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CICAD

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Secretariat for Multidimensional Security

**XXXIX GROUP OF EXPERTS FOR THE
CONTROL OF MONEY LAUNDERING
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Montevideo, Uruguay**

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**FINAL REPORT
(DRAFT)**

1) BACKGROUND

The Expert Group for Control on Money Laundering (GELAVEX) was created in 1990 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 in Financial Intelligence Units (FIU) and Law Enforcement Agencies (LEA), whose activities are determined by strategic plans that define lines of action and by work plans that define concrete actions to be developed in accordance with the lines of action previously defined.

The Strategic Plan Proposal for the 2012-2014 period, that corresponds to annex X of the Final Report of the XXXII Meeting of GELAVEX ([CICAD/LAVEX/doc.17/11](#)), was approved in the fiftieth regular session of CICAD and, therefore, served as a standard for the activities developed by the group in 2012-2014.

2) PROCEEDINGS

2.1) INAGURAL SESSION

- Representing the **Delegation of Brazil**, outgoing President of GELAVEX, **Mr. Diogo de Oliveira Machado**, Coordinator of International Treaties and Forums of the Department of Asset Recovery and International Legal Cooperation of the Ministry of Justice of Brazil, greeted the delegates and present authorities and thanked the Plenary for the confidence during the period in which Brazil served as President of GELAVEX, as well as thanked the Coordinators of the Sub-Working Groups for their work. Mr. Diogo de Oliveira gave a summary of the activities done by the Group during the last year, commented on the recent advances achieved by Brazil on the subject and, finally, offered the support of the delegation of Brazil to the delegation of Uruguay, who assumed the presidency of the Group.
- Representing the **ES/CICAD**, **Ambassador Paul Simons** welcomed the delegations in the name of the General Secretary of the OAS, thanked the leadership of Brazil as President of the Group and mentioned the mandates that were given to CICAD in forums like the XLVI Extraordinary General Assembly, held in September 19 of the current year. Ambassador Simons congratulated the Group for the quality of the products developed thanks to the knowledge and experience of its members, and incentivized the Group to work as usual in the initiatives to be developed in the framework of the Strategic Plan 2015-2017.
- Representing the **Ministry of Foreign Relations of the Eastern Republic of Uruguay**, **Ambassador Milton Romani** welcomed the delegates and emphasized the importance of GELAVEX not just for support the fight against drugs, but also other phenomenon like illicit arms trafficking, the treatment of persons and corruption. Ambassador Romani emphasized the importance of combatting the “backbone” of organized crime, which is its financial structure. Finally, the Ambassador thanked the delegation of Brazil for the prolific driving of the work during the presidency that was assumed in Brasilia, and predicted success for the new period that will be driven by the delegation of Uruguay.

- On behalf of the **Delegation of Uruguay**, Incoming President of the Group, **Mr. Carlos Díaz Fraga**, Secretary General of the National Anti-money Laundering Secretariat (SNA) of the Presidency of the Eastern Republic of Uruguay, welcomed the delegates and authorities and reiterated the compromise assumed by Uruguay to receive the Presidency *pro tempore* of the Group during the 2014-2015 period. Mr. Carlos Díaz mentioned the serious problems generated by organized crime, phenomenon that is vigorously fought by certain States but sparsely controlled in other more vulnerable States, a fact that strengthens some criminal networks. Mr. Carlos Díaz proposed, thus, that the Group will continue enhancing a common philosophy between OAS Member States, that the cooperation mentioned in international agreements is an unavoidable commitment and the Group should work accordingly.

2.2) SECOND SESSION

- **Approval of the agenda and review of themes:** the group approved the draft schedule of activities without modifications ([CICAD/LAVEX/doc.1/14 rev.1](#)).

- On behalf of the **ES/CICAD**, Mr. **Nelson Mena**, Chief of the Anti-Money Laundering Section, presented the **Report of Activities** of the 2013-2014 period ([CICAD/LAVEX/doc.16/14](#)).

- On behalf of the **US** delegation, **Mr. Michael J. Burke**, Senior International Counsel of the Asset Forfeiture and Money Laundering Section of the U.S. Department of Justice presented “**Mechanisms for the International Cooperation in Forfeiture: a look to the jurisdiction, to the international treaties and the types of assistance**”.

