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**INTER-AMERICAN DRUG ABUSE
CONTROL COMMISSION**

CICAD

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Secretariat for Multidimensional Security

**XLI MEETING OF THE GROUP OF EXPERTS FOR THE CONTROL OF MONEY LAUNDERING
OCTOBER 1-2
LIMA, PERU**

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**FINAL REPORT
(DRAFT)**

I) BACKGROUND

The Group of Experts for the Control of Money Laundering (GELAVEX) was created in 1992 in accordance with Article 22 of the [Statute](#) of the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS) and is, therefore, one of the advisory bodies of CICAD.

Currently, GELAVEX is formed by two Sub-Working Groups: the Sub-Working Group on International Cooperation and Forfeiture and the Sub-Working Group on Financial Intelligence Units (FIU) and Criminal Investigation Agencies, whose activities are determined by strategic plans that define lines of action and work plans that define concrete actions to be developed in accordance with the lines of action.

The Strategic Plan Proposal for the 2015-2017 period, that corresponds to Annex X of the Final Report of the XXXII Meeting of GELAVEX ([CICAD/LAVEX/doc.17/11](#)), was approved at the fifty-sixth regular session of CICAD ([CICAD/doc.2162/14](#)) and, therefore, serves as a guideline for the future activities of the group from 2015-2017.

In accordance with the 2014-2015 Work Plan approved by CICAD, the Sub-Working Group on International Cooperation and Forfeiture will focus on the following subjects: a) creating a reference guide that helps administration offices for seized and forfeited assets in the process of the disposal of such goods; and b) supporting the ES/CICAD with the development of a study on the rights of victims and bona fide third parties under the Technical Assistance Program on International Cooperation in Asset Recovery. Furthermore, in regards to the same work plan approved by the ES/CICAD, the Sub-Working Group on FIUs and Criminal Investigation Agencies will work on: a) formulating recommendations for the security and integrity of officials responsible for combatting money laundering and its related crimes; and b) developing an asset investigation guide.

II) PROCEEDINGS

1) Inaugural Session

i. The opening remarks were given by the **President of the Group of Experts** for the Control of Money Laundering of the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OEA), **Mr. Carlos Díaz Fraga**, Secretary General of the Secretariat of Anti-Money Laundering of the Presidency of the **Eastern Republic of Uruguay**. In his speech, Mr. Carlos Díaz mentioned the progress accomplished by the Group during the period in which Uruguay held the Presidency, highlighted the need to continue working on relevant topics such as improving international cooperation, and thanked the efforts of all the delegations in that regard ([CICAD/LAVEX/doc.24/15](#)).

ii. Representing the **ES/CICAD**, **Nelson Mena**, Chief of the Anti-Money Laundering Section, greeted the delegations on behalf of the OAS Secretary General and the Executive Secretariat of CICAD, thanked Uruguay for its leadership as President of the Group and thanked the Delegation of Peru for its hospitality and successful organization of the plenary.

iii. On behalf of the **Delegation of Peru**, incoming President of the Group, **Mr. Sergio Espinosa Chiroque**, **Deputy Superintendent of the Financial Intelligence Unit of Peru**, welcomed the present delegations

and authorities and highlighted some improvements achieved by OAS Member States in the fight against organized crime, insecurity and narco-trafficking, as well as the importance of the work done by GELAVEX ([CICAD/LAVEX/doc.25/15](#)).

2) Second Session

i. **Approval of the agenda and review of themes:** the group approved the draft schedule of activities without modifications ([CICAD/LAVEX/doc.1/15 rev.1](#)).

ii. On behalf of the **ES/CICAD**, Mr. **Nelson Mena**, Chief of the Anti-Money Laundering Section, presented the **Activity Report** for the 2014-2015 period ([CICAD/LAVEX/doc.18/15](#)).

iii. Presentation: **Pre-Forfeiture planning and asset assessment in transnational asset recovery cases.** Mr. **Michael J. Burke**, International Senior Advisor of the Asset Forfeiture and Money Laundering Section, **U.S.** Department of Justice.

