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FINAL REPORT

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I. BACKGROUND

During the forty-second regular session held in Santa Marta (Colombia), the Commission adopted the following work areas for the Expert Group on the Control of Money Laundering that were identified by GELAVEX during its XXV plenary meeting held in Santiago, Chile in November 2007: forfeiture, *In-rem* forfeiture, Asset Recovery Agencies (LEA), and terrorism financing.

At the same time, the Commission agreed that GELAVEX will hold two annual meetings: one during the first half of the year, exclusively for the Sub Working Groups (Subgroup for FIUs and Law Enforcement Agencies and Subgroup of Forfeiture); and another during the latter half, which will feature a plenary session as well as an additional meeting for the Sub Working Groups.

The Expert Group recommended in its meeting held in Caracas, Venezuela, September 2011, the approval, by the Commission, of the proposal for the development of a planning process for GELAVEX. This proposal was approved by CICAD in its fiftieth regular session, held in Buenos Argentina, November 2011.

According to the 2011-2012 Working Plan approved by CICAD, the International Cooperation and Forfeiture Subgroup will continue working on the following subjects: (1) the elaboration of normative aspects for the creation and development of specialized bodies on the administration of seized and/or forfeited assets that will be carried out through the BIDAD Project, and; (2) the elaboration of a report on the progress on the implementation of the different systems of asset forfeiture and on the identification, among member countries, on the efficient mechanisms to share forfeited assets. Additionally, according to this Working Plan approved by CICAD, the LEA-FIU Integration/Interaction Subgroup will continue working on: (1) the presentation of a first progress report on the elaboration of recommendations, principles and best practices that permit countries to unify criteria regarding the information that is shared among Financial Intelligence Units and Criminal Investigation Agencies, and; (2) the presentation of a first progress report on the elaboration of recommendations for the identification and analysis of risk factors on material of money laundering and financing of terrorism at the hemispheric level.

II. AGENDA: APPROVAL OF THE AGENDA AND REVIEW OF TOPICS

1. Inaugural session. The opening remarks were made by Mrs. Annalibe Ruiz, Chair of the Expert Group on the Control of Money Laundering and delegate of the Bolivarian Republic of Venezuela, and Mr. Nelson Mena, Coordinator of the Anti-Money Laundering Section of the Executive Secretariat of the Inter-American Drug Abuse Control Commission (ES/OAS).
2. Agenda. The Group approved the draft agenda ([CICAD/LAVEX/doc.1/12](#)) without modifications; however, the delegation of Dominica requested the opportunity to elevate to the Commission the feasibility for the Executive Secretariat to provide technical assistance to the member States on mutual evaluations for the fulfillment of the recommendations of the Financial Action Task Force on Money Laundering (FATF). The Chair suggested including this proposal in the forth plenary session of the agenda, specifically in the space for Conclusions and Recommendations to

the Plenary Panel. Dominica agreed with the suggestion of the Chair and it was approved by the Group.

III. DELIBERATIONS OF THE GROUP

1. The Executive Secretariat (ES) presented its oral and visual report of the publication of information related to seizure and forfeiture on CICAD's website. The delegations consented to the report presented by the ES, recognizing the effort accomplished in the compilation of all the published information related with seizure and *in-rem* forfeiture. The ES urged the member states to review the information regarding their own country in order for the ES to maintain and publish the most up to date information. In particular, the delegations provided comments in the following order:

The USA commended the ES for the progress made in the fulfillment of this mandate in such a short time. It also emphasized that, because of the progress that some countries have experienced in confiscation without conviction, some presentations about the experience of these countries in the implementation of this legislation should be incorporated in the next GELAVEX sessions. In addition, the delegation from the United States mentioned the interest GELAVEX might have monitoring the implementation of management systems of seized and forfeited assets.

Honduras recognized the work realized by the ES, while suggested to incorporate to the discussion of the Subgroup of Forfeiture the topic of unification of central authorities to provide mutual legal assistance, and the implementation of jurisdictions or special courts for the processing of seizure and forfeiture.

Argentina joined the appreciation of the work done by the ES and suggested the incorporation in the compilation of all the updated information and legislation relating to non-conviction forfeiture implemented by the member countries.

Dominica expressed its gratitude to the ES for the compilation of such important information and stated that Dominica is part of a group of FIU's that has worked on model legislation about civil confiscation for the Western Caribbean. This delegation hopes to provide this reference paper that will soon be incorporated in this compilation.

