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“Drug and profit: techniques used by drug dealers and the structures to fight against in France”

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A. The problematic

- Is the fight against criminal assets efficient to fight against drug trafficking ?
- Taking into account the fact that the usual tools have not stopped the flows of drugs

B. Statements of facts

- Few sentences for money laundering linked with drug trafficking in France
- The annual illicit drugs turn over around 3 billions Euros (cannabis around 830 millions Euros - source : OFDT, 2008)

C. Methodology

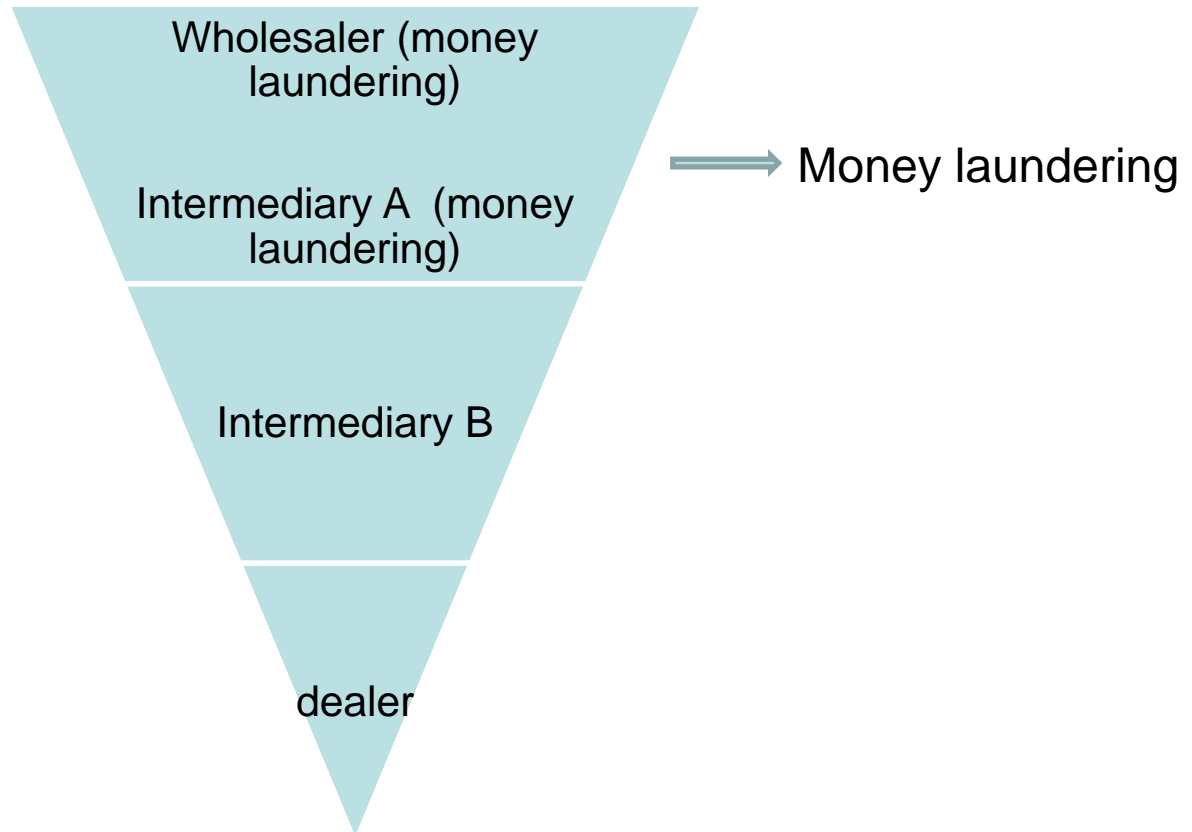
- Mainly, a qualitative approach (indirect methods)
- Transcripts of trials, law enforcement reports (Police, Justice, Defence)
- Institutional reports (parliamentary reports, Tracfin, Europol [Carin Network])
- Interviews with institutional (Police, Customs and Justice)

➤ Hypothesis :

- The dealer knows that he has to integrate a period of imprisonment during his career
- He is sensitive to the assets' seizures which has a real deterrent effect
- There are some obstacles for the justice system to pursue the act of money laundering linked with drug trafficking
- The scope of techniques used to launder is large
- The contiguity between illegal and legal spheres

Theoretical estimate of cannabis revenues according to an annual turn over of **832 millions Euros**.

- Levels of distribution:
- The money laundering experiences are the fact of the intermediary A and the wholesaler



Cannabis trafficking earnings

	Number	Annual distributed Volume	Number of customers	Annual earnings
Wholesaler	From 689 to 1 504	From 132 kg to 308 kg	Around ten	From 253 000 to 552 000 € Money laundering
Intermediary A	From 6 000 to 13 000	From 16 kg to 35 kg	Around ten	From 35 000 to 76 000 € Money laundering
Intermediary B and final dealer	From 58 000 to 127 000	Around 3,5 kg	Between 3 and 8	From 4 500 to 10 000 €

Source : Ben Lakhdar C, OFDT, 2008.

