

**TWENTY-FOURTH REGULAR SESSION**  
26-30 October, 1998  
Tegucigalpa, Honduras

**OEA/Ser.L/XIV.2.24**  
CICAD/doc.990/98 rev.1  
10 November 1998  
**Original: Spanish/  
English**

**FINAL REPORT  
OF THE GROUP OF EXPERTS  
ON MONEY LAUNDERING**

**(Buenos Aires, Argentina, October 1998)**

**(Provisional Version)**

## I. BACKGROUND

In 1992, the Model Regulations Concerning Laundering Offenses Connected to Illicit Drug Trafficking and Related Offenses, prepared by the Expert Group, were approved at the eleventh regular session of CICAD and subsequently adopted by the General Assembly of the Organization at its twenty-second regular session.

Since the Summit of the Americas initiative in December 1994, the Executive Secretariat of CICAD has been active in the promotion of that part of the initiative to combat the problem of illegal drugs and related offenses. Throughout 1995 it participated with OAS member states in the development of a draft action plan on anti-money laundering measures to be agreed upon by the Ministers responsible for combating money laundering in each of the countries.

On December 2 1995, these Ministers met in Buenos Aires, Argentina and agreed to recommend a Plan of Action for adoption by their respective governments in furtherance of a coordinated hemispheric response to combat money laundering. The Plan included specific items for further action by OAS/CICAD and its money laundering control expert group in particular.

The Expert Group met in 1996 and with CICAD's approval began to meet twice yearly beginning in May 1997.

In the last meeting of the Group in Washington D.C. May 12 to 14, 1998, the Group continued with the work undertaken at the preceding meeting and to that end achieved the following:

### A. Amendments to the Model Regulations

#### - Defining the offense:

- (i) the predicate offense as defined in Article 1 and as described in Article 2 was expanded to cover proceeds from illicit drug trafficking and related offenses to illicit drug trafficking and other serious offenses;
- (ii) two new terms "to transport" and "to administer" were added to the criminal conduct covered by Article 2(1) and 2(2), respectively;

#### - Treatment of forfeited proceeds:

- (i) a new paragraph, 7(d), was added to provide for the sharing of forfeited assets among countries that participate in the investigation and prosecution of money laundering cases;
- (ii) a new paragraph, 7(f), was added to create a national fund to administer forfeited assets and to direct them to specific purposes.

- Financial Institutions:

- (i) the list of financial institutions covered by the provisions of the Regulations was expanded to include those that provide offshore financial services (new Article 10(b));
- (ii) the list of activities provided by entities other than financial institutions which the Regulations recommend that the extension of control measures be applied to was expanded in new Article 17(f) to include those dealing with the international movement of goods and services and the transfer of technology.

B. Training

The Group approved a training plan containing modules for the training of personnel of Financial Intelligence Units (FIUs) and prosecutors, judges and law enforcement.

C. Opinion on a Hemispheric Convention

The Executive Secretariat undertook to prepare a technical report on this subject for the next Expert Group meeting in order to respond to the request for such a report by the working group of the Permanent Council of the OAS entrusted with examining this possibility.

D. Other Business

In addition, the Executive Secretary gave a presentation of developments under the Multilateral Evaluation Mechanism process, countries gave presentations of several typologies examples were made, and the Secretariat made presentations on the latest developments under the Plan of Action of Buenos Aires and the request for and provision of technical assistance to countries on the subject of money laundering.

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

On October 20, 1998, in accordance with the Schedule of Activities, the inaugural session was held in the Salon de las Americas of the Hotel Libertador in Buenos Aires, Argentina. Opening remarks were made by the Executive Secretary of CICAD, Mr. David Beall and by the Secretary of SEDRONAR, Lic. Eduardo Amadeo.

The meeting was carried out in six plenary sessions, which addressed the following matters referred to in the agenda: consideration of the proposals put forward by the working groups on legal action on changes to the Model Regulations and anti-money laundering training; the presentation of a typologies exercise by Lic. Luz Nuñez Camacho of Mexico on the importance of international cooperation and a specific case on this point; presentations by Dr. Bernardo Serwiansky of Uruguay and Dra. Andrea Martinez of Colombia on recent legislative anti-money laundering developments in each

of their countries, addressing the creation of a criminal offence in Uruguay and the establishment of a financial intelligence unit in Colombia; a report by the Executive Secretary on the status of development of the multilateral evaluation process and its possible impact on CICAD expert groups; a consideration of the opinion requested by the Permanent Council of the OAS with respect to the desirability or not of a hemispheric anti-money laundering convention; reports by the Secretariat with respect to new legislative developments, technical assistance and training, in particular the recent signature of a training proposal agreement with the Inter-American Development Bank ; as well as the issues raised by the representatives which are reflected in the conclusions and recommendations forming part of this final report.