- **Discussion and Proposals:**

The delegation of the **Dominican Republic** emphasized the importance of the non-conviction based forfeiture, and reported that although in the Dominican Republic there is no *in rem* forfeiture law, it is possible to remove the assets from criminal organizations and to collaborate with other States, such as the US. The delegation expressed its disagreement in relation to the enactment of extraterritorial laws, arguing that they could violate the sovereignty of the States if they do not respect their internal legal systems, and emphasized the need to strengthen international cooperation.

The **US** delegation stated that according to international treaties, such as the 1988 Vienna Convention, the signing countries have the obligation to permit another State to proceed with the forfeiture of illicit assets or to execute sentences given by foreign courts, so the sovereignty of countries is not violated in those cases.

The delegation of **Brazil** highlighted the relevance of international cooperation in asset recovery and mentioned the need to reduce and even eliminate the requirements that complicate the legal assistance in cases of international asset recovery.

The delegation of **St. Kitts & Nevis** thanked the presentation of the US and inquired if it is possible to discuss in future meetings experiences on how financial or bank evidence is presented before the court.

The delegation of **Costa Rica** mentioned the importance that States have a solid and efficient forfeiture system, although not all of them implemented figures like the non-conviction based forfeiture

or the *in rem* forfeiture, and, also mentioned the importance of international cooperation in cases of asset recovery.

The **ES/CICAD** announced that mechanisms of technical assistance that permit the exchange of experiences and good practices for asset recovery of an illicit origin between Member States are being developed, as reflected in the Program Proposal for Technical Assistance ([CICAD/LAVEX/doc.3/14](#)).

- On behalf of the **ES/CICAD**, Ms. **Priscilla Standridge**, Voluntary Researcher for the BIDAL Project and Researcher for the Joint Research Centre on Transnational Crime (TRANSCRIME), Italy, presented an executive report ([CICAD/doc.14/14](#)) of the document “**Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS**” ([CICAD/doc.13/14](#)).

- **Discussion and Proposals:**

The delegation of **Brazil** thanked the work done by ES/CICAD, shared information on the recollection of data in Brazil and recalled that the recent implementation of the BIDAL Project in the country will contribute to the improvement of the asset management system and so great advances on this theme would be achieved.

The delegation of **Chile** commented that, although the BIDAL Project was executed in the country, so far there is no management system, nor rules that govern the standardization of procedures, like the registration of information on seized assets. For this, the delegation showed interest in learning the experience of other States in the field that could serve as good practices and as a reference for Chile.

- The **President of the Eastern Republic of Uruguay, Don José Mujica Cordano** welcomed the group and congratulated the work done in a “never ending and always growing field”, as the criminal organizations “are always looking to multiply their technological, technical and scientific capacities”. President Mujica made reference to the problems that put the economies of the countries of the region at risk and undermine the Democratic States of Law, such as fiscal evasion and the high crime indexes. Finally, he mentioned the large responsibility of the members of GELAVEX for having specialized in these themes, offered his support and wished them a fruitful meeting.

- On behalf of the Group, **Mr. Carlos Díaz** transmitted to the President Don José Mujica the honor that his visit represented, as well as his support and confidence. Mr. Carlos Díaz mentioned that GELAVEX is the oldest group of money laundering on the American continent, and that his experience and dedication allowed to declining the risk that financial resources are devoted to illicit activities that damage contemporary societies.

- On behalf of the **ES/CICAD**, Ms. **Ana Álvarez**, Legal Specialist of the Anti-Money Laundering Section, presented ([CICAD/doc.18/14](#)) the “**Program Proposal for Technical Assistance of International Cooperation in Asset Recovery**” ([CICAD/LAVEX/doc.3/14](#)).

- **Discussion and Proposals:**

The delegation of the **Dominican Republic** congratulated the ES/CICAD on the development of the proposal and offered support for collaborating in the products which would be developed: identifying the practical difficulties experienced by OAS Member States in the international recovery of illicit assets,

and developing tools so that the identification, localization and recovery of assets can be executed in a more effective manner and in conformity with international standards.

The delegation from **Brazil** expressed interest in collaborating in the execution of the Program and suggested further strengthening of the relationship between GELAVEX and the Department of Legal Cooperation of the OAS in cross-cutting themes, like international cooperation.