- To analyse the division of labour
 - In the street : watching out and touting in order to realise the transaction
 - The tasters
 - The concealment of illicit drug and money
 - The drivers of go fast
 - Those who cut up the goods
 - Warehouses

The individual costs-benefits assessment

A brief costs-benefits calculus	
<i>Costs</i>	<i>Benefits</i>
<ul style="list-style-type: none"> • purchase of the raw materials • protection against the police, against the competitors and against the consumers • cost of people watching out and touting 	<ul style="list-style-type: none"> • important amount of cash and quickly obtained • accept various objects of drug addicts who need drugs • to assist more or less directly their family
A wider costs-benefits calculus	
<i>Costs</i>	<i>Benefits</i>
<ul style="list-style-type: none"> • sentencing, incarceration and fines • to search dealer's house • break up with their family circle • the stigmatization • risk of confinement in a criminal world • to deter the dealer from the legitimate structure of social integration 	<ul style="list-style-type: none"> • return on investments very short • the ability to be one's own boss • exhibition of a certain success • work not so laborious • attraction of receiver for his • the power by redistribution, notably money he gives to buy the social peace in the neighborhoods • no taxes

Techniques: from basic to sophisticated

- Basic

- The daily expenses
- Recycling in the local economy
- Leisure activities
- Holidays
- Luxury goods (cars,...)
- To buy winning tickets (lottery)
- Casinos
- Purchase of small shops

- Sophisticated

- Real estate
- Tourism infrastructures (abroad)
- Offshore centres (trustees)
- Shell companies
- To invest in sport (football – mercato)

Three steps : opacity, credibility, respectability

One stake : to reduce the transaction costs

- A cost of transaction is a cost incurred in making an economic exchange:
 - *Search and information costs*
costs such as those incurred in determining that the required good is available on the market, who has the lowest price, etc. (to reduce the asymmetry of information)
 - *Bargaining costs*
costs required to come to an acceptable agreement with the other party to the transaction, drawing up an appropriate contract and so on.
 - *Policing and enforcement costs*
costs of making sure the other party sticks to the terms of the contract (verbal in our case), and taking appropriate action if this turns out not to be the case.

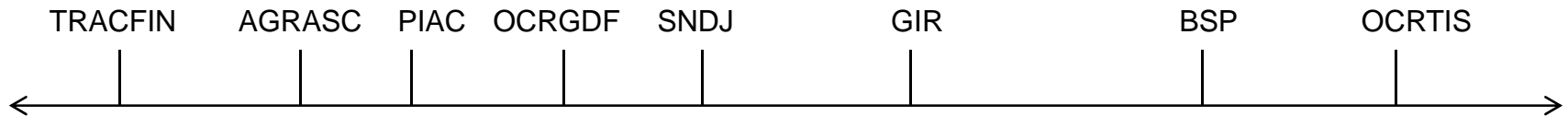
total cost of money laundering = mark up of intermediaries + transaction costs

transaction costs = cost of strategic implementation + risk costs

risk costs = enforcement + internal defections

Fighting against
money laundering

Fighting against
drug trafficking



- TRACFIN, the banking system seems quite aware of the phenomenon, on the other hand, some economic sectors (such as Real Estate or Insurance Companies) need to conform to standards; a gap between the reporting of suspicious transaction, their transmission to the public prosecutor and the sentences.
- The money laundering is a worry but Police use to focus on drug trafficking (drug seizure to materialize the offence), the easiest consists in the checking of the FICOBA
- The lack of human and material means
- A constant: the difficulties to share the information between services
-

The ‘unjustification’ of resources (non justification de ressources - art. 321-6 French Penal Code)

“the fact of not being able to justify the resources corresponding to the style of living...”

« Le fait de ne pas pouvoir justifier de ressources correspondant à son train de vie tout en étant en relations habituelles avec une ou plusieurs personnes qui se livrent à la commission de crimes ou de délits punis d'au moins cinq ans d'emprisonnement et procurant à celles-ci un profit direct ou indirect »

- Nonetheless, how to physically establish the lifestyle and how to characterise the notion of usual relationship with a drug trafficker?

PIAC : the french Asset Recovery Office (ARO)

French Ministry of Interior / Central Directorate For Criminal Investigations

Central Office for combating Serious
Financial Crime (OCRGDF)