The presentation focused on the Department of Justice's recent experience in successfully recovering a luxury racing sailboat from Jamaica that had been used to traffic narcotics in several jurisdictions, including Colombia, Venezuela and various Caribbean countries. Part of the presentation highlighted the importance of forfeiture laws that permit prosecutors to forfeit and recover criminal assets that are located outside of the territorial boundaries of their countries.

Comments by delegations:

- Delegation of Trinidad and Tobago: congratulated the United States on the success achieved in the case and mentioned that it is willing to continue collaborating on international asset recovery cases.

iv. Presentation: **Case study on international cooperation for asset recovery.** Dulce María Luciano, Financial Intelligence Unit Director, **Dominican Republic** ([CICAD/LAVEX/doc.10/15](#)).

Comments by delegations:

- Delegation of the United States: thanked the Dominican Republic for the cooperation provided to resolve the case presented and mentioned the agreement on asset sharing that has been recently signed by both jurisdictions.

- Delegation of Paraguay: asked the delegate of Dominican Republic what process they use to sell seized and forfeited assets.

- Delegation of the Dominican Republic: explained that assets are generally sold in public auctions, but emphasized that in cases of international cooperation the Public Ministry can sell certain types of assets (such as complex assets). The delegate mentioned that in this specific case the disposal of assets was carried out in accordance with the US system.

v. Presentation: **CARICOM Crime and Security Strategy: Framework for the Sharing of Forfeited Assets** ([CICAD/LAVEX/doc.19/15](#)). Giselle Martin, Legal Advisor, CARICOM IMPACS.

vi. Presentation: **The effective management and disposal of frozen, seized and forfeited assets**: results of the UNODC Expert Meeting in Vienna. David Álamos, Head of Section on Crime Prevention and Criminal Justice Strengthening – PROJUST, UNODC-Colombia ([CICAD/LAVEX/doc.12/15](#)).

Comments by delegations:

- Delegation of the Dominican Republic: commented on the delegation's fruitful experience during the meeting in Vienna, highlighting the country's interest in participating in the Training on the Administration and Disposal of Assets offered by the Administration and Disposal of Assets Service (SAE México) as per the conversations held in Vienna, and requested the ES/CICAD to explore the possibility of making the training available to experts from all OAS Member States.
- Delegation of Costa Rica: explained that the participation of the Costa Rican Drug Institute was mainly based on the country's experience in abandonment and advance sale.
- Representative of the ES/CICAD: commented on how the ES/CICAD supported the development of the meeting in Vienna and the participation of experts from OAS Member States. The representative also emphasized that the documents approved by GELAVEX in asset administration, especially those developed under the framework of the BIDAD Project, were very useful for the discussion. Lastly, the representative assured that he will contact the SAE/Mexico in order to join efforts so as to allow for training opportunities on asset administration and disposal to be available for representatives throughout the region.
- Delegation of Brazil: made reference to the participation of Brazil in this project since the first meeting held in April 2014 in Reggio Calabria, Italy, and highlighted that the report of both meetings contains references regarding the protection of victims in forfeiture cases.
- Delegation of Uruguay: mentioned the 1988 Vienna Convention and the international instruments convened since then, such as the FATF Recommendations and the 2000 Palermo Convention. The delegate emphasized that in spite of these accomplishments the percentage of assets that are recovered is still low, and that it is important to intensify efforts to increase that amount and strengthen the sovereignty of States.
- Delegation of Trinidad and Tobago: emphasized the importance of countries having efficient and legitimate laws that are implemented with respect to the rights of victims and bona fide parties.
- Delegation of Argentina: explained that in Argentina forfeiture is handled by Judges, and that this sometimes leads to a lack of transparency. The delegate added that while there was an attempt in the country to create an independent asset registry office of the judiciary, it ultimately failed. In regards to this, the delegate asked if there are other countries in the region in which the asset management office depends on the judiciary.
- Delegation of Venezuela: cited that the National Assets Service (SNB) of the country is responsible for the seizure, administration and disposal of assets, and invited delegations to reflect on the importance of the correct disposal of assets so that these assets can return to society.

