

# ORGANIZACIÓN DE LOS ESTADOS AMERICANOS



COMISIÓN INTERAMERICANA PARA EL CONTROL DEL ABUSO DE DROGAS

cicad

**SPECIAL MEETING OF THE GROUP OF  
EXPERTS TO CONTROL MONEY  
LAUNDERING  
March 16-18, 2005  
Washington, D.C., USA.**

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**FINAL REPORT  
(provisional)**

## **I. BACKGROUND**

In December 2004, at the Thirty-Sixth Regular Session of CICAD held in Washington, D.C., the plenary considered and adopted with amendments the Report of the CICAD Group of Experts to Control Money Laundering submitted by its Chair, Mr. Hugo de la Barra. The Meeting also elected Colombia to chair the Group for the 2005 period.

As part of the amendments adopted by the Commission, the Secretariat was requested, “[i]n consultation with the Secretariat for the Palermo Convention, [to] draw up an explanatory list of the elements in that Convention pertaining to money laundering that are different from or not included in the Model Regulations.” The Commission also decided that the Group should meet before March 2005, so as to be able to submit the results to the Permanent Council through the OAS Committee for Hemispheric Security, which was to meet the same month.

## **II. OPENING SESSION, WORKING SESSIONS, AND CLOSING SESSION**

### **OPENING SESSION**

The opening remarks were delivered by Ms. Maria Cristina Chirolla, representative of Colombia, as Chair of the Group of Experts for the 2005-2006 period, and by Mr. Abraham Stein, Deputy Executive Secretary of CICAD. Mr. Stein drew attention to the work of the group in combating money laundering and terrorist financing.

There were four plenary sessions to address the following items on the agenda: (**Annex I**):

1. Review and Adoption of the Agenda
2. Special Investigative Techniques; presentations by the Executive Secretariat, the Council of Europe, and GAFISUD.
3. Measures Adopted by the Organization of American States with respect to Transnational Organized Crime. Presentation by the General Secretariat of the Organization of American States.
4. Explanatory list of elements of the Palermo Convention not included in the Model Regulations. Presentation by the Executive Secretariat of CICAD.
5. Conclusions and Recommendations to the Commission

Participating in the meeting were the delegations of Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Paraguay, Peru, Trinidad and Tobago, United States, and Venezuela. (**Annex II**)

Attending as observer members were the South American Financial Action Task Force (GAFISUD), the Council of Europe, and the United Nations Office on Drugs and Crime (UNODC) in Colombia.

## **WORKING SESSIONS**

### **1.- Agenda, order of business, and review of items.**

The draft agenda was adopted with the amendment proposed by the delegations to postpone consideration of the item 'Review of the 2005-2006 Work Plan' until the final day of sessions.

### **2.- Special Investigative Techniques (SIT)**

On behalf of the Executive Secretariat of CICAD, Mr. Jorge Yumi described developments as regards SIT in different international organizations, their current legal framework, and the basic principles that govern the use of such techniques. The Secretariat mentioned the need to establish a work methodology to address the issue in the future and mentioned as an example the methodology and Terms of Reference adopted by the Group of Experts on SIT of the Council of Europe.

For his part, the Technical Secretary of the Group of Experts on SIT of the Council of Europe, Mr. Denis Bribosia, referred to the activities of the group; the principles of the draft recommendation that emanated from it; and the lessons learned from consideration of the issue. Mr. Bribosia underscored the importance of striking a balance between the effectiveness of SIT and protection of the rights guaranteed by the European Convention.

The Executive Secretary of GAFISUD, Mr. Alejandro Montesdeoca, mentioned the activities of this agency in connection with SIT. He said that a group of legal experts had been set up, which was studying the following techniques: undercover agents, controlled delivery, effective cooperation, and electronic surveillance. He also said that the plenary of GAFISUD adopted the guidelines on SIT prepared by the group of legal experts, which recommend consideration of the use of rewards and a witness protection system.

Following consideration of the presentations, the Group agreed to hold a special meeting to consider the use of Special Investigative Techniques, as mentioned in the conclusions and recommendations herein.