The closing session was held on Thursday, October 22, 1998.

### III. AUTHORITIES AND PARTICIPANTS

The names of the attending experts are contained in the Directory of Participants, (CICAD/LAVEX/AR/doc.13/98).

### IV. DOCUMENTATION

The documents compiled for the meeting by the Executive Secretariat are included in the list of Documents, (CICAD/ LAVEX/AR/doc.1/98).

### V. CONCLUSIONS AND RECOMMENDATIONS

#### 1. Amendments to the Model Regulations

The Group considered a number of changes to the regulations on the basis of proposals of several countries including, those of Argentina, Chile, Dominican Republic, Ecuador, Mexico and the United States.

The Chair emphasized that the purpose of amending the regulations was to bring them into line with broad international policy guidelines, in particular those set out in the Summit of the Americas Plan of Action of Buenos Aires of 1995.

The changes which are identified in the version of the Model Regulations appended to this final report are summarized below as follows:

- (i) While it was agreed at the preceding meeting to change the characterization of the offense from illicit drug trafficking and related offenses to **illicit traffic and other serious offenses**, the change has only now been reflected fully throughout the provisions of the Model Regulations.
- (ii) Articles 9(1)(b) and (c) now appearing under new Article 10, referring to financial institutions, include respectively, **any entity performing offshore financial services** and **brokers or dealers in futures**. Former Article 9(2) now 10(2) includes in paragraph (b) reference to the activities of **issuance of**

**credit and debit cards** and paragraph (d) is amended to refer to **appropriate competent authorities**.

- (iii) Former Article 10, now 11 referring to the identification of clients, makes reference in paragraph (1) to the requirement that financial institutions not **open** or maintain anonymous accounts, in (2) that financial institutions shall maintain new identifying documents of the **legal existence and legal representatives** of financial institutions and, in (3) and (4) that they **maintain current** information about the true identity of their clients while **business relations are in effect** and, after those relations have ended, to keep same in **readily recoverable form**.
- (iv) Article 11, now 12 addressing the availability of records, in paragraph (1) contains the expression "**in accordance with the law**" to harmonize the provision with other paragraphs in the Article. In paragraph (3) the word "states" is replaced with the word "**countries**" to avoid confusion where countries have a federal system of government. Former paragraph (4) which addressed the issue of bank secrecy or confidentiality is deleted since the issue is now addressed entirely in re-numbered Article 21, formerly 19.
- (v) Former Article 12, now 13 dealing with the recording and reporting of cash transactions includes express mention in sub-paragraph (2)(f) to the identity and **location of the financial institution**. Paragraph (8) is amended to now include, among the competent authorities to which reference is made, financial intelligence units, by use of the words **the agency referred to in Article 9**. Former Article 12(9) is deleted since the issue is now addressed entirely in re-numbered Article 21, formerly 19.
- (vi) Re-numbered Article 14 referring to the reporting of suspicious transactions is amended in paragraph (3) to now include, among the competent authorities to which reference is made, financial intelligence units, by use of the words **the agency referred to in Article 9**. The term, "as the case may be" is deleted from re-numbered Article 14(4).
- (vii) Re-numbered Article 16 on mandatory compliance programs is amended in paragraph (1)(c) to provide for **audit mechanisms for the detection and prevention of money laundering that may be conducted either by an externally certified firm or by the institution's internal auditor**. A new paragraph (2) provides that **in the case of an internal auditor, that he shall report only to the board of directors of the institution**.
- (viii) Former Article 16, re-numbered as 17 and referring to the extension of the application of these Regulations to economic activities carried on by entities that are not financial institutions, in the opening words provides for the addition of **other methods of payment** in addition to cash; qualifies paragraph (a) to provide for **precious** metals and paragraph (c) to specifically include as professional services **notaries and accountants**; to add new paragraphs (d)

and (e) to provide for **insurance companies and brokers and investment funds or companies**, respectively; a new paragraph (f) adds dealing with **the international movement of goods and services, transfer of technology and movements of cash and other instruments** and; new (g) blankets **any other commercial activity that could be used for money laundering**.

