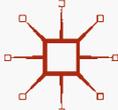


PETRUS C. VAN DUYNE,
JACKIE H. HARVEY, LILIYA Y. GELEMEROVA



The Critical Handbook
OF MONEY

LAUNDERING
POLICY, ANALYSIS AND MYTHS



The Critical Handbook of Money Laundering

Petrus C. van Duyne • Jackie H. Harvey
Liliya Y. Gelemerova

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*To my patient partner, Elise, and my daughters,
Freya and Machteld – Petrus C. van Duyne
To Simon, Rachel and Ellen – Jackie H. Harvey
To my family – Liliya Y. Gelemerova*

Preface

Most scholarly handbooks are written for an educational aim: to spread knowledge. That is a lofty objective. However, with the present work this was not the primary aim. We were driven by a simpler knowledge objective: after many years of working in the field of anti-money laundering we still had the feeling we did not understand it properly. Of course, we were well informed of the many technical and policy aspects and had published widely about them. But yet we had the feeling that we had no comprehensive grasp on the manifold relationships and interconnections of the many facets. Likewise we were baffled by the many statements about the alleged threat posed by money-laundering which did not appear to mitigate over time. Indeed, irrespective of the putting in place of an ever more powerful apparatus against money-laundering and an intensified control of international compliance, we never observed a lessening of the warnings against the laundering threat. That gave us a feeling of working on a puzzle with many missing pieces (or including those from another puzzle), while the manufacturer, the FATF, presents us an impressive picture on the lid. Is there a mismatch and where? This gave the drive to *know* in the first place: to analyse the facts and determine and discard what appeared to be non-matching myths.

From this angle the field of research looks vast but is by hindsight simple, as long as one wants to keep it simple. Soon there appeared one piece which remained difficult to integrate in the whole: terrorist finances. First, it is technically not laundering. Secondly, the amounts of reported terrorist financing are relatively low. Nevertheless, in the FATF documents money-laundering is repeatedly concatenated with terrorist financing: ML/TF with the only effect of creating a kind of lengthy empty mantra-drone. As this work is not dealing with empty mantras, we left TF out.

Writing a handbook on a changeable phenomenon due to its dependence on changes in politics, may have the consequence of needing a regular update. This handbook may provide a solid foundation for such updates, for example, regarding emerging illegal profits related to climate change: environmental or ‘agro-laundering’, or to the relatively new cryptocurrencies. If this work can contribute to such updating it would serve as a useful and dynamic knowledge product.

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List of Acronyms

AML	Anti Money Laundering
AML/CFT	Anti Money Laundering/Countering the Financing of Terrorism
APEC	Asia Pacific Economic Cooperation
APG	Asian Pacific Group on Money Laundering (also the Asian/Pacific Group)
APGML	Asia/Pacific Group on Money Laundering
BIS	Bank for International Settlements
BSA	The United States Bank Secrecy Act of 1970 is the shortened reference for The Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act of 1970 (31 U.S.C. 5311 et seq.)
CAD	Canadian Dollars
CAM	Criminal Asset Management
CC	Criminal Code
CDD	Customer Due Diligence
CEMAC	Communauté Economique et Monétaire d’Afrique Centrale (Economic and Monetary Community of Central Africa)
CFATF	Caribbean Financial Action Task Force (FATF Regional Style Body)
CFT	Countering the Financing of Terrorism
CIA	Central Intelligence Agency
CMIR	Currency and Monetary Instrument Report
CoE	The Council of Europe
CTRs	Currency Transactions Reports
DEA	Drug Enforcement Administration
DNFBPs	Designated Non-Financial Business and Professionals
DoJ	United States Department of Justice

