



17th St. & Constitution Avenue N.W.  
Washington, D.C. 20006  
United States of America

**Organization of American States**

P. 202.458.3000

[www.oas.org](http://www.oas.org)

**Secretariat for Multidimensional Security**

**XLIII GRUPO DE EXPERTOS PARA EL CONTROL DE LAVADO DE ACTIVOS**

**OEA/Ser.L/XIV. 4.43**

**28 y 29 de septiembre de 2016**

**DDOT/LAVEX/doc.4/16**

**Punta Cana, República Dominicana**

**22 september 2016**

**Original: Spanish**

**STUDY ON SPECIAL INVESTIGATIVE TECHNIQUES ON MONEY LAUNDERING  
AND TERRORISM FINANCING**

**STUDY ON SPECIAL INVESTIGATIVE TECHNIQUES FOR MONEY LAUNDERING AND  
TERRORISM FINANCING**



**ORGANIZATION OF AMERICAN STATES  
SECRETARIAT FOR MULTIDIMENSIONAL SECURITY  
EXPERTS GROUP FOR THE CONTROL OF MONEY LAUNDERING  
SUB-WORKING GROUP ON INTERNATIONAL COOPERATION AND FORFEITURE**

**DOMINICAN REPUBLIC, SEPTEMBER 2016**

## Table of contents

<b>Background</b> .....	4
<b>Objetives:</b> .....	5
<b>General:</b> .....	5
<b>Specific:</b> .....	5
<b>Expected results:</b> .....	6
<b>Products to develop:</b> .....	6
<b>Deliverable:</b> .....	8

## Background

In accordance with 2015-2016 Work Plan of the Experts Group for the Control of Money Laundering (GELAVEX), the Sub-Working Group on Financial Intelligence Units and Law Enforcement Agencies (FIU/OIC) agreed to conduct a “study on special investigative techniques, specifically on their use within the financial system”, in the context of investigations for crimes of money laundering and terrorist financing.

The objective of this mandate is to establish a diagnostic of the possible uses and actual uses of special investigative techniques in these types of investigations.

Specifically, traditional techniques were considered, such as the tapping of phones and other types of telecommunications believed to be related to interventions in the financial system, for example, the creation of fake checking accounts or the injection of illicit money into the formal system, for the purposes of tracing these interventions.

To achieve this objective, the Sub-Working Group agreed at the 2015 Meeting in Lima, Peru, to develop a questionnaire by November 2015, which would produce a situational diagnostic. The questionnaire was circulated in November 2015 and the deadline for responses was July 31, 2016.

To date, responses have been received from 14 countries.

## **Objetives:**

**General:** The general objective of this study is to ascertain the legal status and the practical application of various special investigation techniques in the member states of the group.

**Specific:** There are two: firstly, to have a diagnostic of the legislation on special investigative techniques, specifically whether they can be used, and if so, which ones; and secondly, to learn about their practical application, when they have been used, and the achievements and challenges in their use.

**Expected Results:**

- 1.- Report with the legislative diagnostic.
- 2.- Report with the practical diagnostic.

**Products to develop:**

Study containing the elements mentioned under the Expected results section.

## **Methodology:**

A.- Questionnaires were handed out to all the delegations of the Group.

B.- Responses have been received from the following 14 countries:

1.- Brazil

2.- Chile

3.- Colombia

4.- Costa Rica

5.- Ecuador

6.- El Salvador

7.- Spain

8.- Guatemala

9.- México

10.- Paraguay

11.- Perú

12.- Dominican Republic

13.- Uruguay

14.- Venezuela

C.- The responses were analyzed so as to structure the study, which is separated; firstly, into existing legislation, and whether or not it permits the use of the special investigative techniques in question. The second is the practical use of these techniques, in terms of the experiences using the techniques, and their practical and technological challenges.

D.- The conclusions are presented with a brief presentation of the most important challenges that emerge with the use of special investigative techniques related to the area of finance.

