises any property which is, or in whole or in part directly or indirectly represents, the proceeds of criminal conduct; or (b) converts or transfers that property or removes that property from Grenada.</p> <p>(2) A person commits an offence if, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person’s proceeds</p>



		<p>of criminal conduct, he (a) conceals or disguises that property; or (b) converts or transfers that property or removes it from Grenada.</p> <ol style="list-style-type: none"> 3. Accepting offering or soliciting gratification. 4. Offences in relation to corrupt activities relating to public officers. 5. Offences in relation to corrupt activities regarding contracts. 6. Offences in relation to corrupt activities regarding foreign public officials. 7. Offences in relation to corrupt activities relating to tenders. 8. Offence in relation to acquisition of private interest in contract, agreement or investment of public body. 9. Bribery of Members of Parliament
<p>18. Guatemala</p>	<p>Law against laundering of money or other assets Congress of the Republic of Guatemala Decree N°67-2001</p> <p>Criminal Code of Guatemala, arts. 418 and seq. (Regarding offenses committed by public officers or public employees)</p>	<p>The crime of laundering of money or other assets is committed by any person who, alone or through an intermediary:</p> <p>(a) Invests, converts, transfers, or conducts any financial transaction with property or money, knowing, or by reason of position, job, trade, or profession is obliged to know, that they are the proceeds of or are derived or originate from the commission of a crime;</p> <p>(b) Acquires, possesses, manages, has, or uses property or money knowing, or by reason of position, job, trade, or profession is obliged to know, that they are the proceeds of or are derived or originate from the commission of a crime;</p> <p>c) Conceals or prevents a determination of the true nature, origin, location, destination, movement, or ownership of property or money or of rights relating to such property or money, knowing, or by reason of position, employment, trade, or profession is obliged to know, that they are the proceeds of the commission of a crime.</p> <ol style="list-style-type: none"> 1. Abuse of power. 2. Failure to perform duty. 3. Disobedience. 4. Divulging of secrets.



	<p>Arts. 462 et seq. Malfeasance.</p>	<ol style="list-style-type: none"> 5. Resolutions that violate the Constitution. 6. Irregular detention. 7. Abuse of private individuals. 8. Usurping of authority. 9. Illegal raid. 10. Passive bribery. 11. Active bribery. 12. Illegal acceptance of gifts. 13. Embezzlement. 14. Culpable graft. 15. Misappropriation. 16. Defaulting on payments. 17. Extortion. 18. Fraud. 19. Illegal exaction. 20. Improper receipt. 21. Malfeasance in office. 22. Culpable malfeasance. 23. Malfeasance by representatives of the Public Prosecution Service.
<p>19. Guyana</p>	<p>Anti-Money Laundering and Countering the Financing of Terrorism Act</p> <p>Criminal Law</p> <p>These pieces of legislation make reference to the fact that money laundering is preceded by a predicate offense of corruption, which is considered a felony.</p>	<p>Guyana has criminalized corruption under its penal code.</p>
<p>20. Haiti</p>	<p>February 21, 2001 Law. Law amending the November 11, 2013 law criminalizing money laundering Nov. 2013 law UCREF Monitor of the Organic Law</p>	<p>Haiti has criminalized the offense of corruption under its penal code</p>



	Article 8.k of the law to punish money laundering expressly identifies corruption as a predicate offense for money laundering.	
21. Honduras	By Decree No. 45-2002 of March 5, 2002, published in the official daily Gazette on May 15, 2002, the National Congress issued the Anti-Money Laundering Law, which, as stated in Article 1, aims to prevent and punish the crime of money laundering, establish precautionary measures to ensure the availability of the assets, proceeds, or instruments of this crime, and the application of the provisions contained in international conventions signed and ratified by Honduras.	Article 7 of the Anti-Money Laundering Law establishes that public servants who, taking advantage of their positions, participate in, facilitate, or benefit from engagement in the criminal activities defined therein and the legal representatives of legal persons who, in collusion with the aforementioned persons, have participated in the commission of the same crime, shall be liable to fifteen (15) to twenty (20) years' imprisonment, increased by one-third (1/3) plus permanent debarment from holding that position.
22. Jamaica	Jamaica's Proceeds of Crime Act 2007 criminalizes money laundering and recognizes any offense as a predicate offense, including drug trafficking, firearms trafficking, migrant smuggling, human trafficking, kidnapping, extortion, corruption, and offenses against public service, and financial fraud and financial crimes. Proceeds of Crime (Money Laundering Prevention) Regulations, 2007	Corruption Corruption (Prevention) Act, 2000 Corruption Prevention Act, 2001 Corruption (Prevention) (Amendment) Act, 2002