DPA	Deferred Prosecution Agreement
DYMINIC	Dynamic Multiple-indicators Multiple Causes, a statistical technique for determining explanatory variables for the size of the shadow economy
ECOWAS	Economic Community of West African States
EFCC	Nigerian Economic and Financial Crime Commission
ESAAMLG	Eastern and Southern African Anti-Money Laundering Group
EU	European Union
EUROPOL	European Union Agency for Law Enforcement Cooperation
FATF	Financial Action Task Force
FATF-AR	Financial Action Task Force – Annual Report
FCA	the United Kingdom Financial Conduct Authority
FDI	Foreign Direct Investment
FinCEN	the United States Financial Crimes Enforcement Network
FINTRAC	Financial Transactions and Reports Analysis Centre of Canada
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Programme (jointly run by the IMF and the World Bank)
FSRBs	FATF- Style Regional Bodies
G-7	Group of Seven (Forum of seven countries to coordinate economic security and energy policy Canada, France, Germany, Italy, Japan, the United Kingdom and the United States)
G-9	Group of Nine (A group of nine Northeastern European nations that would meet occasionally to discuss matters of mutual interest.)
G-20	Group of Twenty (Central forum for international corporation on financial and economic issues comprising 19 countries and the EU)
GABAC	Action group against money laundering created in 2000 by the Economic and Monetary Community of Central Africa
GAFILAT	Financial Action Task Force of Latin America (Formerly GAFISUD)
GAFISUD	Grupo de Acción Financiera de Sudamérica - Financial Action Task Force of South America against Money Laundering (Later changed to GAFILAT)
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GIABA	Groupe Inter-gouvernemental d'Action contre le Blanchiment en Afrique (Inter-Governmental Action Group against Money Laundering in West Africa)
GNP	Gross National Product
HSBC	The Hongkong and Shanghai Banking Corporation

IBRD	International Bank for Reconstruction and Development (also referred to as the World Bank)
ICRG	International Cooperation Review Group within the FATF
IMF	International Monetary Fund
Interpol	International Police Organisation
IRS	United States Internal Revenue Service
KYC	Know-Your-Customer
LEAs	Law Enforcement Agencies
LIBOR	London Interbank Offered Rate
MCDR	Modified-Cash-Deposit-Ratio
MENA	Region Middle East and North Africa region
MENAFATF	Middle East & North Africa Financial Action Task Force
MERs	Mutual Evaluation Reports
MIMIC	Multiple Indicator, Multiple Causes (see DYMINIC)
ML	Money Laundering
ML/TF	Money Laundering/Terrorist Financing
MLRO	Money Laundering Reporting Officer
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (formerly PC-R-EV) within the Council of Europe
MVTS	Money or Value Transfer Services
n a	Not Applicable
NCCT's	Non-Cooperative Countries and Territories
NDLEA	Nigeria National Drug Law Enforcement Agency
NFIU	Nigerian Financial Intelligence Unit
NNC	The Dutch Central Catalogue for libraries
NOK	Krone
NPOs	Non-Profit Organisations
NRA	National Risk Assessment
NZ	New Zealand
OC	Organised Crime
OCC	United States Office of the Comptroller of the Currency
OCGs	Organised Crime Groups
OECD	Organisation for Economic Co-operation and Development
OFC	Offshore Finance Centre
OFE	United States Treasury Department's Office of Financial Enforcement
PCMLTFA	Canada Proceeds of Crime Money Laundering and Terrorist Financing Act 2000
PC-R-EV	See MONEYVAL
PEPs	Politically Exposed Persons
POCA	United Kingdom Proceeds of Crime Act 2002
RBA	Risk Based Approach
RCMP	Royal Canadian Mounted Police

RICO	The United States Racketeer Influenced and Corrupt Organizations Act 1970
SARs	Suspicious Activity Reports
SEM	Simultaneous Equation Models/Structural Equation Models
SSRN	Social Science Research Network - Research database
STRs	Suspicious Transaction Reports
TF	Terrorist Financing
UK	United Kingdom
UN	United Nations
UNODC	The United Nations Office on Drugs and Crime
US	United States
USA BSA	US Bank Secrecy Act (BSA)
WGEl FATF	Working Group on Evaluations and Implementation
WGTM FATF	Working Group on Terrorist financing and Money laundering
WGTYP FATF	Working Group on Typologies

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1

Money-laundering: a global issue and scarce knowledge

1.1 Introduction: why this book?

Writing a book on a subject that surfaced 25 years ago looks like writing a contemporary history book. Given that the subject, in this case money laundering, is still perceived to be an acute problem, there is nothing wrong with looking back and raising questions about what happened, what went well and what went wrong.