The delegation of **Costa Rica** congratulated the ES/CICAD for the proposal and thanked that the work done by the Sub-Working Group on International Cooperation and Forfeiture has been taken into account for its development. The delegation supported the initiative and expressed interest in supporting its execution.

The **US** delegation thanked the ES/CICAD and emphasized the interest of the United States in knowing the results of the situational diagnostic (product I of the proposal) that will include an analysis of the implementation of the FATF Recommendations on forfeiture and asset recovery. The delegation showed support to the proposal that would be useful for the new round of FATF evaluations and will support OAS Member States to implement the existing international standards.

- The delegation of Costa Rica, as **Coordinator of the Sub-Working Group in International Cooperation and Forfeiture**, presented ([CICAD/LAVEX/doc.8/14](#)) the “**Complementary Study on the Procedures and/or criteria for International Cooperation in Asset Sharing**” ([CICAD/LAVEX/doc.10/14](#)).

- **Discussion and Proposals:**

The **US** delegation thanked the delegation of Costa Rica for the work done, that will be of great value for helping to understand the mechanisms used by OAS Member States to share forfeited assets.

The delegation of **Uruguay** commented that bilateral agreements were signed in cases of international asset sharing, so asked for this information to be included in the study.

- The delegation of Costa Rica, as **Coordinator of the Sub-Working Group of International Cooperation and Forfeiture**, also presented ([CICAD/doc.9/14](#)) the “**Comparative Work Plans, Products and Contacts of GELAVEX Strategic Partners**” ([CICAD/LAVEX/doc.5/14](#)).

The Coordination of the Sub-Working Group reminded the Plenary at the last GELAVEX meeting, held in May 22-23 in Washington DC, it was recognized that the “**Guide for the Management of Seized Businesses**” ([CICAD/LAVEX/doc.3/14](#)), developed in the framework of the BIDL Project, constitutes an important reference for Member States to improve their asset administration systems. As its name indicates, the guide serves as an orientation especially in cases of seized business, which represent large challenges for the specialized agencies that manage this type of assets.

- **Discussion and Proposals:**

Representing the **International Monetary Fund (IMF)**, Mr. Mariano Federici thanked the ES/CICAD and the GELAVEX for the work done and informed his availability to continue contributing and providing updated information, as long as the express consent of the States involved has been given. Also, he mentioned the efforts that are taking place with the ES/CICAD for the implementation of projects and programs that assist the Member States to strengthen their AML/CFT systems.

- On behalf of the **Delegation of Uruguay**, Dr. Ricardo Pérez presented “**The Importance of a Parallel and Proactive and Proactive Financial Investigation**” ([CICAD/LAVEX/doc.17/14](#)).

- **Discussion and Proposals:**

The delegation of the **Dominican Republic** highlighted the importance of the experience of Uruguay on proactive investigation and made reference to the UNODC program denominated the “Plan of Investigation” (PI) that aims to improve investigations and strengthen inter-institutional coordination.

The delegation of **Paraguay** emphasized the necessity of sharing public information and improving the coordination between institutions performing financial investigations.

2.3) THIRD SESSION

- The delegation of Chile, as **Coordinator of the Sub-Working Group on Financial Intelligence Units and Criminal Investigation Organizations**, incentivized a dialogue on how to further develop the topic of **asset investigation** and suggested the creation of a guide.

- The delegation of Chile, as **Coordinator of the Sub-Working Group on Financial Intelligence Units and Criminal Investigation Organizations**, presented the “**Report on the Outcomes of the Survey Regarding the Safety of Member of the AML/CTF System Particularly Members of the Financial Intelligence Units (FIU), Law Enforcement Agencies (LEA) and Asset Recovery Offices**” ([CICAD/LAVEX/doc.12/14](#))

- **Discussion and Proposals:**

The delegation of **Brazil** commented on the experience of the country on asset investigation in cases of money laundering and organized crime, particularly from the perspective of the federal police, and shared good practices on security matters, like the use of protocols for avoiding the risks that affect the security of the officials responsible for the investigations.

The delegation of **Peru** made reference to cases in which members or accomplices of the criminal organizations began criminal complaints or lawsuits against officials that fought money laundering as a strategy to intimidate them and hinder investigations that could harm such organizations.

The delegation of **Paraguay** exposed similar experiences to those of Peru in which it was showed, for example, that the defense attorney of the criminals asked to summon in court proceedings, as witnesses, to the analysts of the UIFs, always as a strategy to distort and hinder the work of these entities.