Chile joined the congratulations to the ES and suggested that the delegations provide a link that can be placed on the OAS's website, which redirects to an identified national website that has updated the legislation of each member country.

2. The ES presented its oral report about the advances of the BIDAL Project in El Salvador and Dominican Republic ([CICAD/LAVEX/doc.7/12](#)). The Group recognized the significant progress of the BIDAL Project, which has extended to the regions of Central America and the Caribbean, highlighting the impact that has generated in the hemisphere, directly in the beneficiary countries and indirectly in the entire region, through its products, as the Best Practices Document on Management of Seized and Forfeited Assets.

The delegation of the USA agreed to the report of the advances of the Project in El Salvador and Dominican Republic. In addition, it highlighted the efforts of the ES for the work done to achieve the proposed objectives. Furthermore, it underscored a very relevant case that involved the cooperation of Dominican Republic and the United States, emphasizing the Dominican authorities' ability to manage the assets involved in the forfeiture of more than US\$80 million, which was shared by both countries as agreed by a bilateral agreement.

Honduras said that the contribution of the OAS with this Project is very important, especially through the products that it generates, as the Best Practices Document on Management of Seized and Forfeiture Assets, the amendments to the CICAD's Model regulations, a comparative law study,

inter alia. All this has been of great utility to improve the management systems of forfeited assets in the countries, even those countries where the project has not been executed directly, concluding that the Project has had a huge impact in the hemisphere.

The delegation of Dominican Republic showed its appreciation for the words of encouragement and recognition from the USA for all the contributions made, in terms of both collaboration and technical assistance, which has permitted it to improve the mechanisms of national and international cooperation. In addition, this delegation thanked the BIDAL project for all the valuable inputs and recommendations that the project is giving in its country.

Costa Rica recognized the importance and the impact of the Project in a regional level. Particularly, the delegation referred to the invaluable contribution of the Best Practices Document, which was generated during this Project.

Ecuador said that it has made important changes in its legislation on seized and forfeited assets, based on some standards generated in the Project, which has permitted the improvement of its management system of forfeited assets.

Colombia accentuated the success of the Project and the importance of the development of legal tools like *in-rem* forfeiture, which has been fundamental in combating organized crime, including drug trafficking. Also, the delegation manifested its interest to participate as an observer or facilitator of the Colombian experience in the next regional workshop on forfeiture that will be held in Costa Rica within the framework of this Project.

Brazil and Peru also manifested their interest to participate as observers or facilitators of the Brazilian and Peruvian experiences in the next regional workshop on forfeiture that will be held in Costa Rica within the framework of this Project.

3. The Coordination of the International Cooperation and Forfeiture Subgroup and the BIDAL Project presented a draft document about Regulatory Aspects for the Creation and Development of Specialized Bodies for the Management of Seized and Forfeited Assets ([CICAD/LAVEX/doc.8/12](#)). The Group deliberated that, as has been prepared, the document will be useful for the countries. In addition, July 30, 2012, was established as deadline to send comments to the ES. The Group concluded that it will be a single document, which will contain a Regulatory Guide for the Creation and Development of Specialized Bodies in the Management of Seized and Forfeited Assets, based exclusively in the Best Practices Document on Management of Seized and Forfeiture Assets approved by GELAVEX and the experiences arising from the BIDAL Project's implementation.

4. The Coordination of the International Cooperation and Forfeiture Subgroup presented a report about the progress on the implementation of different systems of asset forfeiture and on the identification, among member countries, on the efficient mechanisms to share forfeited assets ([CICAD/LAVEX/doc.6/12](#)).

The delegation of the USA clarified that, relating with its mechanisms to share forfeited assets, the country has had regulations on this subject for 18 years, and since then it has shared about US\$238 millions with more than 35 countries. The ES took note of the clarification and the Subgroup's Coordinator expressed that this clarification is going to be considered in the presented report.

Honduras suggested, within the framework of the work for this Sub-Group, to consider the analysis of an eventual reform of Art. 20 of CICAD's Model Regulations, to expand the provision of international legal assistance to not only in matters of drugs and related crimes, but also to other areas of relevance, like forfeiture, civil forfeiture and others modalities of confiscation without conviction. The ES took note of this proposal to raise it to the Plenary in the next meeting on September and for being discussed as a possible topic to incorporate on the next work plan of GELAVEX.

The Group agreed to the report presented by the Coordination of the International Cooperation and Forfeiture Subgroup about the implementation of systems of asset forfeiture and on the identification, among member countries, on the efficient mechanisms to share forfeited assets, and agreed to its publication in the GELAVEX website, notwithstanding the fact that the ES ought to update the information.

