

Secretariat for Multidimensional Security

XXXVIII GROUP OF EXPERTS FOR THE CONTROL OF MONEY  
LAUNDERING  
MEETING OF THE SUB WORKING GROUPS  
May 22-23, 2014  
Washington, D.C. USA

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## **BACKGROUND**

The Commission, during its forty-second regular session was hosted in the City of Santa Marta (Colombia). The basis of the work of the Group of Experts for the Control of Money Laundering (GELAVEX), were areas of action identified by GELAVEX in its 34<sup>th</sup> Plenary Session held in November 7-9, 2007 in Santiago de Chile, namely, forfeiture, in rem forfeiture, asset recovery agencies, coordination and integration between Financial Intelligence Units (FIUs), prosecution and investigation agencies, and terrorism financing.

The Commission also agreed that GELAVEX would host two annual meetings: one during the first half of the year, exclusively for the Sub Working Groups (a Subgroup of Forfeiture and a Subgroup for coordination and integration); and another meeting during the latter half, which will feature a plenary session as well as an additional meeting for the Sub Working Groups.

The plenary of the Expert Group held in Caracas, Venezuela, September 27-28, 2011 (LAVEX 33<sup>rd</sup>), recommended that the Commission approve the proposal for the development of a Planning Process for the Group of Experts for the Control of Money Laundering. This proposal was approved by CICAD at its Fiftieth Regular Session, which took place in Buenos Aires, Argentina, November 2-4, 2011.

According to the 2013-2014 Work Plan approved by CICAD at its Fifty-Fourth Regular Session, held in Bogotá, Colombia, December 11-13, 2013, the Sub-Working Group for International Cooperation and Forfeiture should: 1) **Develop a comparative report on work plans, products and contacts of GELAVEX strategic partners** in order to find possible synergies; and 2) **Develop a complementary study on procedures and/or criteria for international cooperation in asset sharing**. Also, according to the same Work Plan approved by the Commission, the Sub-Working Group of Financial Intelligence Units and Law Enforcement Agencies should: 1) Create a document containing an **analysis of how the new FATF 40 Recommendations impact**, particularly regarding the formation of multi-disciplinary teams and deepen the work developed in **the Asset Investigation Methodology Guide**, featuring tools to implement the work developed; and 2) Develop a document that contains the points that should be addressed in a document on **security and integrity of the officials responsible for combating crimes of money laundering and related offenses**, to be presented at the next GELAVEX sub-working groups meeting.

## II. **AGENDA: APPROVAL AND REVIEWING OF THEMES.**

1. **Inaugural session.** Opening remarks were given by the Chairman of the Group of Experts for the Control of Money Laundering of the Inter-American Drug Abuse Control Commission (CICAD), Mr. Paulo Abrão, National Secretary of Justice of Brazil, and the Executive Secretary of CICAD, Ambassador Paul Simons.

The Chairman welcomed the distinguished representatives of the Member States and informed them that in the fifty-fifth regular session of CICAD, held after the GELAVEX meeting in Brasilia, in which the Presidency encouraged the adoption of documents of

extreme relevance for the goals of the Group, the following documents were approved: **Self-Evaluation Guide for the Forfeiture and Administration of Assets**; a **Study on International Cooperation Mechanisms**; **Recommendations for the Identification and Analysis of Risk Factors Associated with Money Laundering and Terrorism Financing at the Hemispheric Level**, the **Methodological Guide for Asset Investigation**, and the **Recommendations to Improve the Anti-Money Laundering of OAS Member States**. The Chair highlighted that each approved document is a step forward for an efficient fight against money laundering. Finally, he thanked delegates for their cooperation, which is reflected in the results achieved over the past year of GELAVEX work, especially in the fight against money laundering and asset management and asset recovery, which are crucial to fulfilling our duties against illicit practices.

The Executive Secretary of CICAD welcomed the distinguished delegations on behalf of the Secretary General of the OAS, Jose Miguel Insulza. The Secretary highlighted the important role played by Brazil in the fight against money laundering in the Americas, especially through the great leadership shown by the Chair of the Group of Experts, Dr. Paulo Abrão.

He also mentioned that the work that would be developed in the sessions of the meeting -year Work Plan proposed in the GELAVEX Meeting in September 2011, in Caracas, Venezuela. In this instance, a review of the work and products generated by the Group were made, to assure that in the next GELAVEX meeting the objectives for these three years would be successfully achieved. Finally, he thanked and acknowledged the work and dedication of the Coordinators of the Sub-Working Groups on International Cooperation and Forfeiture, and FIUs and LEA led by Costa Rica and Chile, for their efforts and for the time invested to successfully accomplish the work, with the active participation of the delegates of other Member States.

2. **Agenda.** The Group adopted, without changes, the draft agenda ([CICAD/LAVEX/ doc.1/14](#)).

### **III. GROUP DELIBERATIONS**

1. Presentation of recommendations for a Legal Framework for International Cooperation in Forfeiture and Asset Recovery. CICAD initiative (CICAD/LAVEX/doc.11/14). By **Isidoro Blanco Cordero**, Professor of Criminal Law in the University of Alicante, Spain.

Professor Blanco Cordero highlighted in his presentation that international Cooperation to locate and recover assets of illicit origin is essential. Although seemingly there is goodwill between States to cooperate, there is not appropriate national legislation allowing for forfeiture and asset recovery, nor specific legal procedures which detail what to do when a country requests assistance. He also highlighted that States have many difficulties in identifying and locating assets hidden in other States; once located, for years there has been a lack of political will of some financial centers to collaborate; and that there are legal obstacles related to international cooperation. For these reasons, he emphasized the need of elaborate recommendations through a consensus instrument to facilitate the drafting of legislation on asset recovery in Member States and/or upgrade the ones that already exist. He also recommended the design of a structured information repository to facilitate efficient international cooperation in forfeiture and asset recovery.