- Representing the International Monetary Fund, **Mariano Federici** presented the theme “**AML/CFT Strategic Priorities**” ([CICAD/LAVEX/doc.11/14](#)).

- **Discussion and Proposals:**

The delegation of **Paraguay** thanked the work of the international organizations for helping the States on money laundering issues and shared with the Plenary some of the benefits achieved based in an adequate national strategy, particularly strengthening inter-institutional collaboration and involving not only key public institutions, but also private entities and the civil society.

The **US** delegation highlighted the importance of the specialization of the institutions and the officials that work with these topics, as well as made reference to the benefits achieved by the Member States that adopt mechanisms and legal figures like *in rem forfeiture*, proactive asset investigation and strengthening their forfeiture systems (including, on occasion, non-conviction based forfeiture) to retire the illicit assets from the criminal organizations.

The delegation of **Brazil** shared successful experiences of the national strategy in the fight against corruption and money laundering (ENCLA), like legislative changes, structural reforms and other mechanisms that contribute to the strengthening of key institutions charged with combating such criminal activities.

The delegation of the **Dominican Republic** highlighted the important work carried out by the FIUs and the need for this to be done in close collaboration with the Public Ministry. Also, the delegation emphasized the need of training prosecutors and other law enforcement officials in order to improve the financial investigations.

The delegation of **Panama** mentioned its agreement about the need for the officials specialized in financial investigations, but emphasized that it is important, also, the specialization of judges once that ultimately they are the ones who decide the development of the cases of money laundering and connected crimes.

- **Lt. Col. Edward Croft**, Director of the National Office of Drug and Money Laundering Control Policy of Antigua and Barbuda presented “**Providing International Cooperation for Asset Forfeiture in the Caribbean: Mechanism for the Management of Forfeited Assets**” ([CICAD/LAVEX/doc.15/14](#))

- **Discussion and Proposals:**

The **US** delegation thanked the very detailed and informative presentation and indicated satisfaction with the cooperation that the United States receives in cases in which collaboration of the Caribbean States is required. Also, the delegation mentioned the importance that the Caribbean countries actively participate in the GELAVEX meetings and contribute providing their experiences and best practices.

- As was assigned in the XXXVIII Meeting of GELAVEX, held in May 2014, the Delegate of Chile, Mr. **Marcelo Contreras Rojas**, consolidated the proposals sent by Member States and presented a draft of the lines of action that could integrate the **Strategic Plan 2015-2017** of GELAVEX ([CICAD/LAVEX/doc.19/14](#)). The following ones were defined:

Sub-Working Group on International Cooperation and Forfeiture:

- 1) Coordination between the legal and administrative authorities for the management and administration of seized assets;
- 2) Processes of alienation of forfeited and seized assets
- 3) Administration of complex assets;

4) Aid to the ES/CICAD in the theme of the repatriation of assets that will be worked on in the framework of the Technical Assistance Program on International Cooperation in Asset Recovery

5) Aid to ES/CICAD in the theme of victims' rights and of the bona fide third parties that will be working in the framework of the Technical Assistance Program on International Cooperation in Asset Recovery; and

6) Promotion of the development of effective forfeiture laws and their effective implementation in the Member States.

Sub-Working Group on Financial Intelligence Units and Criminal Investigation Organizations:

1) Asset Investigation (identification of real sources);

2) Risk Analysis of AML/CFT;

3) Security of the Officials charged with the prevention and fight against Money Laundering and other crimes;

4) Special techniques of investigation;

5) Expert evidence (experts); and

6) New typologies AML/CFT.

Executive Secretary of CICAD (ES/CICAD):

1) BIDADAL PROJECT; and

2) Technical Assistance Program on International Cooperation in Asset Recovery.

• Based on the Strategic Plan 2015-2017, the **Working Plan 2014-2015 for the Sub-Working Groups of GELAVEX** was also defined, as follows:

The **Sub-Working Group on International Cooperation and Forfeiture** will be dedicated to: a) creating a guideline to support the disposal of assets carried out by the asset management agencies; b) supporting the ES/CICAD to study victims' and *bona fide* third party rights in the framework of the Program for Technical Assistance of International Cooperation in Asset Recovery.