<p>23. Mexico</p>	<p>The Federal Law on Prevention and Identification of Transactions Involving Illegally Obtained Resources regulates the activities of the tax authorities to control money laundering.</p> <p>The Federal Criminal Code establishes what transactions involve ill-gotten funds:</p> <p>Article 400 bis.</p> <p>I. Acquires, disposes of, manages, safeguards, possesses, exchanges, converts, deposits, withdraws, gives or receives for any reason, invests, transmits, transports, or transfers, within the country, from the country to a foreign country or vice versa, resources, rights, or goods of any kind, knowing that they are derived from or represent the proceeds of an unlawful activity.</p> <p>II. Conceals, disguises, or attempts to conceal or disguise the nature, origin, location, destination, movement, possession, or ownership of resources, rights, or goods, being aware that they are derived from or represent the proceeds of an unlawful activity.</p>	<p>The Federal Penal Code classifies several offenses as acts of corruption.</p> <p>TITLE X OFFENSES THROUGH ACTS OF CORRUPTION</p> <p>Illicit exercise of public office Abuse of authority Conspiracy of public servants Abuse of power and authority On improper payment and receipt of compensation by public servants Extortion Intimidation Abuse of office Influence peddling Bribery Bribery of foreign public servants Embezzlement Illicit enrichment</p> <p>Mexico currently has a national anti-corruption system with a Special Prosecutor for these crimes; accordingly, if the FIU identifies financial data or movements involving transactions suspected to be of illicit origin due to acts of corruption, it may file a complaint with this Prosecutor's Office.</p> <p>Furthermore, under Article 19 of the Mexican Constitution, corruption in relation to offenses of unlawful enrichment and abuse of office is a felony, hence a judge may order mandatory pretrial detention for these offenses.</p>
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	<p>For the purposes of this Chapter, resources, rights, or assets of any kind shall be understood to be the proceeds of an unlawful activity when there are well-founded indications or certainty that they are derived, directly or indirectly, or represent the proceeds derived from the commission of a crime and whose lawful origin cannot be proven.</p>	
24. Nicaragua	<p>Article 282 of Nicaragua’s penal code defines who commits the crime of money laundering and refers to predicate offenses without explicitly mentioning corruption.</p>	<p>Article 3 of the Law on Prevention, Investigation and Prosecution of Organized Crime and the Management of Seized, Confiscated, and Abandoned Assets defines organized crime offenses in specific terms, and although these include certain acts of corruption – bribery, for example – for the law to apply to them, a connection to organized crime must be established.</p>
25. Panama	<p>Article 254. Whoever, personally or through an intermediary, receives, deposits, negotiates, transfers, or converts money, titles, securities, assets, or other financial resources, reasonably suspecting them to be derived from activities related to: corruption of public servants.</p>	<p>Corruption of public servants</p>
26. Paraguay	<p>Money laundering prevention laws:</p> <p>Law N° 1015/97 “PREVENTING AND PUNISHING ILLICIT ACTS INTENDED TO LEGITIMIZE</p>	<p>The preventive framework includes the legal guidelines for preventing and detecting money laundering and terrorism financing; establishing obligations that are mandatory for those subject to such requirements, the legal regime concerning</p>