- (ix) A new Article, 18, was developed on cross border movements of currency and negotiable bearer instruments. Paragraph (1) requires **that such cross border movements, above prescribed amounts, be notified to the appropriate competent authority**; paragraph (2) provides for **the minimum information required to be reported**; and paragraph (3) provides for the application of **penal, civil and administrative sanctions** for non-compliance.
- (x) Under re-numbered Article 19(1) providing for the obligations of the competent authorities, a new subparagraph, (h) was added to make provision for **the development of accounting standards or criteria for the communication of suspicious activities that take into account other pertinent national and international standards**.
- (xi) A new paragraph, (2) was added to re-numbered Article 21 on the subject of bank secrecy and confidentiality to make clear that legal provisions on bank secrecy could not be applied as an impediment to compliance by not only financial institutions but also in the case of **any other banking or non-banking financial activities as defined by the laws or regulations of each country**.
- (xii) In terms of the recommendations to CICAD, the first set of recommendations was supplemented with new recommendations 1 and 2, respectively **urging countries to adopt and effectively implement the Regulations** and secondly, **to periodically review them to ensure their continued applicability and effectiveness**. The fourth recommendation of this set was amended to include reference to the holding of **typologies exercises**.
- (xiii) The second set of recommendations was amended by including in items 1 and 4, to include in addition to financial institutions, **the entities carrying out the activities referred to in re-numbered Article 17**. A new recommendation, 5, was added to provide that countries consider **paying special attention to the risks inherent in new or developing technologies such as INTERNET banking and gaming, "smart cards" and other technologies that favor anonymity and take the necessary measures to prevent these new technologies from being used in money laundering**.
- (xiv) In the third set, items 1 and 3 were deleted since these had become incorporated in the changes made, respectively, to the nature of the laundering offense which now provides for other serious offenses and which now requires the reporting of cross border movements of currency and other negotiable bearer instruments above prescribed amounts.

## **2. Training**

The Group discussed a paper presented by Colombia on refinements to the training plan approved at the preceding meeting based on modules for the training of judges, prosecutors, personnel of Financial Intelligence Units (FIUs) and law enforcement officials and approved minor corresponding modifications to the plan.

It was further agreed, on the basis of proposals by several members, including the Dominican Republic, Colombia and Argentina, that member states would make known in writing not later than February 28, 1999 papers on their specific training requirements within the project areas developed by the Expert Group, including, for example, information on the numbers of persons requiring specific training, to facilitate the work of the Secretariat in approaching possible donors with realistic and quantifiable proposals.

## **3. Technical Opinion of Expert Group on the Desirability of a Hemispheric Money Laundering Convention to the Permanent Council of the OAS**

The Group reviewed and discussed how best to respond to the June 1998 resolution of the OAS General Assembly reiterating a request for a report to the Permanent Council of a technical opinion on the desirability of an Inter-American Convention to oppose money laundering. It was agreed that such a report should list pros and cons for such a convention and include reference to the relevant bilateral and multilateral instruments and the work of CICAD and other regional and international bodies.

The Expert Group received a draft report prepared by the Secretariat on this matter and it was agreed that the members of the group would provide their comments on the draft to the Secretariat not later than February 28, 1999. It was further agreed that those members making comments by the above-mentioned date would be invited to form a working group to meet the day prior to the next Expert Group meeting and finalize the report for presentation to the Group meeting and, upon approval by the latter, to the next regular session of CICAD.

Finally, it was agreed that the Executive Secretariat would inform the Permanent Council of these developments.

## **4. Cooperation with the CICAD Working Group on the Multilateral Evaluation Mechanism**

The Executive Secretary of CICAD made a presentation on recent developments in the process to develop a Multilateral Evaluation Mechanism (MEM) and on the possible role that Expert Groups might play. He indicated that while it was still early in the game, these Groups might be called upon to assist the MEM process on the basis of their expertise in the subject of indicators, the practical uses to which information acquired could be put and, if requested to do so, by providing counsel on matters arising out of the functioning of the MEM.

It was agreed by the Group that it would place itself at the disposal of the MEM Working Group and, as requested by it, carry out any work on indicators and provide any other assistance within the Expert Group's competence.