The initiative to do something about the profits of crime, more than three decades ago, was not a one-off event. It has continued to develop up until the present day and indeed, is still evolving. Therefore, it is appropriate to look back in time as well as to look around in the present and wonder what was the original state of knowledge about this phenomenon and what is its present 'state of the (knowledge) art'. We expect that a quarter of a Century of policy implementation provides a suitable time span for surveying what happened with this new anti-laundering supervisory and law enforcement regime. This comprises the accompanying ideas and concepts as well as the empirical material which should have been unearthed in the course of combating this menace. Given the variety of stakeholders in the field, one would also expect a multitude of insights, narratives and a great deal of data.

Naturally, given the importance of the subject, one would expect that all this has already been brought together in one or more comprehensive volumes, leaving us only the task of updating. However, that is not the case. It is true that many eminent studies and monographs have been published since money laundering became a global political issue. We will discuss these in later chapters. But it is also true that notwithstanding all these efforts, there is

still much fragmentation of data and little unity in concepts, with the exception of the idea that money laundering is a serious threat (even if there may be some rare dissidents). However, the shared agreement about its threat is a shallow one, covering many opinions on the nature of crime-money. Does it imply gross proceeds or net profits; saved money due to economic and financial crime? Nobody can spell out the real nature of the threat or make a substantiated statement about its size: “how much?” Addressing this question is bound to lead to disagreement because the underlying question “Where are the (validated) facts and figures?” has not yet been properly addressed. Addressing this issue may also reveal a variety of assumptions that are not shared by all participants in this undertaking. For example, the economic (macro) approach works with different assumptions than the behavioural, empirical approach.

This contrasts with what one may reasonably expect if one would, as a layman, for the first time learn about the gravity of a threat which has loomed for decades above our heads without becoming smaller, but also without ‘coming down’. This justifies some suspicion: can it be true that a threat that has endured for decades has still failed to materialise? Such circumstances taken together would in other situations be sufficient to lose faith in the threat predictions. Strangely enough this is not the case with the subject of money laundering. Despite this non-occurrence, empirical observations on these doomsday scenarios are few and far between. Remarkably, though its ‘non-occurrence’ has been put forward and challenged, such as by Ferwerda (2013) or Reuter (2013), it has rarely been picked up and debated politically. In terms of Popper’s (1969) philosophy of science: in the absence of “conjectures and refutations” there is no real debate. Perhaps this circumvention of debate may be the best way to uphold faith in the tenets of the anti-money laundering policy. Whether this is the case has never really been properly made explicit. And as the philosopher Wittgenstein remarked: “*Wovon man nicht sprechen kann, darüber muß man schweigen.*”¹ So, for the time being we maintain the faith aspect as it is. Later in this work our hypothetical layman will return and haunt us with plain questions about policy tenets, such as “What is all this good for?” We will then see whether we have collected sufficient material to answer him with facts instead of faith.

From the threat perspective mentioned above it is worthwhile bringing facts, concepts and opinions together in one narrative which is not about one particular point to be proven and others to be rejected. Rather the aim is to put together views, concepts, facts and findings and analyse them to the bone. Views can contain truths, half-truths and myths; empirical findings and their interpretation can be valid, biased or spurious. All that has to be brought to light and narrated. We think it is time for such a narrative.

¹ “What we cannot speak about we must pass over in silence” (Wittgenstein, 1922; translation 1960).

1.2 Where did the global anti-money laundering narrative start?

The international anti-money laundering policy is considered to have been ‘cemented at the summit meeting of the Heads of State of the G-7 in Paris in July 1989. It followed from previous initiatives, including the US Bank Secrecy Act of 1970.² The ‘G-group’ is an informal gathering of Heads of States, Prime Ministers, Ministers of Finance or their delegates of the most important industrialised countries. These meetings started in 1973 in the White House with five participants. Given the informal nature of these gatherings that number has changed at each subsequent event. At present there are 20 members and consequently we speak of the G-20, though it is still as informal as when it was the G-7.

In 1989, the leaders of the industrialised world came together to discuss a wide range of subjects. There were 11 issues on the agenda³ and money laundering was just a sub-subject of the last one: drugs issues, of which the last two sections were devoted to criminal assets recovery and the creation of a financial action task force respectively.⁴ It looked like the proverbial mouse coming out of the mountain. It would prove to become a mouse with a long, never-ending tail. Interestingly it was the only outcome of this meeting that crossed the memory threshold of history. This first meeting and the actions arising from it will be re-visited in Chapters 8 and 9.