	<p>MONEY OR ASSETS,” the aforementioned Law was amended twice:</p> <ul style="list-style-type: none">• LAW N° 3783/09 “AMENDING SEVERAL ARTICLES OF LAW N° 1015/97 ‘PREVENTING AND PUNISHING ILLICIT ACTS INTENDED TO LEGITIMIZE MONEY OR ASSETS.’”• LAW N° 6497/19 "AMENDING THE PROVISIONS OF LAW N° 1015/97 ‘PREVENTING AND PUNISHING ILLICIT ACTS INTENDED TO LEGITIMIZE MONEY OR ASSETS, AND ITS AMENDING LAW N° 3783/09.’” <p>Criminal laws on Money Laundering:</p> <p>The criminal offense of Money Laundering is set forth in the Penal Code-Law N° 1160/1997 and successive amendments thereto:</p> <p>LAW N° 3.440/08 “AMENDING SEVERAL ARTICLES OF LAW N° 1.160/97.”</p> <p>LAW N° 6452/19 “AMENDING SEVERAL ARTICLES OF LAW N° 1160/1997 PENAL CODE AND ITS AMENDING LAW N° 3440/2008.”</p> <p>LAW N° 6430/19 “PREVENTING, DEFINING,</p>	<p>the powers and competencies granted to the FIU as enforcement authority for the anti-money laundering and counter-terrorism financing laws.</p> <p>Definition: Article 196.- Money laundering:</p> <p>1. Whoever converts or conceals an item derived from an unlawful act, or with respect to such item conceals its provenance, frustrates, or jeopardizes the disclosure of its provenance or location, its discovery, its confiscation, its special confiscation, or its seizure, shall be liable to up to five years’ imprisonment or a fine.</p> <p>For the purposes of this article, that shall mean an unlawful act: (Predicate crimes)</p> <p>1. Those envisaged under Articles 129a, 139, 184a, 184b, 184c, 185, 186, 187, 188, 191a, 191b, 192, 193, 200, 201, 246, 261 (Tax evasion), 262 (Fraudulent acquisition of subsidies), 263, 268b (Private receiving of bribes), 268c</p>
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	<p>AND PUNISHING THE PUNISHABLE ACTS OF PASSIVE TRANSNATIONAL BRIBERY AND ACTIVE TRANSNATIONAL BRIBERY.”</p>	<p>(Private giving of bribes), 300 (Aggravated passive bribery), 301 (Aggravated passive bribery), 302 (Giving bribes), 303 (Aggravated giving of bribes), and 305 (Malfeasance).</p> <p>2. a crime.</p> <p>3. committed by a member of a criminal organization, as provided for in Article 239.</p> <p>4. those specified in Articles 37 to 45 of Law N° 1340/1988 “AMENDING AND UPDATING LAW N° 357/72, PUNISHING SMUGGLING OF NARCOTICS AND DANGEROUS DRUGS AND OTHER RELATED CRIMES AND ESTABLISHING MEASURES FOR PREVENTION AND FOR DRUG ADDICT RECOVERY,” and amendments thereto.</p> <p>5. those specified in Articles 94 to 104 of Law N° 4.036/2010 “ON FIREARMS, THEIR PARTS AND COMPONENTS, AMMUNITION, EXPLOSIVES, ACCESSORIES, AND RELATED ITEMS.”</p> <p>6. as provided for in Article 336 of Law N° 2422/2004 “CUSTOMS CODE.”</p> <p>7. those provided for in Law N° 2523/2004 “PREVENTING, CLASSIFYING AND PUNISHING UNLAWFUL ENRICHMENT IN PUBLIC OFFICE AND INFLUENCE PEDDLING.”</p> <p>8. as provided for under Article 227, subsection e) of Law 5,810/2017 “SECURITIES MARKET.”</p> <p>9. the punishable acts of giving bribes and transnational taking of bribes, provided for under the respective Law. (LAW N° 6430/19 “PREVENTING, DEFINING, AND PUNISHING THE PUNISHABLE ACTS OF TRANSNATIONAL TAKING OF BRIBES AND TRANSNATIONAL GIVING OF BRIBES”).</p> <p>2. The same penalty shall apply to anyone who:</p>
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		<ol style="list-style-type: none">1. obtains any of the items referred to in the preceding subsection, transfers it or provides it to a third party; or,2. keeps it or uses it for self or for somebody else, having known its provenance at the time of obtaining it.3. In such cases, punishment shall also apply to the attempt.4. When the perpetrator acts for business purposes or as a member of a gang formed to continue engaging in money laundering, the penalty of imprisonment may be increased to up to ten years. The provisions of Articles 57 and 94 shall also apply.5. Whoever, in the cases referred to in subsections 1 and 2 – and due to gross negligence – disregards the source of an item derived from any unlawful act referred to in subsection 1, shall be liable to imprisonment for up to two years or to a fine.6. Such an act shall not be punishable under subsection 2 when the item has been previously obtained by a third party in good faith.7. The items referred to in subsections 1, 2, and 5 shall be deemed to be the proceeds of an unlawful act committed outside the scope of application of this law, when that act is criminally liable to punishment in the location where it was committed.8. The following persons shall not be punished for money laundering:<ol style="list-style-type: none">1. anyone who voluntarily informs or causes the competent authority to be informed of the act, provided that it has not yet been totally or partially uncovered, and that the perpetrator knew about it; and,
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	<p>The criminal laws also incorporate Law N° 6379/2019.</p>	<p>2. anyone who, in the cases in subsections 1 and 2, under the assumptions of the preceding paragraph, facilitates the seizure of items related to the punishable act.</p> <p>9. when the perpetrator, by voluntarily disclosing knowledge, has contributed significantly to clarification of:</p> <ol style="list-style-type: none">1. the circumstances of the act that exceed the perpetrator's own contribution to it; or,2. an act referred to in subsection 1, which was unlawfully committed by another, the court may mitigate the penalty in accordance with Article 67, or may dispense with it. <p>10.- Money laundering shall be considered as an independent punishable act, in the sense that prosecuting it shall not require a judgment on the underlying unlawful act.</p> <p>11.- In cases where the preceding unlawful act is one covered in Article 261 of the Criminal Code, it shall not be punishable for money laundering when:</p> <ol style="list-style-type: none">1. Anyone who conceals the item derived from an unlawful act covered in Article 261 of the Criminal Code is the perpetrator of that act.2. The perpetrator has engaged in the conduct in accordance with paragraph 5. <p>This Law creates specialized competence in economic crimes and corruption in criminal courts – courts of guarantees, criminal enforcement courts, sentencing courts, and appeals courts – to hear proceedings for acts of money laundering; against money laundering, when the estimated amount of the assets is equivalent to or exceeds the seven hundred and fifty (750) days minimum</p>
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		<p>wage that is established for unspecified miscellaneous activities; against ownership of the items and against property rights, defined as: Appropriation; Frustration of individual enforcement; Conduct leading to bankruptcy; Misconduct in situations of crisis; Violation of the duty to keep good business records; Favoring creditors; Favoring the debtor; Violation of copyright and related rights; Violation of the rights of trademarks, and industrial designs and models, when the value exceeds 5,500 (five thousand, five hundred days minimum wage) for unspecified miscellaneous activities; against property, defined as: swindling; swindling via computer systems; clandestine use of a service; clandestine exploitation of a service; accident with intent to commit fraud; breach of trust; where the value exceeds five thousand five hundred (5,500) days' minimum wages for unspecified miscellaneous activities; against the performance of public duties defined as: passive bribery; aggravated passive bribery; bribery; aggravated bribery; malfeasance and extortion and improper collection of fees. In the latter case, lawyers and court officers shall be included when the value exceeds five thousand five hundred (5,500) days minimum wages for unspecified miscellaneous activities; against the treasury defined as tax evasion and fraudulent acquisition of investments, when the value exceeds five thousand five hundred (5,500) days minimum wages for unspecified miscellaneous activities; against customs collections defined as smuggling when the value exceeds five thousand five hundred (5,500) days minimum wages for unspecified miscellaneous activities; against the stock market defined in the relevant law, when the value exceeds five thousand five hundred (5,500) days minimum wages for unspecified miscellaneous activities; and, punishable acts committed concurrently with the aforementioned crimes.</p>
27. Peru	LEGISLATIVE DECREE ON THE EFFECTIVE FIGHT AGAINST MONEY	SECTION IV Corruption of public servants Article 393.- Passive bribery for one's own benefit Article 393-A.- International passive bribery