- Delegation of Spain: mentioned some progress that is being made in Europe regarding forfeiture (such as extended forfeiture) , as well as commented on the multi-disciplinary nature of some asset recovery and management offices, such as the ones established in Belgium and The Netherlands.

- Delegation of Peru: congratulated the work done by the ES/CICAD, highlighting its commitment to avoiding the duplication of efforts with other international organizations and stressing that thanks to the efforts of GELAVEX and its Sub-Working Groups it has been possible to move forward in strengthening the capacities of OAS Member States to deprive criminals of assets that are the proceeds or instruments of crime.

- UNODC Representative: pledged to look for information to answer the delegation of Argentina's question .

vii. Presentation: **Analysis on the Rights of Victims and Bona-Fide Third Parties regarding forfeiture processes for assets of illicit origin** ([CICAD/LAVEX/doc.17/15](#)). The Chair of the Sub-Working Group on International Cooperation and Forfeiture along with the Delegation of Brazil and the ES/CICAD ([CICAD/LAVEX/doc.16/15](#)).

Comments by delegations:

- Delegation of the United States: proposed to keep working on the topic and to consider the distinctions between victims and bona fide third parties by giving examples of practical cases.

- Delegation of Bolivia: asked if executive reports, available on the UNODC website, were considered to elaborate the study.

- Delegation of Chile: supported the idea of considering the study finalized and developing a complementary study on the topic.

- Delegation of Brazil: explained that international treaties make reference to “victims and bona fide third parties” jointly and that the study shows that countries are working on them separately, making different classifications for the term “third party”. The delegate answered the question of Bolivia stating that the study incorporated the documents that were available online and, in the cases where such documents were not available, their executive reports were consulted.

viii. Presentation: **Analysis of the Applicability and Effectiveness of Modern Judicial Instruments for the Disposal of Seized and Forfeited Assets**. The Chair of the Sub-Working Group on International Cooperation and Forfeiture, ([CICAD/LAVEX/doc.15/15](#)), with the support of the ES/CICAD and the BIDAL Project ([CICAD/LAVEX/doc.9/15](#)).

Comments by delegations:

- Delegation of Uruguay: made an inquiry as to the reasons why countries have the power to cancel 100% of mortgages of creditors in cases of advance sale and only 80% when the assets are forfeited to the State.

- The Chair of the Sub-Working Group: answered that the study only reflects the answers that have been received from the delegations and that the specific data on each of the questions in the questionnaire are available on the Excel document that is attached to the study.

- Delegation of Spain: made reference to the lack of statistics in relation to what is actually shared and how, and presented data concerning the sharing of assets in Spain.

ix. Presentation: “Proposal for the creation of an ad-hoc group” in the framework of the Program for International Cooperation in Asset Recovery (REACT) ([CICAD/LAVEX/doc.14/15](#)).The Executive Secretariat.

Comments by delegations:

- Delegation of Brazil: complimented the initiative of the ES/CICAD and committed itself to support the ES/CICAD in the process;

- Delegation of Bolivia: mentioned the country’s experience on the topic and expressed interest in cooperating with the project;

- Delegation of Argentina: thanked the ES/CICAD for the proposal and pledged to designate a representative to cooperate with the project in the established timeframe;

- Delegation of St. Kitts and Nevis: congratulated the ES/CICAD for its initiative and stated that it would like to participate in the proposal;

- Delegation of Peru: emphasized the availability of CONABI to support the efforts of the ES/CICAD in the project.

x. Presentation: **The Peruvian Experience in the effective administration and disposal of seized and forfeited assets**. Pilar Sosa, President of the “National Commission of Seized Assets” (CONABI) of Peru ([CICAD/LAVEX/doc.5/15](#)).

Comments by delegations:

- Representative of CONABI: emphasized the importance of advertising when selling seized and forfeited assets, with the aim of achieving a self-financing system. Also, mentioned that it is important that auctions are governed by the principles of transparency, competitiveness and legality.