The delegates of the attending states expressed their usual ‘grave concern’ about the phenomenon of laundering money originating from drug trafficking. Growth in drug trafficking in the 1980s was conjoined with ‘laundering’ in the minds of officials. It is from here that the imagery of a serious global financial threat was put forward. However, after a quarter of a Century that threat is still not substantiated. Taylor (1992) considered this imagery as seri-

² Strengthened by the US Money Laundering Control Act, 1986; the UN convention against illicit traffic in narcotic drugs and psychotropic substances, 1988, the ‘Vienna Convention’; and the Basel Statement of Principles, ‘Prevention of criminal use of the banking system for the purpose of money-laundering’ (1988). Also see the discussions in Chapters 7 and 9.

³ The range of discussion points was very broad: from the international economic and financial situation to international cooperation against AIDS with the situation of the poorest and heavily indebted countries discussed in between.

⁴ “Convene a financial action task force from Summit participants and other countries interested in these problems. Its mandate is to assess the results of cooperation already undertaken in order to prevent the utilization of the banking system and financial institutions for the purpose of money laundering, and to consider additional preventive efforts in this field, including the adaptation of the legal and regulatory systems so as to enhance multilateral judicial assistance. The first meeting of this task force will be called by France and its report will be completed by April 1990.” Item 53 of the final resolution in the ‘key Sections of the Paris Communiqué by the group of Seven’, Paris, 16 July 1987 and published in the *New York Times*. Available at <http://www.nytimes.com/1989/07/17/world/key-sections-of-the-paris-communiqué-by-the-group-of-seven.html?pagewanted=all>. Accessed 11 December 2017.

ously misleading.⁵ Apart from that, this proclamation attracted much attention and it looked as if a new threat had been identified: not only by the seven industrialised countries present at that meeting, but by an ever-growing number of countries.⁶ When such a 'grave concern' is being expressed persistently by world leaders it is to be expected that the international political community will lend its unrestricted support – and so it did.

As a matter of fact, the initiative of the G-7 was no surprise. There was a confluence of political decision making to outlaw money laundering. In this policy development the USA took the initiative with the US Money Laundering Control Act in 1986, which followed the Bank Secrecy Act of 1970. It used its political leverage to put drug related money laundering on the international agenda of the UN, leading to the Vienna Convention in 1988. In the same year the Basel Committee on Banking Supervision issued a statement warning banks and other financial institutions against being "unwittingly used" in the processing of crime-money. As discussed below, in 1990 the Council of Europe issued a Convention on Money Laundering⁷, followed by the European Commission Directive in 1991.⁸

With so much confluence the question must be raised whether there was a real acute criminal, financial or economic problem caused by the purported drug-money 'wave'? There is no contemporary evidence to underline this view. As a matter of fact, the US administration thought it had a drug-money problem caused by the cocaine boom and related finances in the 1980s. But given the US drug history, this was not a suddenly emerging issue to be addressed with so much emphasis *now* (Van Duyne and Levi, 2005; ch. 2).

There are many stories about wealthy organised crime figures from the 1920s onwards. Some of whom knew how to handle their ill-gotten funds during the prohibition era, mainly derived from organised bootlegging. After the abolition of the prohibition many crime-entrepreneurs arranged a settlement with the Inland Revenue Service and converted their illicit commerce into upperworld enterprises. An example of this 'gentrification' is Joe Kennedy, the father of the president of the US (Kessler, 1996). Others, the most famous of them Al Capone, learned to know the Inland Revenue Service in a less favourable way and ended up paying dearly. Other gangsters came under financial attack as well (Abadinsky, 2003). On this front the legendary Mayer Lansky earned his fame as a professional criminal money manager (Lacey, 1991; Gelemerova, 2011). Hence, the issue of 'criminal

⁵ For the history of deception on the drug portfolio see Van Duyne and Levi (2005, Ch. 1).

⁶ In the first year of its existence the following countries joined the FATF: Sweden, Netherlands, Belgium, Luxembourg, Switzerland, Austria, Spain and Australia. (FATF Annual Report, 1990-1991; p. 4).

⁷ Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (September).