	<p>LAUNDERING AND OTHER CRIMES RELATED TO ILLEGAL MINING AND ORGANIZED CRIME</p> <p>Article 1.- Acts of conversion and transfer. Any person who converts or transfers money, assets, effects, or profits, the illicit origin of which is known or should be presumed, in order to prevent identification of their origin, their seizure, or their confiscation, shall be liable to not less than eight nor more than fifteen years imprisonment plus a fine of 120 to 350 days' pay.</p>	<p>Article 394.- Passive bribery for the benefit of a third party</p> <p>Article 395.- Specific passive bribery</p> <p>Article 396.- Passive corruption of court staff</p> <p>Article 397.- Generic active bribery</p> <p>Article 397-A.- Active transnational bribery</p> <p>Article 398.- Specific active bribery</p> <p>Article 399.- Negotiation incompatible with public office or abuse of office</p> <p>Article 400.- Influence peddling</p>
<p>28. Saint Kitts and Nevis</p>	<p>Section 4 of the Proceeds of Crime Act establishes, among other things, that: A person engages in money laundering where (a) the person engages, directly or indirectly, in a transaction that involves money or other property that is proceeds of crime; (b) the person receives, possesses, disguises, conceals, disposes of, or brings into, or transfers from Saint Christopher and Nevis, any money or other property that is proceeds of crime; (c) the person (i) conspires to commit; or (ii) attempts, incites another, aids, abets, counsels, facilitates or procures the commission of any of the activities in paragraphs (a) and (b).</p>	<p>Sections 5 and 12 of the First Schedule of the Justice Protection Act 2012 include corruption as one of the offenses to be covered under the Justice Protection Programme.</p> <p>Section 9 of the Organized Crime (Prevention and Control) Act, establishes, <i>inter alia</i>, that: A person who engages in corruption commits an offence.</p>



