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Organization of American States

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Secretariat for Multidimensional Security

**XLIII MEETING OF THE GROUP OF EXPERTS
FOR THE CONTROL OF MONEY LAUNDERING
SEPTEMBER 28-29, 2016
PUNTA CANA, DOMINICAN REPUBLIC**

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Textual**

COMPLEMENTARY STUDY ON THE RIGHTS OF VICTIMS AND BONA-FIDE THIRD PARTIES

**COMPLEMENTARY STUDY ON THE RIGHTS
OF VICTIMS AND BONA- FIDE THIRD PARTIES**



Organización de los
Estados Americanos

INTRODUCTION



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XXXVII GELAVEX Meeting: Brasilia, November 2013

- Request to the TS: To design a technical assistance program to enhance international cooperation on asset recovery

54th ordinary session of CICAD: Bogota, December 2013

- Approval of the mandate

XXXVIII GELAVEX Meeting: Washington, D.C., May 2014

- Presentation of the REACT Progress Report

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XXXIX GELAVEX Meeting: Montevideo, September 2014

- Approval of the REACT program;
- Approval of the study on procedures and/or criteria for asset sharing;
- Approval of the Strategic Plan 2015-2017 and Working Plan 2014-2015:
- Line of action: The Sub-Working Group on International Cooperation and Forfeiture will support the TS on the subject of the rights of victims and bona-fide third parties in the framework of the REACT program
- Working Plan: Study on the rights of victims and bona-fide third parties

56th ordinary session of CICAD: Guatemala City, November 2014

- Mandate approved

INTRODUCTION



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XL GELAVEX Meeting : Washington, D.C., May 2015

- Approval of the Progress Report
- Presentation of the initiatives for the improvement of programs on victims and witnesses in the Americas (DPS/SMS/OAS)

XLI GELAVEX Meeting: Lima, October 2015

- Approval of the study by the Sub-Working Group + Brazilian Delegation + TS
- International standards on the subject
- Legislation by Member States
- Mandate: Complementary study (Chilean and Brazilian delegations)

XLIII GELAVEX Meeting: Washington, D.C., May 2015

- Approval of the Progress Report (Chilean Delegation + TS + DPS)

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1. Main International and Regional Standards

- Vienna Convention, 1988;
- Palermo Convention and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2003;
- Merida Convention, 2003;
- Inter-American Convention on Mutual Assistance in Criminal Matters, 1996;
- Mercosur Protocol on Mutual Legal Assistance in Criminal Matters, 1996;
- Recommendations of the Financial Action Task Force, 2012;
- Best Practices on Confiscation (Recommendations 4 and 38) FATF, 2010;
- Model Law on *In Rem* Forfeiture, 2011;
- CICAD Model Regulation, 1999;
- Legal Aspects in The Establishment and Development of Entities Specialized in the Administration of Seized and Forfeited Assets, 2012;
- Central American Convention for the Protection of victims, witnesses, experts and other persons involved in the investigation and criminal proceedings, particularly in drug trafficking and organized crime, along with the Protocol for implementation and the Manual for the attention and protection of victims of crimes in Central America; and
- Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters.

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2. Legislation by Member States (& Spain)

- Responses to the progress report of the “complementary study on the procedures and/or criteria for international cooperation in asset sharing”;
- Mutual Evaluations on the implementation of FATF Recommendations;
- UNODC Reports.

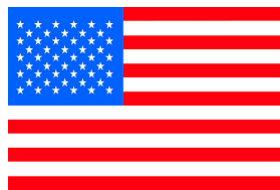
Observations:

- Most countries have general provision on the subject;
- In rem forfeiture;
- Recognition of the rights of third parties at the beginning of the process;
- Protection of rights in agreements on asset sharing between countries
- Support to protection and assistance programs.



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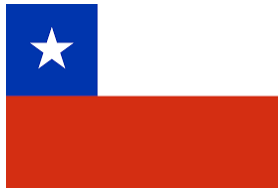
3. The experience of the United States





4. Jurisprudence

- Case study: Chile
- Case study: Honduras



5. Final Remarks

Synergies:

- GELAVEX Sub-Working Groups
- Contributions by Member States
- Lessons from UNODC: CoP
- Department of Public Security/SMS/OAS
- Agency for Attention and Protection of Victims and Witnesses in Costa Rica
- FATF Mutual Evaluations
- ICC and Trust Fund for Victims (TFV)



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Thank you!

Please, send any comments on this topic to:

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