5. The delegations of the USA and Brazil made insightful presentations regarding an overview of the revised FATF's standards for anti-money laundering and challenges in the implementation of those standards in the Hemisphere, with special reference to corruption and tax crimes as money-laundering predicate offenses, financing for the proliferation of weapons of mass destruction and efficiency in FATF's standards implementation ([CICAD/LAVEX/doc.4/12](#)) ([CICAD/LAVEZ/doc.5/12](#)).

The delegation of Mexico appreciated the valuable presentations, highlighting that the new FATF standards, recommending efforts in AML/TF and Proliferation based on risk that permit the implementation of financial inclusion policies, especially in products with low risk. In the same way, the delegation referred that a relevant aspect of these new standards and the inclusion of tax crimes as money-laundering predicate offenses.

Argentina approved the inclusion of tax crimes as money-laundering predicate offenses, having in mind that this involves the system of prevention of money-laundering at the international level, especially in relation with the so-called tax havens, which are jurisdictions that usually are not considered as high risk countries, within the framework of FATF evaluations.

Chile expressed, in the same line, its doubts about the effectiveness of the Rec. 19 of the FATF in regarding tax havens as high risk countries.

Colombia said that the inclusion of tax crimes implies an important challenge, especially for the FIUs, particularly in reference to the proactive approach that the issuance of reports of suspicious transactions requires. In that sense, this delegation proposed the initiation of an expeditious and pedagogical work, through the GELAVEX, about the necessity of impulse this initiative in order that the recommendations arising were being elevated to the highest political level in each member country.

The delegation of the USA stated that the FATF could not have defined some details and specific criteria about this topic and other new and relevant issues on the revised standards, whereby it suggested waiting until FATF defined these criteria, and this Expert Group could serve as assessor in this purpose.

Uruguay said that this topic will imply sincerity, even from key countries where companies that use certain jurisdictions to hide the proceeds of crimes.

Argentina reiterated its proposal, based on its assumption to the Chief of this Group, about two relevant topics: the tax havens and the challenge of the implementation of these standards for the FIU, particularly because of the lack of reciprocity that affects the global AML/TF system.

Colombia agreed with the lack of reciprocity in the information exchange.

Uruguay considered appropriate to include in this theme the different requirements that jurisdictions have for the exchange, use, scope and protocols of information. In addition, this delegation considered important to include, regarding the forfeiture of assets, the subject of the parallel patrimonial research, creating an effective culture in law enforcement agencies of identifying and localizing the assets, no matter their origin. For that purpose, Uruguay announced that it will formally propose, in the next plenary meeting, the inclusion in the agenda of the Sub-Working Group of Forfeiture, the topic of the patrimonial research that should run parallel to the substantiation of criminal proceedings, with finality is prosecuting crimes, as a matter of fundamental importance to successfully address the search and localization of assets of illicit origin. It

is understood that the analytical process should conclude with a document of recommendations or best practices to help raise awareness among system operators.

Costa Rica agreed on the importance of strengthening the patrimonial research, under the approach of the effective management of assets, in order to seize and forfeit assets of value.

The Dominican Republic stated that the crime of tax evasion is not a money-laundering predicate offense in the Dominican Republic. The legally protected right in contraband and tax crimes is the right that the society has to receive protection by the State. There is an omission of ethics duties by some professionals (lawyers, notaries, etc.).

The Commonwealth of Dominica requested the Group to delegate the USA, Mexico and Brazil to monitor FATF's activities from then to the next GELAVEX's meeting, besides making a presentation about the progress of the new FATF recommendations.

The US delegation responded that it wasn't able to delegate anyone as of the moment, but the delegation is going to keep in mind the suggestion to make a presentation during the September meeting.

Dominica alternatively suggested that the ES request the FATF to present to the Group during the meeting in September on the update of the progress in the implementation of the new standards.

Brazil, Mexico and Chile expressed their intention of giving an update to this topic.

Colombia proposed the creation of a Working Group to support the implementation of the 29 Recommendation of the FATF, with the aim of designing and to strengthen the scope and activities of the FIUs. This group would provide technical assistance for the fulfillment of that recommendation to the FIUs of the continent, including also the dissemination and implementation of best practices in each of the FIUs in their homologous.

The Group decided that the ES will contact the FATF Secretariat to explore the possibility of having a presentation to show the progress in the implementation of FATF's revised standards, despite the fact that the delegations of Brazil, Mexico and Chile could inform in the plenary about those progress.