⁸ First Money Laundering Directive.

money management', later called laundering, was not a new phenomenon or threat in the 1970s and 1980s. However, systematic knowledge based on facts and figures was not available. Reports aiming at presenting crime-money as a national and global threat were to a large extent based on anecdotes and 'expert' opinions. (We will elaborate on the issue of systematic empirical underlining later.)

As we will discuss in chapter 2, the subject of money laundering had been worked on politically, step by step, for years. When we abstract from the first relevant US attempt to control the flow of the proceeds of (primarily tax) crime by the Bank Secrecy Act of 1970, the major breakthrough was brought about by the US Money Laundering Control Act of 1986. From that enactment onwards, the USA initiated a relentless internationalisation of its anti-money laundering policy. Three major achievements have been mentioned already. In 1986, money-laundering had been brought to the fore in the UN Congress' resolutions concerning transnational organised crime. Two years later, the UN agreed on what became known as the Vienna Convention against drug trafficking.⁹ It criminalised the laundering of drug money although the term 'laundering' was not specifically mentioned. Given the importance of this history the subject is revisited again in Chapters 3, 4 and 7. In December 1988, the earlier mentioned Basel Committee on Banking Supervision issued a number of principles to prevent the abuse of the financial system for laundering purposes: the Basel Statement of Principles.¹⁰ The streams of anti-laundering policy were now converging indeed. Finally, in 1990, in the same year as the publication of the (first) FATF report, the Council of Europe issued its anti-laundering convention (entering into force in 1993). The European Commission could not but follow suit and in 1991, the first money laundering directive was adopted.¹¹

Against this background one can say that the subject of anti-money laundering was everywhere 'in the air' and not as something indeterminable. As will be discussed in the chapters on literature, taken together, one could observe the fruits of a well-planned targeting policy that ultimately led to the 1989 G-7 summit and the establishment of the FATF. As the unfolding of the anti-money laundering policy reached higher stages, the tone and the rhetoric became more shrill: Levi (2003) pointed at the 'evangelistic zeal' of the proponents as if many still had to be convinced or 'converted'.

⁹ UN Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances ('Vienna Convention'/19 December 1988).

¹⁰ Basel Statement of Principles on the Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering ('Basel Statement of Principles' 12 December 1988).

¹¹ Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering [Official Journal L 166 of 28.06.1991].

Van Duyne experienced the USA evangelising the ‘happy laundering message’ in the beginning of the 1990s, when a delegation presented the USA Money Laundering Control Act to Dutch police officers and representatives of the Dutch Ministry of Justice. The interest was not only raised by a technical explanation of the law but also by pictures and press clippings of happy sheriffs next to shining cars they had confiscated, their happiness being enhanced by the prospect of shared confiscations between police forces, including those abroad.

As will be seen, this evangelistic drive had some grounds. While nobody will openly favour money laundering, not all governments or financial institutions were as equally eager to become involved in all aspects of the ‘crusade’ which the FATF (with the IMF and the USA agency FinCEN behind it) intended to unleash. Every country had (and still has) its favoured financial blind corners, in particular concerning significant corporations who really matter within the national economy. For example, one may wonder how many ‘suspicious activity reports’ failed to have been filed about wealthy Russians and Nigerians buying property in West London.¹² Or the ‘caviar diplomacy’ of the Azerbaijan president and his wife, as has come to light after a number of years of banking and, allegedly, making questionable payments in the UK and elsewhere in 2012-2014.¹³

1.3 A sense of urgency and accumulation of knowledge

As already indicated in the introductory section, there is little accumulation of knowledge from empirical sources, despite all the political expressions of ‘grave concern’. There are empirical research projects, such as by Unger and van der Linde (2013), but these are also hampered by lack of reliable data, having to make use of ‘proxy data’ instead, or make far-reaching and apparently unsupported assumptions (Walker, 1995). These are discussed further in Chapters 7 and 8.

This state of affairs proves to be a systematic historical shortcoming (Van Duyne, 2004). For example, there are no time-series going into aspects such as the annual increase of ‘available’ crime-money.¹⁴ Until the present day we still have to rely on wild and imprecise, if not wrong, estimates and extrapo-

¹² “Why are rich Russians so obsessed with buying up London property?” Stephen Moss, Friday, 9 May 2014, *The Guardian* on-line. Available at: <http://www.theguardian.com/cities/2014/may/09/rich-russians-buying-london-property-real-estate>; “Wealthy Africans spending almost £4million on London property every week as they snap up some of the most exclusive investments in the capital”. Emma Glanfield, 27 October 2014, available at: <http://www.dailymail.co.uk/news/article-2808556/Wealthy-Africans-spending-4million-London-property-WEEK-snap-exclusiveinvestments-capital.html>. Accessed 5 February 2016.