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29. Saint Lucia	A MONEY LAUNDERING (PREVENTION) ACT is in place, establishing the powers of the authorities to prevent and combat this crime. The said Act also addresses the risks of corruption associated with PEPs.	The Criminal Code contains an entire section that covers the different types of corruption in elections, judicial corruption, and other crimes such as extortion.
30. Saint Vincent and the Grenadines	Saint Vincent and the Grenadines has criminalized the fraudulent taking or concealment of property derived from any act of corruption; and the Criminal Code includes the forms of involvement as perpetrator, co-conspirator, instigator, accomplice, accessory after the fact or otherwise participating in the commission, attempt to commit, connivance or conspiracy to commit any act of corruption.	Crime of fraudulent exploitation or concealment of assets derived from any act of corruption.
31. Suriname	Anticorruption Act Anticorruption Commission Criminal Code covering the crime of corruption	Criminal Code 2015 crimes of corruption; however, the following should be noted: Firstly, Article 427 deals with acceptance, but not solicitation, directly or indirectly, of gifts or promises in exchange for action or omission in the performance of public duties. Secondly, the aforementioned Article 427 only refers to acceptance of gifts or promises, without mentioning items of monetary value or other benefits, such as favors or advantages. Thirdly, this article does not specifically state that the benefit may be not only for oneself, but also for third parties . Lastly, the article establishes the penalty for an act or omission only when this is contrary to the obligations of the public servant .
32. Trinidad and Tobago	Justice Protection Act, Chap. 5:07	Chap. 11: 27 of the Proceeds of Crime Act (POCA) defines money laundering and associated crimes in Trinidad and Tobago and imposes penalties of



	<p>Corruption Prevention Act, Chap. 11:11, 1987</p> <p>Proceeds of Crime Act, Chap. 11:27</p>	<p>up to 15 years imprisonment and fines of up to TT\$25 million (US\$4 million). Trinidad and Tobago has established all indictable offenses as predicate offenses for money laundering, including drug trafficking, kidnapping, extortion, corruption, offenses against the public service, fraud, or financial crimes, and intellectual property crimes. Trafficking in firearms, migrant smuggling, and trafficking in persons are not considered indictable offenses in Trinidad and Tobago.</p>
<p>33. United States</p>	<p>31 U.S.C. 5311 – Statement of purposes. United States Code, Title 31, Subtitle IV, Chapter 53, Subchapter III.</p> <p>18 U.S. Code. United States Code, Title 18, Part I, Chapter 95, § 1956.</p> <p>18 U.S. Code. United States Code, Title 18, Part I, Chapter 11, § 201.</p>	<p>Money laundering and related financial crimes. The term “money laundering and related financial crime”— (A) means the movement of illicit cash or cash equivalent proceeds into, out of, or through the United States, or into, out of, or through United States financial institutions; or (B) has the meaning given under State and local criminal statutes.</p> <p>(Laundering of monetary instruments) (a) (1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity— (A)(i) with the intent to promote the carrying on of specified unlawful activity; or</p> <p>(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or</p> <p>(B) knowing that the transaction is designed in whole or in part – (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or (ii) to avoid a transaction reporting requirement under State or Federal law.</p> <p>(b) (2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:</p>