6. The Coordination of the FIU/LEA Integration/Interaction Subgroup presented a progress report about the document "Best practices for the coordination and integration of FIU/LEA Working Group on the use and protection of FIU information" ([CICAD/LAVEX/doc.2/12](#)).

The delegation of the USA commented about the elaboration process of this document, highlighting the participation of the Mexican delegation on its confection, but also making reference to the valuable contributions of other delegations, as Argentina, Canada, Peru, Bolivia and Guatemala, emphasizing and reflecting about the most relevant aspects that were incorporated in this document and which were not incorporated for being considered impertinent. In the same way, this delegation commented on an actual case that occurred between the FIU from the USA and Spain, called "Improper use of exchange of information between FIUs in the field of international cooperation and taken measures" ([link](#)).

Brazil underlined the clear presentation made by the Coordinator of the Subgroup that clarified some doubts about the management of the information between Brazil's FIU and the law enforcement authorities, which has generated complex situations. Because of this, the contributions that this Expert Group could generate about this theme will be very useful.

Colombia underscored the great value of the presented document, and said that its delegation is working on the contributions that will provide in the near future. Also, the delegation showed the new changes and measures that are being taken in the Colombian legal system to safeguard intelligence to which FIU has access in its respective intelligent reports.

Colombia said its experience in relation to the implementation of Joint Working Tables between intelligence agencies and judicial authorities, which make a verbal dissemination of intelligence

information, detected and analyzed by the FIU. Likewise, the prosecutor is accompanied on the development of the case until the closing. In addition, it clarified that the information provided by the FIU is not considered a formal source, because of its intelligence nature.

In this regard, the United States requested to include this experience in “Best practices for the coordination and integration of FIU/LEA Working Group on the use and protection of FIU information” ([CICAD/LAVEX/Doc.2/12](#)).

Venezuela absolutely agreed with document’s presentation and with the proposals made by the Coordinator of the Group.

Honduras said that the cases of information leakage are very difficult to avoid, even if necessary norms and safeguards exist, because of the principle of trust with which the national institutions work on criminal matters.

Chile agreed with the idea of having protection for the information generated by the FIUs and a better coordination between the FIUs and LEAs, in order to have the information flowing properly and in accordance with the law. In the same way, these parameters should be used in the information exchange between FIUs.

Mexico agreed with the arguments stated by Venezuela and Honduras, in the sense of the immense challenge of receiving all the information generated by the FIU and turn it into evidence for legal proceedings. The delegation added that the document includes, on the one hand, the general principles for the management, use and resolution of abnormal situations and, on the other, the best practices in which the general principles are detailed.

Argentina stated that the main objective of all anti money-laundering systems is to impart justice and end of the impunity for economic crimes. The anti money-laundering systems in Latin America are just 10 years old. The delegation underlined the idea that the level of exposition that the intelligence information of the FIU has depends of the model adopted.

Uruguay agreed with the fact that the countries cannot avoid information leakage. It also underlined that the evidentiary levels are dissimilar according with the different stages of the investigation and legal processes. In addition, Uruguay said that there is a lot of experience in the intelligence management, especially at a police and military level. This delegation wanted to be clear about the fact that intelligence cannot constitute evidence in its court of law.

Jamaica commented on the process that this country is following to manage and authorize the use of the information obtained by the FIU in the investigation of criminal cases. It added that a judicial order can allow the utilization of intelligence, and it can be presented through expert evidence in which an FIU analyst could participate.

Haiti gave thanks to all the comments, experiences and arguments expressed by the different delegations, especially because its FIU was recently created. It also suggested that all the documents and information generated by GELAVEX could be translated to French.

The Group adopted the proposal presented by the Coordinator of the Subgroup regarding the documents of principles and best practices. The delegations have until July 31, 2012, to present any comments, through the ES. Regarding the elaboration of a study on comparative law of the regulations that set and regulate the information exchange between FIU and LEA, the Group established as a deadline the meeting that will take place in September. The Coordinator of the Subgroup and the ES will elaborate a form in English and Spanish to be circulated to the delegations, which have to send a completed version before June 30, 2012.

7. The Coordination of the LEA-FIU Integration/Interaction Subgroup presented a progress report on the development of recommendations for the identification and analysis of risk factors associated with money laundering and terrorism financing at the hemisphere level ([CICAD/LAVEX/doc.10/12](#)) ([CICAD/LAVEX/doc.9/12](#)).