¹³ UK at centre of secret \$3billion Azerbaijani money laundering and lobbying scheme. *The Guardian*, 4 September 2017.

¹⁴ Often data have to be ‘scraped’ together from neglected databases (Van Duyne *et al.*, 2009). Lack of proper statistical data is also a regularly mentioned criticism in the Mutual Evaluation Reports.

lations. For example, if each year a chunk of the supposed one trillion of crime money is laundered (or ‘available’), starting from 1990 when the FATF rolled out its standards, then by 2015, we would have a global mass of \$25 trillion of crime money. But this represents only a linear accumulation which may be misleading, because the rule “money makes money” also applies to crime money which then has to be augmented with an unknown multiplier because of annual interest and investment. Hence, to the roughly trillion dollars earned per year one must add an annual interest and dividend of the previous years, which further accumulates every year: the fruits of crime-money are also crime-money. And all this is ‘available’ for laundering. Or actually laundered? This may be a fundamental confusion we will discuss later in Chapter 7.

The next question is what has happened (and is happening) with this continuously accumulating financial ‘criminal chunk’? In the literature we could not identify studies or data addressing this accumulation theme of the annual linear inflow + non-linear interest + dividend. As remarked above, if this is a plausible model then it implies an annually increasing, undifferentiated threat. It looks like a thick cloud that has failed to be dissected into differentiating statistics. There are a few ‘bright sunbeams’ through that cloud, but these do not address this question of criminal wealth accumulation (Savona and Riccardi, 2015; Van Duynes, 2003). Also, Alldridge (2003) justifiably sighs that thus far he has not seen the corresponding statistics of a global financial disaster due to laundering. As will be discussed later in Chapters 3 and 7, the early IMF inspired literature (Tanzi, 1996; Quirk, 1996) with its global financial risk list has now largely given way (with the exception of some of the European economists) to models addressing the relationship between regulation and laundering activity (see, for example, Masciandaro 1998, 1999; Araujo, 2008, 2010; Takáts, 2011; and Johannesen and Zucman, 2014).

Equally lacking are studies on global financial disruption due to laundering despite the many statements made by the World Bank or the IMF (Reuter, 2013). Nevertheless, a number of papers have reproduced these ‘concerns’ about crime-moneys ‘undermining the integrity of the financial system’ and their negative impact on real economic variables (see for example: Arnone and Borlini, 2010; Quirk, 1996, 1997; Tanzi, 1996; Masciandaro *et al.*, 2007; and Unger *et al.*, 2006).¹⁵ Actually, reproducing concerns must not be equated with furthering a pool of specific knowledge or a proper data management and analysis. Of course, there are occasional findings from research,

¹⁵ The IMF has to admit that there are hardly any data on the relationship between laundering and banking crises. The IMF 2011 mentions the Latvia banking crisis of 1995, which was rather due to mismanagement, ‘connected lending’ and other forms of internal mismanagement (IMF/Hagen, 2011, p. 87).

but these appear to be fragmented and local. We will survey these later in Chapters 3 and 8.

Despite this relatively long history of the anti-laundering policy we cannot but conclude that the policy makers and legislators had no pool of systematic empirical evidence from which they could draw. Nor are there indications that around the time the new policy was put forward the most important stakeholders, the founder countries, showed any interest in data management to empirically underline their statements.¹⁶ Even the IMF has to content itself with statistical proxies instead of proper statistics (IMF/Hagen, 2011, p. 63).

As we will see in our later elaboration of legislation, many of the statements contained within officially crafted documentation on laundering are circular: the FATF borrowed ‘data’ from the UN (UNODC) for its report in 1990, which was later again reused by the UN to be multiplied several times (Keh, 1996). This contributed to a repetition of wild guesses concerning the amount of laundering and the seriousness of the problem: apparently, big was (and is) beautiful.