Platform for the identification of criminal assets
PIAC / ARO

interministerial
-5 police & 5 gendarmerie
-1 tax inspector
-120 correspondents

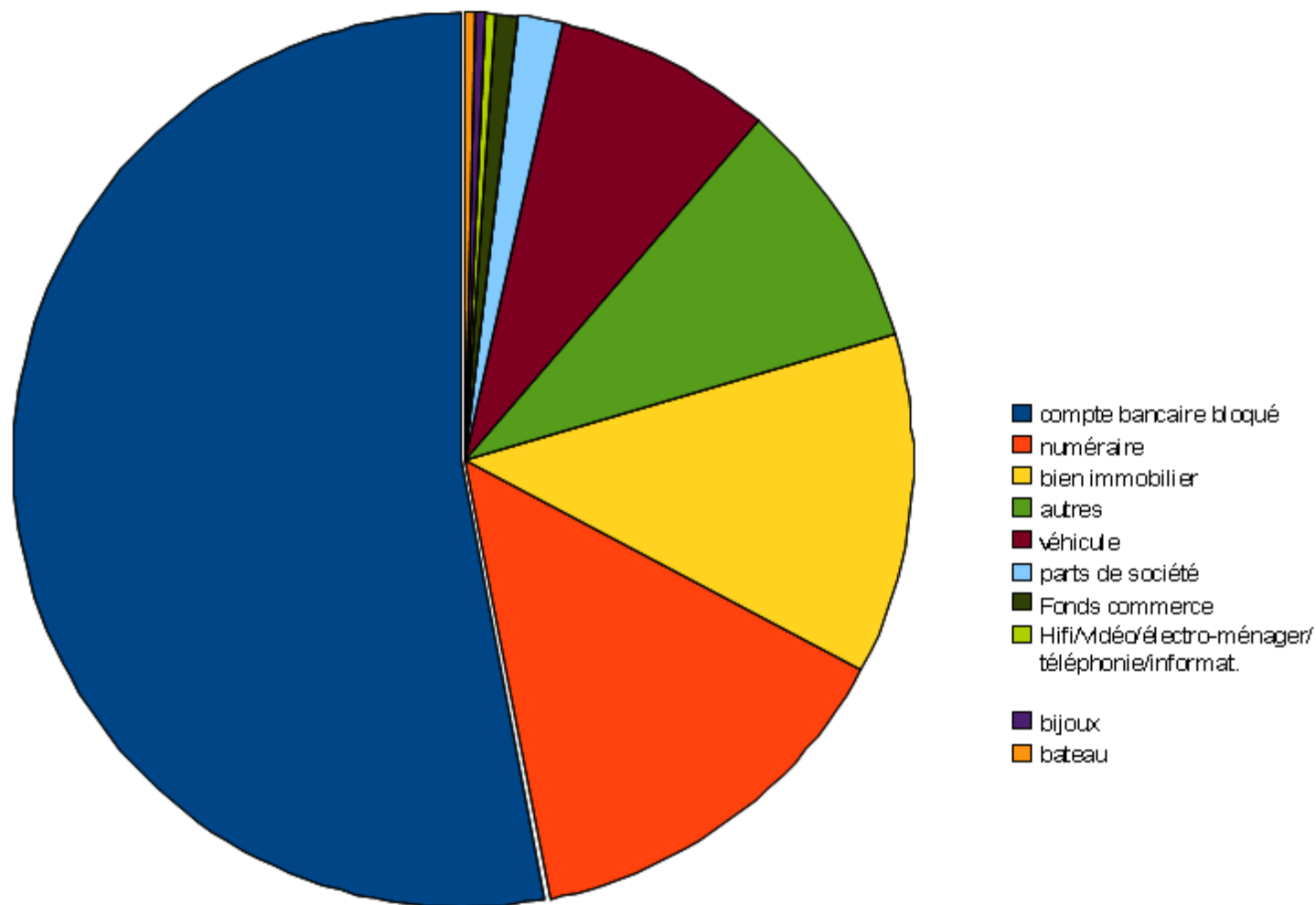
Forfeitable Goods

- Cash
- Bank account
- Car, Boat, Plane
- Securities
- Share of company
- Business
- Real estate (land to be built, flat, house...)
- Asset located abroad → International cooperation

- ✓ Agence de gestion et de recouvrement des avoirs saisis et confisqués - AGRASC
- ✓ Globally, the equivalent of 185 millions € seized in 2009 :
 - A thousand vehicles seized in 2009
 - Buildings (seizures in 2009 = 22 millions €)
 - Bank accounts
- ✓ The Prime minister services have decided the sharing out of these resources between:
 - Police (35%)
 - Gendarmerie (25%)
 - Justice (20%)
 - Customs (10%)
 - Social Affairs (10%)

TOTAL DES AVOIRS CRIMINELS APPREHENDÉS EN 2009

185 731 619 €



Various type and amount of freezing assets (2009)

Type of assets	Value €
bank account	98 456 480 €
cash	26 425 443 €
real estate	22 856 414 €
other*	16 973 958 €
cars	14 593 884 €
shares of company	3 000 000 €
goodwill	1 405 000 €
hifi/TV/computers,...	720 901 €
jewel	693 864 €
boat	605 675 €

By way of conclusion

The main obstacles in combating money laundering

- ✓ Problems of cultural order and problems of training
- ✓ The necessity to link the money laundering to an initial offence
- ✓ The law enforcement services break up investments in small shopkeepers (phone point, sandwich shops, hair dressing salons, videoclub,...) but still difficult to link with the drug trafficking
- ✓ Difficulty to investigate the high level drug trafficking
- ✓ Insufficient awareness of public security about the financial aspects of drug trafficking
- ✓ The ‘unjustification’ of resources: reluctance of some magistrates (reverse of the burden of proof vs presumption of innocence)
- ✓ Discrepancy of temporalities between the acts to prove the drug trafficking and those for the money laundering chapter