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**REPORT TO THE PLENARY OF THE INTER-AMERICAN DRUG ABUSE CONTROL
COMMISSION (CICAD) OF THE XV GROUP OF EXPERTS MEETING FOR THE
CONTROL OF MONEY LAUNDERING**

REPORT TO THE PLENARY OF THE INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION (CICAD) OF THE XV GROUP OF EXPERTS MEETING FOR THE CONTROL OF MONEY LAUNDERING

I. BACKGROUND

Pursuant to the mandate of the Inter-American Drug Abuse Control Commission, during its administration as President of the Group of Experts on Money Laundering 2002-2003, Mexico organized and carried out the XV Meeting, on 16-18 July, 2002, at the headquarters of the Attorney General's Office of the Republic of Mexico. The inaugural session was presided over by Mr. Rafael Macedo de la Concha, Attorney General of the Republic, with words by Ms. Luz Núñez Camacho, President of the Group; and by Mr. Rafael Franzini Batlle, Head of the Anti-Money Laundering Unit of the CICAD.

The meeting was carried out in five plenary sessions, exhausting the contents of the agenda, notwithstanding it was ambitious and its subjects were difficult. Said subjects were as follows:

- Report of the Executive Secretary on the Resolution of the CICAD in its Thirtieth Ordinary Period of Sessions, regarding the Plan of Work of the Group of Experts 2002-2003, and the election of its President.
- Extension of the mandate of the Group of Experts for the Control of Money Laundering;
- Revision of the Model Regulations Concerning Laundering Offenses connected to Illicit Drug Trafficking and other Serious Offenses (Model Regulations);
- Analysis of the penal type of Money Laundering;
- Financial Intelligence Units;
- Typologies on Money Laundering and Terrorist Financing; and
- Cases presented by the Expert Delegates of the countries.

Representatives of 21 countries of the Hemisphere participated in the Meeting, and as observers, the representatives of the Financial Action Task Force on Money Laundering (FATF), of the Latin American Banks Federation (FELABAN) and of the Inter-American Committee Against Terrorism (CICTE).

II. CONSIDERATION OF THE FATF EIGHT SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING, AND THE CRIMINALIZATION OF TERRORIST FINANCING PURSUANT TO THE INTER-AMERICAN CONVENTION AGAINST TERRORISM AND OTHER LEGAL INTERNATIONAL INSTRUMENTS

After a wide debate regarding the adoption of the FATF Eight Special Recommendations on Terrorist Financing in its original form, as well as deeming this offense a predicate to Money Laundering, an Ad Hoc Group was integrated to study the possibility of including it in the Model Regulations. Said Group submitted a report to the Plenary, analyzed it and passed it after a wide discussion in which the Delegations of Antigua, Argentina, Bolivia, Brazil, El Salvador, USA, Guatemala, Honduras, Mexico, Peru, Dominican Republic and Venezuela participated, and the representatives of the FATF and the CICTE were heard.

From the above, it is proposed to recommend to the CICAD to add to the Model Regulations, Terrorist Financing as a predicate offense to Money Laundering and to adopt the FATF Eight Special Recommendations on Terrorist Financing in its original form, reflecting them in an attachment to the Model Regulations. The report of the Ad Hoc Group appears as attachment 1 of the report herein.

III. ANALYSIS OF THE PENAL TYPE OF MONEY LAUNDERING

Regarding the analysis of the penal type, three aspects were considered:

- The autonomy of money laundering offense
- The possibility of criminalizing Money Laundering as a culpable offense
- Legal persons criminal liability

The Delegation of Peru presented the first of these subjects, and the Mexican Delegation the last two, since both countries proposed them in the Meeting carried out in Lima, Peru, in June 2001.

The subjects were discussed by the Delegations of Argentina, Antigua, Bolivia, Chile, Guatemala, Mexico, Peru and Venezuela, and it was concluded that the Model Regulations currently foresee the possibility of culpa of Money Laundering offense and includes measures regarding legal persons liability, however, the Delegations expressed the convenience of enhancing the wording of the Model Regulations in order to establish clearer criminal types, that make the process easier, for which the Presidency proposed -and it was accepted- to integrate another Ad Hoc Group to analyze the three aspects and will submit a proposal to the Plenary to determine if it proceeded or not, and in its case recommend the CICAD to amend the Model Regulations in regards to the aspects above mentioned.

The Ad Hoc Group proposed to the Plenary to amend articles 2 and 17 of the Model Regulations, where the definitions are progressing on the “the establishment of a culpable offense, as an exception to the regimes which rule is that the offenses shall be

fraudulent”, and “Legal Persons Criminal Liability”, and the sense of the Autonomy of Money Laundering is clarified. After a wide discussion, the proposals of amendment were accepted by the Plenary, and were submitted for the consideration of the Plenary, being included in the report herein as Attachment 2.

IV. FINANCIAL INTELLIGENCE UNITS

The Delegation of Brazil carried out a presentation on international cooperation in Financial Intelligence Units (FIUs), and pointed out that pursuant to the definition of the Egmont Group, they are aimed at analyzing information provided by the reporters and at sharing it with the FIUs from other countries and in its case, to inform to the national competent authorities the result of the analysis so as to initiate penal investigations. That the information received by the FIU's is for cases of money laundering offense, being currently extended to Terrorist Financing offense. For that reason, it is important that international cooperation between the FIU's is carried out directly, if the national legislation of the countries involved permits it, or through a Memorandum of Understanding, proposing to use the Egmont Group Memorandum, and suggesting to include it as an attachment to the Model Regulation.

After a wide debate of the Delegations, the advantage of including the FIUs in the Egmont Group was highlighted, since it provides the opportunity to use the Secure Web to exchange information. The Plenary considered including in the Model Regulations the Egmont Group Memorandum as an Attachment for the exchange of information between FIUs. It is likewise important to mention that it will be based on Reciprocity; reiterating that the information obtained by the FIUs, is exclusively for Money Laundering and Terrorist Financing offenses, and that the analyses carried out by the FIUs, which will not be deemed as an accusation, shall be provided to the Law Enforcement Authorities.

From the above, it is proposed to the CICAD to include the Egmont Group Memorandum of Understanding as an Attachment to the Model Regulations

V. EXERCISE OF TYPOLOGIES

The presentation of exercises of Typologies on Terrorist Financing, were in charge of the Delegations of Bolivia, USA and Mexico, which are attached herein. (Attachment 3)

VI. CASES PRESENTED BY EXPERT DELEGATES FROM OTHER COUNTRIES

The FELABAN representative presented the subject “The impact of the US Patriot Act on the Latin American Banking”. CICTE representative presented the background and the activities of the Committee and the possible ways of cooperating and coordinating with the CICAD and its Group of Experts on Money Laundering.

VII. XVI MEETING OF THE GROUP OF EXPERTS OF THE CICAD/OAS FOR THE CONTROL OF MONEY LAUNDERING

Bolivia expressed its intention to host the next meeting.