This recycling developed as follows. The FATF 1990 report used the figure produced by the United Nations in 1987. This mentioned \$300 billion as the estimated proceeds for drug trafficking (although qualified by the FATF in their report as: “*remains very uncertain*” (p. 4)) In fact, for the US and Europe the FATF arrived at estimated drug sales (heroin, cocaine and cannabis) of \$ 122 billion per year of which “*50 to 70% or as much as \$85bn per year could be available for laundering and investment.*” We observe that of the multiplier range of 50-70% only the higher end was used. Indeed, a remarkable piece of estimation (Van Duyne, 1994).¹⁷ This number was again adopted by the UNODC (United Nations Office on Drugs and Crime). In a later report, the UNODC estimated the amount of crime-money (proceeds) at \$ 2.6 trillion yearly of which \$ 1.6 trillion would be ‘available’ for laundering (UNODC, 2011).¹⁸ Meanwhile, the question of “where does all that money go” has thus far not been systematically addressed. Van Duyne (2003) and Savona and Riccardi (2015) made attempts to answer this question. They found much

¹⁶ The recommendation to maintain comprehensive statistics was adopted in the 40 Recommendations 2004. Our study of the Mutual Evaluation Reports (Van Duyne *et al.*, 2016a, b) showed that this requirement was meagrely fulfilled: with a couple of crude statistics this recommendation was already considered complied. The presentation and layout of the quantitative material in the Mutual Evaluation Reports display a fair level of amateurism at the side of the FATF which has improved little over time.

¹⁷ The FATF mentioned in the 1990 report one deviating opinion of one Task Force member who “estimated global profits at the main dealer level, which might be most subject to international laundering, to be about \$ 30 billion per year” (p. 4). This perhaps more realistic observation disappeared silently from the public discourse.

¹⁸ The two words ‘proceeds’ and profits have been defined in footnote 1 of the FATF report. Roughly proceeds denoted the turnover or gross sales and profits are the net gain, all business costs subtracted. Although this should have consequences for estimations, one does not find this differentiation systematically considered.

traditional economic investments taking place and little of the presumed sophistication.

Nevertheless, at the time of presenting the new global 'AML' policy, the FATF's wild guesses were common and generally shared (Pieth, 1999). In the absence of a critical debate, that did not matter: they counted politically.¹⁹

Pushing such far-reaching policy making, based on only slim data, is remarkable but not exceptional. As observed by Van Duyne and Levi (2005) and Bruun *et al.* (1975), it stands on a comparable level of manipulation and deception as the policy making in similar, closely related fields: transnational organised crime (Van Duyne and Nelemans, 2011) and international drug trafficking (Bewley-Taylor, 1999). Irrespective of a 'slim data methodology', the stakeholders exerted a political weight and momentum to maintain the threat picture: big organised crime, enormous drug revenues and related laundering. This may be cemented by a human factor: the small club of policy makers. The number of policy makers and other experts involved who meet each other regularly in related international fora is rather limited (Van Duyne, 2004).²⁰ This may contribute to the gap between the highly prioritised cluster of (transnational, organised) profit oriented (drug) crime, crime-money and laundering, on the one hand, and the meagre research findings, on the other hand. There was not much interest in or stimulus for empirical knowledge. Where there are voids, they appeared to be filled by anecdotal evidence. Or, as in the drafting of the Transnational Organised Crime Convention, by reference to just *one* article in *Forbes Magazine* in 1980 (Van Duyne and Nelemans, 2011, p. 45). Otherwise invalid statistics (Van Duyne and Levi, 2005) were relied upon, at least to the satisfaction of most policy makers: if they agree on the shape of the globe, round or flat, research is not required.

Outside this mainstream of policy makers and politicians we find thinly spread basic research by Levi and Osofsky (1995), Van Duyne and De Miranda (1999) and Reuter and Greenfield (2001). Their findings called for caution concerning the official estimates and the related evoked threat images. Nevertheless, these findings were neglected by the political mainstream that followed the IMF in its estimates. Since 1996, after a speech of the Managing Director, this estimate was called the 'IMF consensus'. This consensus was the foundation for Walker's (1995) and Unger's (2007) attempts at quantification, floating the estimates to further undreamed-of heights.

¹⁹ See Enesto U. Savona and Michael A. Defoe. (1994) Proceedings of the international conference on 'Preventing and controlling money laundering and the use of the proceed of crime: a global approach', Courmayeur, Mont Blanc, Aosta Valley, Italy, 18th–20th June 1994.

