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INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION

cicad

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**Final Report Group of Experts to
Control Money Laundering**

**17TH MEETING OF THE GROUP OF EXPERTS
FOR CONTROLLING MONEY LAUNDERING
November 4-7, 2003
Washington, DC**

**CICAD/LAVEX/doc.
November 10, 2003
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FINAL REPORT

(draft version)

I. BACKGROUND

Following the approval in 1992 of the Model CICAD Regulations for controlling money laundering, under the auspices of the 1994 Summit of the Americas, the Ministers of the countries of the hemisphere responsible for controlling that crime met in Buenos Aires, Argentina on December 2, 1995, and agreed to recommend that an Action Plan be adopted as a coordinated hemispheric response against money laundering, with specific assignments for OAS, CICAD and, in particular, its Group of Experts for Controlling Money Laundering.

The Group began meeting in 1996 based on specific mandates it received, and CICAD resolved that after May 1997, it would meet twice a year.

In May 1999, during the twenty-fifth period of ordinary CICAD meetings in Washington, D.C., the Commission decided that Groups of Experts should submit a work plan, and after the Commission studied and approved it, it would decide if and when the Group of Experts should meet. It was decided at that time that the Commission would choose the president of the Groups of Experts, and that it would fall to Member States, and not persons.

During the thirty-third ordinary period of CICAD meetings in Mexico City in December 2002, the plenary approved a work plan based on suggestions from Argentina, Bolivia, United States, Mexico, and Uruguay, which, due to its vast agenda, included the years 2003 and 2004. The consolidated Plan is included as Annex A of this report. The work plan called for four meetings, two per year.

The Commission decided at the above period of sessions that the presidency for the two meetings in 2003 would fall to United States and Bolivia would hold the vice presidency. It was also decided that in 2004, Bolivia would hold the presidency.

The first meeting of the Group of Experts for 2003 was held on June 24-26 in Washington, D.C. at the Organization of American States Building on F Street. A final report of the meeting was not prepared at that time because "it was decided that some matters would be defined after an exchange of email messages; the Final Report will await the participating countries' final decision on the comments." However, in July 2003 a preliminary report was prepared and is attached as Annex B of this report.

II. OPENING SESSION, WORK SESSIONS AND CLOSING SESSION

In accordance with the schedule of activities, the opening session took place in the Ruben Dario Room of the Organization of American States Building on F Street at 9:00 a.m. The speakers were the president of the Group, Ms. Mary Lee Warren and the Associate Executive Secretary of CICAD, Mr. Abraham Stein.

Eight plenary sessions were held during the meeting to deal with the items on the Agenda:

- Agenda and consideration of the schedule
- Final consideration of the drafts discussed at the June 2003 meeting;
- Consideration of drafts not completed at the June 2003 meeting;
- National measures for effective seizure;
- International Cooperation Measures for improving Seizure;
- Practical measures for improving seizure effectiveness
- Review of 40 GAFI Recommendations and other Multilateral Mechanisms;
- Case studies for confirming the link between laundering and the preceding crime; and
- CICAD presentation on training courses.

The closing session was held on November 7. The president of the Group, Ms. Mary Lee Warren, underlined the importance of the Group in the context of the work of CICAD, and the importance of it being able at its next ordinary meeting, to present CICAD with concrete proposals for modifying the Model Regulations in important areas such as the typification of the financing of terrorism, the freezing of the assets of persons on lists prepared by the United Nations Security Council, and the control of informal networks for sending remittances.

III. AUTHORITIES, PARTICIPANTS AND OBSERVERS

The names of the experts that attended are found in the Directory of Participants (CICAD/LAVEX/doc. /0).

IV. DOCUMENTATION

The working documents compiled by the Executive Secretariat are found in the Document List, CICAD/LAVEX/doc 1/03

V. DECISIONS, CONCLUSIONS Y RECOMMENDATIONS

1. Agenda, Order of the Day and General Consideration of Issues

The draft Agenda was approved with the modifications proposed by the president.