The **Sub-Working Group in Financial Intelligence Units and Criminal Investigation Organizations** will be dedicated to: a) formulating recommendations for the security and integrity of the officials charged with combatting money laundering and connected crimes; and b) developing an asset investigation guide.

The delegations of **Argentina, Brazil, US, Guatemala, Uruguay and Panama** collaborated specially with the **Sub-Working Group in International Cooperation and Forfeiture**; and **Argentina, Brazil, Peru, El Salvador, Guatemala and Uruguay** collaborated specially with the **Sub-Working Group on Financial Intelligence Units and Criminal Investigation Organizations**. The delegation of **Ecuador** will inform the ES/CICAD, following pertinent consultations, in which sub-working group will collaborate.

IV. DECISIONS

• To thank the **Report of Activities** for the 2013-2014 of the Anti-Money Laundering Section of ES/CICAD ([CICAD/LAVEX/doc.16/14](#));

• To approve the "**Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS**" ([CICAD/doc.13/14](#)) done by the ES/CICAD in the

framework of the BIDAD project, and recommend that the Commission approve it in the next ordinary period of session so that it is adopted as a reference document for the Member States;

- To approve the “**Program Proposal for Technical Assistance of International Cooperation in Asset Recovery**” ([CICAD/LAVEX/doc.3/14](#)) and recommend that the Commission approve in the next ordinary period of sessions, so that it can be carried out by ES/CICAD according to available resources;

- To approve the “**Supplementary Study on the Relative Procedures and/or Criteria for International Cooperation in the Sharing of Seized Assets**” ([CICAD/LAVEX/doc.10/14](#)) and recommend that the Commission approve it in the next ordinary period of sessions, so that it can be adopted as a reference document and be used as input for the Technical Assistance Program on International Cooperation in Asset Recovery;

- To approve the “**Comparative Report on Work Plans, Products and Contacts of GELAVEX Strategic Partners**” ([CICAD/LAVEX/doc.5/14](#)), and recommend that the Commission approve it in the next ordinary period of sessions;

- To recognize that the “**Guide for the Management of Seized Businesses**” ([CICAD/LAVEX/doc.3/14](#)) constitutes an important reference tools so that Member States can improve their asset administration system, and recommend to the Commission to approve it in the next ordinary period of sessions so that it can be adopted as a reference document for Member States;

- To highlight the presentation on **asset investigation** and how it was proposed to continue working on the issue (through a guide on asset investigation as indicated in the Work Plan 2014-2015);

- To approve the document on “**Report on the outcomes of the survey regarding the safety of member of the AML/CTF system, particularly members of the Financial Intelligence Units (FIU), Law Enforcement Agencies (LEA) and Asset Recovery Offices (ARO)**” ([CICAD/LAVEX/doc.12/14](#)) and recommend to the Commission to approve it in the next ordinary period of sessions so that it can be adopted as a reference document and as an input in formulating the “recommendations for the security and integrity of the officials charged with combating money laundering and related crimes” according to the Work Plan 2015-2017;

- To approve the lines of actions proposed by the **GELAVEX Strategic Plan 2015-2017** ([CICAD/LAVEX/doc.19/14](#)) and recommend that the Commission approves it in the next ordinary period of sessions;

- To approve the **Work Plan 2014-2015** of the Sub-Working Groups of GELAVEX and recommend that the Commission approve it in the next ordinary period of sessions.

V. OTHER ISSUES

As indicated, the delegation for Uruguay assumed the Presidency of the Group and the delegation of Peru began to exercise the Vice-Presidency, as was approved in the fifty-fourth ordinary period of sessions of CICAD ([CICAD/doc.2072/13rev.2](#)), held in December 11-13, 2013 in Bogota, Colombia.

The delegation of the Dominican Republic presented their candidacy to hold the Vice-Presidency in the 2015-2016 period (in which the delegation of Peru will hold the Presidency). GELAVEX unanimously approved this candidacy and recommended that CICAD approve it in the next ordinary period of session, to be held in Guatemala City, Guatemala, November 19-21 of the current year.

The group agreed, preliminary, that the next meeting of the Sub-Working Groups of GELAVEX will be held in May 27-28, 2015 in Washington, D.C and that the ES/CICAD will confirm this information in due time.

The group thanked the Presidency, held by the Delegation of the Eastern Republic of Uruguay, for the organization of the meeting and for the excellent conducting of the Plenary.