²⁰ Bruun *et al.* (1975) observed a similar situation in the field of international drug policy: a small group of (usually) co-opted men (the 'gentlemen's club') heavily influenced the terms of the global anti-drug policy from the late 1920s onwards. See also Bewley-Taylor (1999) on the social cohesion achieved in the UN Narcotic Drugs Commission.

Altogether we are not short of literature. Since the first report of the Financial Action Task Force on money laundering (FATF, 1990), a never-ending flow of articles and books has been published though with little attention to basic facts and figures (Van Duyne, 2003, 2007). Many of the publications are either explanatory (laws and regulations) or confirmative. The confirmative publications just endorse or recycle official views and provide various justifications for the global anti-money laundering policy. The explanatory publications spell out what is meant by the various concepts and the anti-money laundering regime in terms of laws and regulations. If there are any empirical references, they most often concern ‘facts’ drawn from FATF reports or United Nations publications. As noted above, often times these are ‘recycled facts’ from earlier reports. Of course, such publications can be useful, but whether they should be considered as a pool of knowledge has to be determined. From this mainstream, critical scholars are not likely to be drawn into the discourse; see for example Alldridge (2003); Van Duyne and de Miranda (1999); Sharman (2008); Pieth (1999); Harvey (2005) and Hulsse (2008).

By its nature a pool of knowledge is never ‘completed’: new material is added while so-called ‘loose ends’ of previous research can provide a lead to new insights. However, lack of integration may lead to fragmentation, as is apparent in the volume edited by Unger and van der Linde (2013). This is a well-ordered and useful collection of separate contributions, each written for its own reason. But it does not represent an *integrated* stock taking: a heap of knowledge is not an accumulation of knowledge. Therefore, as mentioned before, there are clear gaps between the ‘books on the shelves’ that we trust our contribution will reveal. The aim of this book is to contribute to such an integrated stock taking which also implies analytical and methodological evaluations and not merely a ‘lining up’ of findings and publications. Stock taking and integration may also bring to light new ‘knowledge holes’ and loose ends. These can be important and must also be brought to attention as a kind of ‘black fact’. The result, with or without holes, should enlighten us about the ‘true story’ of money laundering.

1.4 Conclusion

The history of anti-money laundering that has been mapped out over the preceding 25 or so years is one that has been more supported by righteousness than by empirical facts. We observe a tendency to recycle data without proper testing or searching for original sources. To move knowledge in this area forward there is clearly a need for a critical assessment or stocktaking of the current state of knowledge. A stocktaking requires an assessment of what has

been contributed to our accumulated knowledge and understanding of money laundering within two domains. Firstly, from the official guidance handbooks and manuals that have been published by the authorities and, secondly, from the academic literature within its various disciplines. The methods by which we undertook our searches are set out in the next chapter.



2

Methodology

2.1 Introduction

We commented in Chapter 1 that despite over 25 years of academic study there is little in the way of accumulated knowledge or a pool of systematic empirical evidence on our subject. As a result, instead of following a fact-based policy, policy makers appeared to move around in a kind of ‘socio-political aquarium’: one swimming behind the other, quoting and re-quoting what is convenient and in making use of very narrow literature bases, only considering or placing greater emphasis on those statements that support their own stand. Thereby they created an interpretation of the world that has become a self-confirming reality (see Van Duyn, 1998; Levi, 2002; Gelemerova, 2011) wherein, money laundering has been and continues to be seen as a phenomenon that “*ultimately threatens the integrity of the financial system*”¹ and that “*shakes the very foundations of our society*”.² With hindsight, society has proved resilient in the face of far bigger financial disasters, such as the 2007/2008 credit crisis, in which suspect bankers and dubious financial products proved to have a bigger potential for shaking financial and social foundations, though this is not properly studied in the money laundering literature.

¹ US Department of the Treasury, available at: <https://www.treasury.gov/resource-center/terrorist-illicit-finance/Pages/Money-Laundering.aspx>. Accessed 4 March 2016.

² Directive 2005/60/EC 26 October 2005 (page 1) on ‘the prevention of the use of the financial system for the purpose of money laundering and terrorist financing’, available from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005L0060>. Accessed 19 October 2015.