### **3.- Current treatment of the issue of Transnational Organized Crime in the Organization of American States.**

Mr. Eduardo Mendoza of the General Secretariat of the Organization updated the Group on the recent work by the Committee on Hemispheric Security, as well as the various bodies of the OAS (CICAD, CICTE, REMJA, CIM, Conference of States Parties to the CIFTA) on the issue of Transnational Organized Crime. In addition, he informed the Group of the upcoming meeting of Experts Group from the Committee on Hemispheric Security, as requested by the General Assembly (AG/RES/2026 XXXIV-O/04). This Experts Group will decide upon the relevance of an Hemispheric Action Plan to fight against Transnational Organized Crime.

His presentation covered the following:

- General Recommendations on Transnational Organized Crime
- Recommendations on Transnational Organized Crime in connection with mutual judicial assistance on criminal matters and extradition.
- Cyber Crime.
- Corruption
- People Trafficking
- Prison Policies
- Recommendations to the Permanent Council.

#### **4.- Explanatory list of elements in the Palermo Convention not included in the CICAD Model Regulations to Control Money Laundering.**

In performance of the mandate from CICAD, the Executive Secretariat, through Mr. Rafael Franzini Batlle, presented an explanatory list of elements in the Palermo Convention not included in the Model Regulations. He said that the list was prepared bearing in mind the contributions of the United States and Mexico, and explained that neither of them submitted specific texts of new articles or amendments to the Model Regulations in force. He mentioned that it also took into account the list that the Secretariat had already presented to the Group of Experts at its meeting in July 2004.

#### **5.- Review of the 2005-2006 Work Plan**

The Group discussed whether the 2005-2006 Work Plan had been previously approved by CICAD XXVI regular session and agreed on reviewing the content of the Work Plan, as introduced to the group by the Executive Secretariat.

The Group agreed on its Work Plan would include the following topics: predicate offences, confiscation, international cooperation, and transnational organized crime in the framework of the Palermo Convention. The outcomes should be: (a) an updated model regulation and (b) a constant level of cooperation with the Committee on Hemispheric Security.

To carry out activities on these topics, the Group decided to create four working groups, which would work in coordination with the Executive Secretariat.

The following chapter details the members of the working groups, as well as their corresponding coordinators.

The 2005-2007 Working Plan will be submitted to CICAD XXXVII regular session for approval.

### **III.- CONCLUSIONS AND RECOMMENDATIONS**

#### **Special Investigative Techniques**

The Group of Experts decided the following:

“During its recent meetings, the Group of Experts to Control Money Laundering has considered that so-called Special Investigative Techniques (SIT) constitute a priority for the accomplishment of the objectives of the regulations on money laundering and terrorist financing.

In particular, at its meeting in July 2004, the Group of Experts agreed on the need for CICAD to convene a Special Meeting to consider the use of Special Investigative Techniques in investigations on money laundering, terrorist financing and other serious crimes. The delegation of the United States formally offered to provide financing for and host the Special Meeting.

The core tenet of this initiative is that the basic standards on the criminal classification of money laundering and terrorist financing are a dead letter if the criminal justice system lacks specific procedural standards for the investigation of crimes as complex as these.

The Group has drawn particular attention to the importance of considering the activities of the different OAS bodies, in order to avoid needless duplication of efforts in the Organization. Accordingly, it has recommended that this issue be addressed by any experts of the member states in a position to make a significant contribution from both a regulatory and an operational standpoint. Particular reference has been made to the mandates assigned to REMJA. One of the core activities of the coming Special Meeting shall be to design a frame of competence for these bodies in order to ensure efficient coordination in this area.

The Group of Experts, recognizing the value of SIT in investigations on money laundering and terrorist financing, recommends that it continue to be involved in the development of SIT in the OAS. To that end, we recommend that the Group of Experts be represented in any OAS body in charge of the future development of SIT, so as to provide information and to ensure that it receives information from that body concerning money laundering, and so that, where relevant, it take into consideration subsequent arrangements adopted in the Group of Experts on money laundering.

The Group of Experts recommends that the Special Meeting take as a point of reference the Guidelines on Special Investigative Techniques approved by the Plenary of GAFISUD, without prejudice to any other working documents on this issues contributed by the delegations or other agencies. Furthermore, the group requests the Secretariat to prepare a short manual containing relevant materials with a view to its distribution among the delegations at the latest two weeks before the meeting on SIT. Those materials will also be available for the delegations at said meeting.