- Delegation of Spain: asked what the nature of CONABI was, the way in which it interacts with prosecutors, and the way it reports its actions.

- Representative of CONABI: indicated that CONABI is a sui generis body, which is registered in the Prime Minister’s Office. Explained that all procedures are subject to Peruvian administrative law and State control, highlighting that the budget is handled as if it was a private company seeing as CONABI doesn’t receive funds from the public treasury. Also, mentioned that its relations with the Judiciary and the Public Ministry are very narrow.

- Delegation of Brazil: asked when CONABI was created and when it became self-financed.

- Representative of CONABI: mentioned that CONABI was created in 2012 by Legislative Decree 1104 and that it was self-sustainable from the first moment. Added that since the first auction the resources obtained were used to strengthen the institution, which started with only three people and has been continually growing over time.
- ES/CICAD Representative: The Director of the BIDAL Project praised the good practices carried out by CONABI and mentioned that maintaining seized assets with public money is inappropriate, as systems of asset administration must generate resources that allow for the self-financing of asset administration and disposal agencies.
- Representative of CONABI: referred to the important role of the Public Ministry in the process of seizing property that is subject to forfeiture and the need for prosecutors to understand the processes, to interact with asset administration agencies and to acknowledge the impact that seized assets can generate for the State.
- Delegation of Uruguay: reflected on problems in relation to the seizure of assets, as there is not defined criteria on what assets should be seized and there is a lack of knowledge by some professionals who fail to seize objects and instruments of crime that should be taken from criminals.
- Representative of CONABI: mentioned the policy pursued by Peru related to advance sale, in cases, for instance, of vehicles that are taken to the auction as soon as possible because they can be easily replaced if they need to be returned. Explained that this practice is carried out due to the lengthy process and rapid loss of value of assets. Also, emphasized the importance of in rem forfeiture laws that allow for a streamlined process and generate profits more easily.
- ES/CICAD Representative: the Director of the BIDAL Project mentioned the importance of specialization in asset administration agencies and that funds for the maintenance of seized assets should be governed by a special regime. The reason for this being that due to the characteristics of these agencies, the acquisition of assets and services that are necessary cannot be achieved through “standard” procedures.
- Delegation of Uruguay: mentioned the importance of considering assets that are seized, because although certain assets don’t have economic value they are still used by criminal organizations and so should be seized. The delegate added that agencies should not only seize what is profitable, as this goes against the reasons for seizure and forfeiture in the first place.
- Delegation of Colombia: commented on the new paradigm that is observed in some States in which criminals are no longer investing their funds in assets such as luxury cars, and are instead using regular vehicles, that help them to simulate a situation of legality.

3) Third Session

- i. Presentation: **The Money Laundering Problem in Peru: A Critical Perspective.** Luis Alejandro Yshí Meza, Judicial Branch of Peru ([CICAD/LAVEX/doc.11/15](#)).

Comments by delegations:

- Delegation of Uruguay: The delegate stressed the urgency to re-conceptualize "money laundering," since the term is not the same as 25 years ago. Noted that globalization and the fall of ideologies have led to a threatening of the rule of law and also the sovereignty of countries. Emphasized that this type of approach makes countries centralize the problem by removing the triviality with which it sometimes is handled, in the sense of perceiving money laundering as a result, when we know that the economic aspect is not the consequence but cause by which criminal activity is faced.
 - Delegation of Chile: congratulated the speaker for the intensity and will with which he conducted the presentation, appreciating the integrative vision outlined, and highlighting the need to carry out internal and international coordination. Mentioned that the expert's presentation touches on several points of the work of both GELAVEX's Sub-Working Groups, and so offered to receive any comments on the work done through the communication channels available.
 - Luis Alejandro Yshií: Highlighted the work of the special prosecutors unit of Chile (ULDDECO), reiterating the need to handling the problem comprehensively, proving that it is possible to stay one step ahead of organized crime.
- ii. Presentation: **Legislative Update on Asset Forfeiture, and the Seized and Forfeited Asset Management Office in Spain**. Andrés Pérez, Chief – International Cooperation Office (CITCO), Ministry of the Interior, Spain ([CICAD/LAVEX/doc.21/15](#)).
 - iii. Presentation ([CICAD/LAVEX/ doc.13/15](#)): **Program proposal on open sources of information as a tool in the development of asset investigations**. Daniel Linares Ruesta, Deputy Director, Department of Operational Analysis, Financial Intelligence Unit of Peru.