2. Final consideration of drafts discussed at the June 2003 meeting

The following drafts that had been pending since the previous meeting were considered:

- a. Typification of the crime of financing terrorism (Art. 2 bis)
- b. Freezing of assets related to terrorism (Art. 4 bis)
- c. Control of alternative remittance systems (Arts. 10 y 15)

A working group was established to review these drafts, and it met in parallel with the Plenary meeting. The group consisted of experts from Argentina, Canada, Chile, Colombia, United States, México and representatives of the Executive Secretariat.

The approved drafts were submitted to the Plenary for consideration, and it approved them with minimal modifications. The articles that were approved are included in Annex C of this report, and will be submitted for the consideration of CICAD.

3. Consideration of drafts not completed at the June 2003 meeting

The drafts the Group discussed were related to the following subjects:

- a. Crimes involving the financing of terrorism – Transfer of funds to known terrorists
- b. Financing terrorism as a crime preceding money laundering

As in the previous case, the drafts were discussed by a working group consisting of Argentina, Chile, Canadá, México, United States and representatives of the Executive Secretariat.

With regard to the first point, the transfer of funds to known terrorists, it was decided to include a footnote to proposed Article 2 bis, and this was approved by the Plenary. The second item, the crime of financing terrorism as a precedent to money laundering, was covered in the wording of the proposed articles mentioned in the foregoing point; furthermore, recognition was given to the achievements made with respect to this point at the Fifteenth Meeting of the Group in July 2002 in Mexico City.

4. National Measures for Effective Seizure

Presentations were made on the following points:

- a. Seizure with a guilty verdict (sentences involving equivalent assets, presumptions based on a guilty verdict)
- b. Seizure of the assets of fugitives, or persons who die prior to the guilty verdict and civil seizure
- c. Undisputed seizure (procedures in the case of abandonment, sentences by default)

- d. Conservation of the value of an asset (sale of goods in advance, plans prior to seizure)

After the discussions that followed the presentations, the Plenary decided to create a working group to continue its actions on these issues between meetings, so that prior to the next meeting of the group it can submit its conclusions to the Secretariat, which will circulate them sufficiently in advance so the delegations can come to the meeting properly prepared.

5. International Cooperation Measures to improve seizures

Presentations were made on the issues listed below, and it was decided that several of the points considered would be placed on the agenda of the Working Group mentioned in the foregoing section:

1. Precautionary measures (enforcement of foreign restraining orders; other summary prevention mechanisms)
2. Seizure procedures (enforcement of foreign seizure sentences; initiation of seizure proceedings based on a foreign sentence)

6. Practical measures for improving seizure effectiveness

The Secretariat and the United States delegation referred to the following points:

- 1) Technical assistance and training on seizure;
- 2) Presentation of a questionnaire for cooperation during seizures); and
- 3) Guidelines on cooperation during seizures.

After the presentation, the Secretariat asked the Working Group on seizure to study the possibility of setting up specific courses on seizure, since previously this point was part of more general training courses, but now there is awareness that the subject needs a specific focus.

The United States delegation presented a questionnaire designed to study the situation of the hemisphere in this area, as well as the necessary procures for achieving the expected cooperation.

7. Review of 40 GAFI Recommendations and other Multilateral Mechanisms

Esteban Fullin, Associate Director of the Financial Action Group for South America (GAFISUD), gave a presentation on the new GAFI recommendations, and on other development regarding the Special Recommendations on Terrorism and new evaluation methods developed by the World Bank and the International Monetary Fund.

8. Case studies for confirming the link between laundering and the preceding crime

The delegation from El Salvador and xxxxxx gave a presentation on the issues listed below; subsequently the Group decided to create a Working Group with the same characteristics as the one formed to deal with the subject of seizure.

- a) To develop a money laundering case based on the report of a suspicious operation
- b) To develop a money laundering case based on an investigation of drug trafficking
- c) Effective use of dogs / reports

9. CICAD Presentation on training courses

The Executive Secretariat gave a presentation on two training projects:

One for Financial Intelligence Units – a joint project with the Inter-American Development Bank and CICAD – though it includes training aspects it is a more ample program, and one for officers of agencies responsible for law enforcement, which is in its pilot phase.