The delegation of Argentina underlined its new system of risk evaluation in preventing and combating AML/TF.

Uruguay informed that in its country, through the Anti Money-Laundering National Plan, a risk-based analysis system has been developed, in which all AML/TF players involved participate.

Colombia expressed that it is important to transcend the idea of the financial sector as the only money laundering line of action, because it has been proved that the commercial sector is more risky in this sense. In addition, this delegation considered that a risk map implies the determination of the nature and possibility that the risk of money laundering be identified through warning signs.

The Plenary received the report presented by the Coordinator of the Subgroup and, once submitted to its approval, has decided to elevate to the Plenary in September a first draft of the recommendations based on this presentation and the contributions that the delegations made. The delegations will have until July 31, 2012, to present their comments through the ES. The Coordinator of the Subgroup will coordinate with other entities that are working in the same theme to unify the criteria.

IV. CONCLUSIONS AND RECOMMENDATIONS OF THE GELAVEX SUB WORKING GROUPS

1. The delegations commended the report presented by the ES, recognizing the effort accomplished in the compilation of all the published information related with seizure and in-rem forfeiture. The ES urged the member States to review the information regarding their own country in order for the ES to keep it updated.

2. The Group recognized the significant progress of the BIDAL Project, which has extended to the regions of Central America and the Caribbean, highlighting the impact that it has generated in the hemisphere, directly in the beneficiary countries and indirectly in the entire region, through its products, as the Best Practices Document on Management of Seized and Forfeiture Assets.

3. The Group decided the presentation to the Plenary, for its approval in the meeting of September, of a single document, which will contain a Regulatory Guide for the Creation and Development of Specialized Bodies in the Management of Seized and Forfeited Assets, based exclusively in the Best Practices Document on Management of Seized and Forfeiture Assets approved by GELAVEX and the experiences arising from the BIDAL Project's implementation.

4. The Group agreed with the report presented by the Coordination of the International Cooperation and Forfeiture Subgroup about the implementation of systems of asset forfeiture and on the identification, among member countries, of efficient mechanisms to share forfeited assets, and agreed to its publication in the GELAVEX website, permitting that the ES update the information.

5. The Group decided that the ES will contact the FATF Secretariat to explore the possibility of having a presentation to elaborate on the progress in the implementation of the FATF's revised standards, in addition to the fact that the delegations of Brazil, Mexico and Chile are planning inform in the plenary about said progress.

6. The Group agreed with the progress report presented by the Coordination of the LEA-FIU Integration/Interaction Subgroup about the document "Best practices for the coordination and integration of FIU/LEA Working Group on the use and protection of FIU information". The Group decided to present to the Plenary meeting of September two separated documents of principles and best practices recommended by the coordination and integration of FIU/LEA Working Group on the

use and protection of FIU information and intelligence. The delegations have until July 31, 2012, to present any comments, through the ES. Regarding the elaboration of a study on comparative law of the regulations that set and regulate the exchange of intelligence and information between FIU and LEA, the Group established as a deadline the September meeting. The Coordinator of the Subgroup and the ES will draft a form in English and Spanish to be circulated to the delegations, which have until June 30, 2012 to send comments.

7. The Plenary received the report presented by the Coordinator of the LEA-FIU Subgroup and will submit to the Plenary for approval at the meeting in September a first draft of the recommendations for the identification and analysis of risk factors associated with Money Laundering and Terrorism Financing at the hemispheric level, based on this presentation and the contributions that the delegations made. The delegations will have until July 31, 2012, to present their comments through the ES. The Coordinator of the Subgroup will coordinate with other entities that are working in the same theme to unify the criteria.

8. The Group decided to present to the GELAVEX Plenary meeting of September to elevate to the Commission the feasibility for the Executive Secretariat to provide technical assistance to the member States on mutual evaluations for the fulfillment of the recommendations of the Financial Action Task Force on Money Laundering ([FATF](#)), considering as an example of success the legal assistance provided to Dominica in 2011 to overcome the deficiencies AML/TF derived of the last round of FATF mutual evaluations.

V. OTHER BUSINESSES

Next meeting

The Group decided that the next GELAVEX's plenary meeting will be established by the Chair and ES, in coordination with the Vice chair, being provisionally established with as September 5-6, 2012, in Buenos Aires, Argentina. The ES will confirm this opportunely.

The Group thanked the Chair of the Group, the delegation of the Bolivarian Republic of Venezuela, for the excellent organization of this meeting and the outstanding handling of this Plenary.