Comments by delegations:

- Delegation of Saint Kitts & Nevis: The delegate thanked the presenter and asked about the kind of websites that specifically would be incorporated in the catalog of information sources.
- Delegation of Peru: replied that it would create one page per country and that it would use information from open sources of information in each of the ways illustrated by the delegate of Bolivia.
- Trinidad and Tobago: thanked the presenter and supported the project in the way it was presented.
- Delegation of the United States: The delegate highlighted the complexity of the logistics to maintain and update a site with such information, particularly in the case of the United States, as there is a lot of information at the state and federal level. Stressed that collecting and updating this information at the federal level would require a great effort.
- Delegation of Paraguay: The delegation appreciated the work done by the delegations of Peru and Bolivia and agreed with the initiative.
- Delegation of Argentina: The Argentinian delegation thanked the presenter and recommended to carry out the project's tasks in stages, starting with the consolidation of a database of information sources. Asked which entity would assume the costs of administration for the website, and finally offered to host the training workshops proposed in the presentation.

- Delegation of Bolivia: The Delegate presented ([CICAD/LAVEX/doc.26/15](#)) their platform currently in place and stressed the importance of the project as well as their interest in participating. Stated that Bolivia would be able to assume the costs of implementation and administration of the project, which is 80% developed. Voiced that once the group has the inventory of information sources, they will start gathering regulatory information which will be published on the page assigned to each country.
 - Delegation of Peru: Thanked the presenter and asked about the type of training that will be conducted within the framework of this project.
 - Delegation of Bolivia: Explained that training would be focused on presenting the type of information contained in the pages and how it can be used in terms of an analysis of information or asset investigation.
 - Delegation of Colombia: The delegate congratulated the work of the group and announced that they have already internally carried out the process of identifying open sources of information. As a result, they have a list of 65 sources that would be available for incorporation into the project. In addition, emphasized the importance of designing a training strategy that includes the analysis of information from social networks.
 - Delegate from the World Bank: expressed the interest of the World Bank in supporting the project, stating that it would be very useful for all countries to have available information that can be accessed through this tool. That said, offered the web platform of the "StAR" initiative on the terms described in the proposal ([CICAD/LAVEX/doc.27/15](#)).
 - Delegation of Chile: Welcomed the work of the Subgroup and approved the proposal as is.
 - Delegation of Uruguay: The Delegate congratulated the sub-working group and seconded the comment by the Chilean delegation.
 - Delegation of Ecuador: Approved the terms of the Project.
- iv. The Chair of the Sub-Working Group on Financial Intelligence Units and Criminal Investigation Agencies presented the **Asset Investigation Guide** ([CICAD/LAVEX/doc.6/15](#)).
- v. The Chair of the Sub-Working Group on Financial Intelligence Units and Criminal Investigation Agencies presented the **Recommendations and considerations for the security and integrity of officials responsible for combating money laundering and its related crimes** ([CICAD/LAVEX/doc.8/15](#)).

Having submitted the aforementioned documents, the chair of the Sub-working group presented the groups planed strategic topics (asset investigation, the safety of officials, risk analysis, special investigative techniques, new typologies in ML/TF and expert reports), and proposed to continue working on the topics of **risk analysis** and **special investigative techniques**, for which they requested the formation of two working groups, one for each particular topic. In this regard the following responses were obtained:

- Delegation of Uruguay: The delegation expressed its wish to participate in both groups, asking to expressly declare that on the topic on risk, the group will work on concepts developed by FATF. The statement was seconded by the delegations of Peru, Argentina and Bolivia.