## **5. Typologies**

The representative of Mexico gave a report on typologies in that country and on a recent money laundering case involving considerable international cooperation.

It also heard a presentation from the representative of the Financial Action Task Force (FATF) on the value of carrying out typologies exercises and how they are performed in that organization. The representative stressed that these exercises were not only useful in identifying methods, techniques and trends and the corresponding strategies to oppose novel forms of money laundering, but also to ensure that appropriate strategies were taken. In addition to cases, he noted that the FATF exercises also focus on discussions of particular concerns or subjects such as new technologies, precious metals or the introduction of the new European currency.

The Group expressed its appreciation to Mexico and the FATF representative and adopted a proposal by the United States' representative to give particular emphasis to this subject at the next meeting and the role of typologies exercises in future meetings. It was also agreed that countries would submit typologies proposals to the Secretariat in order that this subject might be more fully dealt with at the next meeting. On the basis of the foregoing it was agreed that the agenda of the next meeting would include more time for this topic. The Chair added that the Group should look at specific thematic areas of interest and, on a related note indicated that it would be valuable to have private sector financial institutions represented at the next meeting.

## **6. Legislation and other Miscellaneous Matters**

The representative of Uruguay gave a presentation on his government's legislation to criminalize and control money laundering which was promulgated on October 23, 1998. The Colombian delegation gave a report on a recent administrative decree, No. 1964 of September 22, 1998 brought into force to establish a financial analysis and information unit which will authorize the reporting of suspicious financial transactions to the attorney general as well as to the newly created unit. The decree will facilitate the establishing of the unit in late November, however, efforts will continue to bring into force a law which will govern the unit, in order to give it the budgetary autonomy which could not be given by the decree.

The Secretariat gave a report on responses to the self-assessment document on the Plan of Action of Buenos Aires indicating that it had received a reply from Belize on its anti-money laundering efforts under the Plan as well as up-dates from Bolivia, Colombia, Mexico, the United States and Uruguay. The Secretariat also made reference to a letter sent by OAS Secretary General, Cesar Gaviria to ministers of foreign affairs of the countries that have not yet responded to the questionnaire to do so,

in compliance with the Buenos Aires Plan of Action. The Chair further emphasized the importance of these reports being made and along with other member states present urged other member states which had not yet done so to complete the questionnaire and provide it to the Executive Secretariat by February 28, 1999, so that the tables of country reports could be up-dated. It was agreed that states with new information in terms of legislative or administrative changes would routinely provide this information to the Secretariat for up-dating the tables.

At the instance of Colombia it was agreed that the Secretariat would prepare a paper for FIU development apart from the training plan, that is, a separate component on funding from potential national and multilateral donors for training and technical assistance needed for the development of FIUs with particular emphasis on support to the directors and staff of these units. It was agreed that this paper would be prepared for the next Expert Group meeting.

The United States proposed, and it was agreed, that at the next meeting the Group of Experts would consider other uses which could be made of the self-assessment questionnaire prepared with respect to the Plan of Action, and whether it could be improved to solicit other information that would be of benefit to the member countries and assist in the work of the Group of Experts.

The Secretariat reported on its technical assistance work in a number of countries throughout 1997 and 1998 advising, as requested, on draft bills to criminalize, detect and prevent money laundering, and for the establishment of FIUs.

The Secretariat also reported on the signing of the agreement on September 29, 1998 between the OAS and the IADB that authorizes the commencement of the pilot anti-money laundering training program in relation to financial institutions in five countries and on an anticipated start-up date at the beginning of 1999.

The Chair made reference to the Manual for the Exchange of Information and Mutual Legal Assistance which the Group had developed in its meeting in Chile in October, 1998 and noted that only three countries had provided the information to make this an effective instrument for use among them. He urged countries to provide the Executive Secretariat with this information at their earliest convenience and, in any event prior to February 28, 1999.

## **7. Future Meetings of Expert Group**

The Chair noted that the subject of Expert Groups would be discussed at the upcoming regular session of CICAD, October 27-30, 1998. It was agreed that the Expert Group would meet again before the next Regular Session of CICAD, most likely in the month of May, 1999. It was further agreed that in keeping with the recent practice of having the working sub-groups meet the day before the meeting, that the sub-group established to address the subject of the desirability of a hemispheric convention would meet on the Monday and that the Group of Experts would then begin its meetings on Tuesday.