**Deliverable:**

II. Legislative analysis: The questionnaire presents various questions regarding the legislative area which can be grouped as follows:



Country	1. Use of traditional and innovative SIT		2. Use of wiretapping and email interception		3. Interception of other means of communications (instant messaging and social networks)		4. Use of undercover agents, revealer agents and informants		5. Use of controlled delivery of money or introduction of illicit money		6. Creation of fictitious bank accounts, businesses or legal entities	
	SIT in general	Electronic and innovative	Phone calls	email	Instant messaging	Other social networks	Undercover agents	Revealer agents and informants	Controlled delivery of money	Intro. of illicit money	fictitious bank accounts	Creation of businesses or legal entities
<b>Brazil</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<b>Chile</b>	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<b>Colombia</b>	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<b>Costa Rica</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
<b>Ecuador</b>	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No	No	No
<b>El Salvador</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes
<b>Spain</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<b>Guatemala</b>	Yes	NR	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes
<b>México</b>	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No
<b>Paraguay</b>	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<b>Perú</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<b>Dominican Republic</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NR	NR
<b>Uruguay</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
<b>Venezuela</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No

### **III.- Practical Analysis:**

Spain shared, as an interesting example, the use of software that infiltrates the computer system of the investigated subject and reveals their computer network activity. This requires judicial authorization and is expensive.

Costa Rica shared the story of a practical case in which foreign authorities requested authorization to enter money of illicit origin to trace its final destination.

Guatemala and El Salvador highlighted the value of these techniques in specific cases where, for example, wiretapping telephones revealed who were members of a criminal organization, their assets, money transfers, etc.

Ecuador meanwhile also informed of a case in which, thanks to wiretapping, it was able to dismantle a criminal organization.

In general, among all the countries that responded to the questionnaire, phone tapping stands out as very important, as was their awareness of the difficulties with intercepting new forms of communications, especially instant messaging, for which they have the legal authority but not the technical or financial capacity.

In terms of practical experience, they have more experience in using undercover agents than revealer agents.

It was observed that there is little experience with the controlled delivery of money, and none with regard to the creation of fictitious bank accounts since this is not legally permitted in any of the responding countries.

### **Conclusions**

Regarding the possibility of using special investigative techniques, 100% of the responding countries, which is to say 14 of the \_\_\_\_ member countries, or \_\_\_\_% of the member countries in the Group have legislation allowing their use.

Furthermore, with regard to more innovative techniques, including electronic surveillance, only 57% of the responding countries were legally permitted. They described their practical use of the technique.

The legislation of the 14 countries allows for interceptions of all types of telecommunications and email, although some question whether this implies revision in real time or revision of the storage devices once the communications have been intercepted.

Technically, the only country that provided an example of real-time interception of communications which was not via telephone was Spain, which mentioned the use of software which permitted access to the computer system of subject under investigation. This creates the impression that all the other respondents can only review the communications after they have taken place, provided they can access the device used. This underscores an important need for all to have software that allows the interception of all types of telecommunications in real time, otherwise the information is received late.

A shared problem is that the servers and representatives of the companies that manage the social Networks are outside of the surveyed countries, a factor that greatly complicates access to the information.

The possibility of appointing undercover agents and informants exists in the majority of the countries that responded to the questionnaire. Only Ecuador indicated that it did not have laws regarding the use of revealing agents.

The majority of legislations allow for controlled delivery of money, which has had little practical application, but for which the legal possibility of its use exists. With regard to the introduction of illicit money to the formal market, the majority of responding countries do not have written rules permitting this, but some highlighted that operationally, they always encounter this situation when investigating money laundering and being able to trace the money can reveal the final recipient.

The respondents indicated that they had no laws permitting the creation of fictitious bank accounts in coordination with the financial system; and only El Salvador, Guatemala and Peru had laws permitting the creation of legal persons.

Clearly, there has been progress in the use of these techniques. The interception of telecommunications and the use of undercover agents is common among the respondents, but it is important to remain abreast of new technologies since not having real-time access to conversations taking place via Internet instant messaging represents an important challenge for investigations given the ever-increasing use of this form of communication.