The Group of Experts on Money Laundering also proposes that the delegation of Mexico, as Chair of REMJA, and the delegation of Argentina, as Chair of the Group of Legal Experts of GAFISUD, develop, in consultation with interested delegations, a final program for the special meeting, and ensure the invitation of agencies involved in this issue, including bodies within the OAS, such as REMJA, as well as agencies outside the OAS, such as GAFISUD.

The Group of Experts recommends that the following be taken as items of reference for the agenda:

- I. Day 1: Electronic Surveillance
  - A. Introduction to the types of electronic surveillance and the objectives of using them in different situations. (Lecture)
  - B. Review of existing laws on electronic surveillance in the hemisphere (Lecture)
  - C. Identification of major constitutional and legal issues and impediments to use of electronic surveillance (Discussion with facilitator)
  - D. Identification of major practical issues and impediments to use of electronic surveillance (Discussion with facilitator)
  
- II. Day 2: Undercover operations and use of informants
  - A. Introduction to undercover operations and the objectives of this technique in different situations. (Lecture)
  - B. Introduction to use of informants and the objectives of this technique in different situations. (Lecture)
  - C. Review of existing laws on undercover operations and use of informants in the hemisphere (Lecture)
  - D. Identification of major constitutional, legal, and practical issues and impediments to use of undercover operations (Discussion with facilitator)
  - E. Identification of major constitutional, legal, and practical issues and impediments to use of informants (Discussion with facilitator)
  
- III. Day 3: Controlled Deliveries and International Cooperation
  - A. Introduction to controlled deliveries and the objectives of this technique in different situations. (Lecture)
  - B. Introduction to the use and objectives of international cooperation in use of special investigative techniques. (Lecture)
  - C. Review of existing laws on controlled deliveries and international cooperation in the hemisphere (Lecture)
  - D. Identification of major constitutional, legal, and practical issues and impediments to use of controlled deliveries (Discussion with facilitator)
  - E. Identification of major constitutional, legal, and practical issues and impediments to effective international cooperation in use of special investigative techniques (Discussion with facilitator)
  
- IV. Day 4 (and Day 5, if necessary): Organization of work
  - A. Development of effective legislation
  - B. Consideration of using existing models or developing new models
  - C. How to foster approval and implementation of effective legislation
  - D. Potential future training on use of special investigative techniques
  - E. Coordination between different bodies
  - F. Other issues

In these circumstances, the Group of Experts proposes that the Special Meeting be held no later than the summer (July-August) of 2005”

### **2005-2006 Work Plan**

The Group of Experts identified the following priorities in the 2005-2006 Working Plan:

- 1.- Predicate offences
- 2.- Confiscation
- 3.- International cooperation
- 4.- Transnational Organized Crime in the Framework of the Palermo Convention pertaining to Money Laundering
  - Specific activities:
    - a) Review of the Model Regulations
    - b) Cooperation with the Committee on Hemispheric Security

To carry out these activities, the Group of Experts decided to create the above four working groups in priority order and focus their activities on each of these areas individually in future meetings in accordance with the Chair’s agenda . These subgroups would work in coordination with the CICAD Executive Secretariat. These working groups would be composed as follows:

### **Predicate Offence**

| ARGENTINA (Coordinator) \_\_\_\_\_  
BRAZIL (Subcoordinator)  
CHILE  
UNITED STATES  
EL SALVADOR  
PERU  
CICAD (Rafael Franzini)

### **Forfeiture**

UNITED STATES (Coordinator)  
GUATEMALA (Subcoordinator)  
MEXICO  
DOMINICAN REPUBLIC  
CHILE  
BOLIVIA  
COLOMBIA  
EL SALVADOR  
PERU  
CICAD (Jorge Yumi)

**International cooperation**

CHILE (Coordinator)  
ARGENTINA (Subcoordinator)  
BOLIVIA  
BRAZIL  
COLOMBIA  
UNITED STATES  
EL SALVADOR  
CICAD (Ophélie Chevalier)

**Transnational Organized Crime in the Framework of the Palermo Convention on  
pertaining to Money Laundering**

COLOMBIA (Coordinator)  
VENEZUELA (Subcoordinator)  
CANADA  
MEXICO  
DOMINICAN REPUBLIC  
ARGENTINA  
GUATEMALA  
UNITED STATES  
EL SALVADOR  
CICAD (Rafael Franzini)

**Next Meeting:**

The Group decided to hold two regular meetings this year, the dates and venues for which are to be determined.