- Delegation of Peru: Requested to be incorporated into the risk analysis group.

- Delegation of the United States: The Delegate requested to be part of the special investigative techniques group indicating that the work will not only be limited to answering a questionnaire, but delegations could outline how they could implement these techniques with the current legislation in place.

- Delegation of Argentina: Offered to collaborate with the risk analysis group.

- Delegation of Bolivia: Requested to participate in both working groups.

- Delegation of Ecuador: Offered to participate in the special investigative techniques group.

- Delegation of the Dominican Republic: Requested to participate in both groups.

- Delegate from GAFILAT: Pointed out that GAFILAT also has a risk group that could contribute to the discussions of the working group.

4) Fourth session: Conclusions and Recommendations of the Group of Experts

- i. • To welcome the **Activity Report for 2014-2015** of the Anti-Money Laundering Section of ES/CICAD ([CICAD/LAVEX/doc.18/15](#));
- ii. To approve the **“Analysis on the rights of victims and bona fide third parties regarding forfeiture processes for assets of illicit origin”** document ([CICAD/LAVEX/ doc.16/15](#)) and agree on the preparation of a complementary analysis on the topic, to be carried out by the Delegations of Brazil and Chile and presented at the XLIII GELAVEX meeting.
- iii. To approve the **“Analysis of the applicability and effectiveness of modern judicial instruments for the disposal of seized and forfeited assets”** ([CICAD/LAVEX/doc.9/15](#));
- iv. To approve the **“Proposal of the ES/CICAD for the creation of an ad-hoc working group for the development of guidelines for asset recovery (GAH-REACT)”** ([CICAD/LAVEX/doc.20/15](#)) developed under the framework of the REACT Program.
- v. To approve the **“Asset Investigation Guide”** ([CICAD/LAVEX/ doc.6/15](#))
- vi. To approve the program proposal on **“Open Sources of Information as a Tool in the Development of Asset Investigations”** ([CICAD/LAVEX/doc.3/15](#)), as a complementary work on asset investigation

that will be led by the delegations of Peru and Bolivia, with the support of the ES/CICAD and the World Bank StAR initiative;

- vii. To approve the **“Recommendations and considerations for the Security and Integrity of officials responsible for combatting money laundering and its related crimes”** ([CICAD/LAVEX/doc.8/15](#));
- viii. To approve the proposal from the Delegation of Argentina to include case studies on money laundering at subsequent meetings of the Group of Experts, in order to share experiences and best practices on this topic;
- ix. • To approve the **Work Plan 2015-2016** of the Sub-Working Groups of GELAVEX ([CICAD/LAVEX/doc.22/15](#)), ([CICAD/LAVEX/doc.23/15](#));
- x. To recommend that the Inter-American Drug Abuse Control Commission (CICAD) approves all the documents approved by the Group at the next regular session.

5) Other Issues

As indicated, the delegation of Peru assumed the Presidency of the Group and the delegation of Dominican Republic assumed the Vice-Presidency, as was approved in the fifty-sixth Regular Session of CICAD ([CICAD/doc.2162/14](#)), held on November 19 - 21, 2014 in Guatemala City, Guatemala.

The delegation of Trinidad and Tobago presented their candidacy to hold the Vice-Presidency in the 2016-2017 period (in which the delegation of the Dominican Republic will hold the Presidency). GELAVEX unanimously approved this candidacy and recommended that CICAD approve it at its next regular session, to be held in Trujillo, Peru, November 11-13 of the current year. The ES/CICAD invited the Delegations of the Dominican Republic and Trinidad and Tobago to coordinate with the accredited commissioners of CICAD, in order to formalize their candidacies which will be confirmed at the upcoming regular session.

The group agreed, preliminary, that the next meeting of the Sub-Working Groups of GELAVEX will be held in May 2016 in Washington, D.C and that the ES/CICAD will confirm dates and circulate details in due time.

The group thanked the Presidency, held by the Delegation of Peru, for the organization of the meeting and for the excellent chairing of the Plenary.