#### **Deliberations of the delegations:**

Brazil noted with optimism the way the OAS has seriously addressed forfeiture and asset recovery through international cooperation. Brazil supported the efforts to provide guidelines and/or recommendations to ensure effective mechanisms for asset sharing. Brazil also commented that the country is prioritizing the training of officials in this area and that, so far, 13,000 staff were trained.

Costa Rica thanked Professor Isidoro Blanco for sharing his experiences through the presentation and for the support to the ES in the development of the Technical Assistance Program on International Cooperation in Asset Recovery. The delegate mentioned that it is important to include officials from the asset recovery offices in the Program, especially for the training component.

Argentina thanked Professor Blanco Cordero for the presentation. The Delegation suggested that the program should be developed as a macro-legal structure that countries can adopt in the future, made up of international best practices, taking into account the particular justice system of Argentina, where the court is responsible for the administration of assets. On the other hand, the work carried out on the issue of terrorist financing was mentioned, announcing that Argentina is doing its best to comply with FATF recommendations, particularly with those related to the freezing of assets linked to terrorism and terrorism financing. The delegation added that there are procedures that consider due process, and include the possibility of adopting precautionary measures in the framework for international cooperation. It also indicated that there are some drawbacks with in rem forfeiture procedures that are initiated in foreign countries and require international cooperation.

Uruguay praised the work of the Presidency in charge of Brazil as well as the excellent presentation made by Professor Isidoro Blanco. The delegation stressed the importance of depriving criminal organizations of the economic benefits generated by the crimes, which is difficult because judicial systems are restricted by national boundaries and the sovereignty of the countries, while transnational criminals respect no borders in their criminal activities. It also emphasized that international collaboration is becoming an essential aspect and that jurisdictions that protect international crime should be avoided.

Chile welcomed the presentation made by Professor Blanco Cordero, highlighting how the GELAVEX is addressing issues of international cooperation. The delegation referred to the possibility of considering the incorporation of those recommendations in an existing CICAD/OAS document, as CICAD Model Law.

EEUU made reference to the principles of international Cooperation and forfeiture that allow for the enhancement of the capabilities of the authorities in cooperation, for example in the context of in rem forfeiture. In this regard, Professor Blanco explained that the proposal specifically addresses the field of formal cooperation and takes these principles into account, as well as the experience and knowledge gained by the existence of informal networks of information exchange, such as the RRAG of FATF.

2. The US delegation presented <sup>a</sup> *Invigoration and Reinvigoration of Forfeiture from the U.S. perspective* by Aixa Maldonado-Quiñones, Senior Trial Attorney of the Asset Forfeiture and Money Laundering Section.

Ms Maldonado-Quiñonez made a very comprehensive and explanatory presentation on the U.S. Confiscation Act, as well as the Asset Forfeiture Program and its practical experience. She especially focused her presentation on the objectives of forfeiture in the United States and explained the types of seizure that the government does without compensation. She extensively described the types of assets subject to forfeiture; explained the application of forfeiture within some special laws, such as the RICO Act against organized crime and terrorism, explaining that there is no a single statute that regulates seizure and confiscation, as there are more than 200 offenses to which these measures can be applied. She also made reference to the different types of seizure: administrative, criminal and civil (or in rem). Finally, she shared important information about the Confiscated Assets Fund, forfeited assets and the procedures to carry out seizures and share assets abroad.

### **Deliberations of the delegations:**

Brazil welcomed the presentation and showed interest in learning more about the seized assets fund, asking the speaker for more details on this unique fund and mentioning the existence of two funds in Brazil. Also, the delegation expressed interest in the financial calculations performed by the Treasury Department. Ms Maldonado explained that in principle in the U.S. the creation of a single fund was considered, but due to the different responsibilities of the departments, they ended up being managed separately.

Mexico greeted everyone present, thanked the presentation of the U.S. delegation and asked the speaker for more information on the experience of the country regarding international cooperation.

Haiti thanked the US for the excellent presentation, requested additional information concerning asset sharing and the CATS system, through which all automated and centralized information on seized and forfeited assets in the US is handled.

The distinguished delegate of the U.S. answered the questions and gave the information requested by the delegations. The representatives were satisfied with the comments of the speaker, which were aimed specifically at the challenges that the US faces in the field of international cooperation for the forfeiture of property that is out of the country, in various countries cooperation agreements and international sharing of goods is increasing and being facilitated. She highlighted that the work of the Ministry of Justice is done very closely to the State Department, a fact that also benefits the creation of bilateral agreements.

3. The Executive Secretary of CICAD presented, within the framework of the BIDAL Project, the Guide for Management of Seized Businesses ~~by~~ by Dennis Cheng, Director of the BIDAL Project ES/CICAD ([CICAD/LAVEX/doc.3/14](http://CICAD/LAVEX/doc.3/14)).

Dr. Cheng explained that the Guide is intended to share best practices involving the management of seized companies that are still operational and to serve as a reference so seized and forfeited assets can develop manuals or protocols regarding the seizure of these companies. He gave a summary of the document, explaining step by step the best practices for managing this type of assets. The document compiles experiences of specialized agencies from Honduras, Costa Rica, Mexico and Colombia. Finally, he expressed his satisfaction with the participation of the ES / CICAD in the International Expert Meeting on Management and



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