		<p>(A) being influenced in the performance of any official act; (B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or (C) being induced to do or omit to do any act in violation of the official duty of such official or person;</p> <p>§205 Acceptance or solicitation to obtain appointive public office.</p>
<p>34. Uruguay</p>	<p>Law 17,060 establishes rules governing misuse use of public office (corruption), while Decree 30/003 deals with conduct in public office.</p> <p>Under the current regime in the Eastern Republic of Uruguay, the only recourse available for public servants to report an act of corruption – or a violation of the established rules of conduct – is to go to their superiors.</p>	<p>Uruguay’s Criminal Code treats corruption as an exacerbating circumstance.</p> <p>Law N° 18,494 CONTROL AND PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING</p> <p>ARTICLE 1.- All natural or legal persons under the oversight of the Central Bank of Uruguay shall be obliged to report transactions, whether carried out or not, which are unusual in terms of the uses and customs of the respective activity; occur without any evident economic or legal justification; or are unusually or unjustifiably complex. Financial transactions involving assets the origin of which is suspected to be unlawful must also be reported.</p> <p>Also considered as predicate offenses are the crimes against public administration included in Title IV of Volume II of the Criminal Code and those established in Law N° 17,060 of December 23, 1998 (crimes of public corruption).</p>
<p>35. Venezuela.</p>	<p>It is governed by international standards such as the Palermo Convention to Prevent and Combat Money Laundering. Anti-corruption law Criminal Code of Venezuela</p>	<p>When corruption is considered a crime, a money laundering investigation could therefore be undertaken involving corruption as a predicate offense.</p>

Preliminary conclusions

From a review of the laws of the countries of the region, and from examining both the money laundering typologies and the different types of corruption and tax fraud offenses they cover, it can be concluded that:

- Generally, the countries of the region view corruption as a predicate offense for money laundering, imposing penalties of imprisonment together with fines and temporary or permanent debarment from holding public office.
- In determining the predicate offense of corruption for money laundering, certain countries provide for an open regulation, giving a generic definition of what is understood as money laundering and what acts are understood to constitute corruption – the two types not being mutually exclusive.
- With respect to the preceding point, other countries opt for a set list, in which money laundering is defined and the law itself spells out what acts of corruption are predicate to money laundering (as in the case of Chile).
- Different countries of the Americas have an open-ended definition as to what is understood by corruption, while others include different acts of corruption (such as illegal exaction, malfeasance, bribery, etc.) in their laws, thus restricting acts of corruption to certain types.
- Certain countries do not include corruption as a predicate offense for money laundering in a broad or straightforward way for its application, either because their money laundering laws go into detail as regards to whom it applies, or because they include additional requirements; or because they do not expressly criminalize corruption, and its application must be attempted through other criminal offenses, such as bribery.
- Nicaragua does not expressly mention corruption among predicate offenses for money laundering.
- For the relevant law to apply to acts constituting corruption offenses in Nicaragua, these must be linked to organized crime.
- Besides recognizing acts of corruption as a predicate offense for money laundering, Uruguay states that corruption is an exacerbating circumstance for criminal liability.
- Mexico recognizes corruption as a felony under the Constitution.

Still pending: Part II Typologies.

For the second part of this study, which is still pending, information for the analysis of the different types of corruption and money laundering in the region will be drawn from the Financial Intelligence and Financial Analysis Units and from international organizations that have published information on the subject.