PRESENTATION
LIQUIDATION OR SALE OF SEIZED ASSETS FOR ITS PROPER DESTINATION

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FOR THE CONTROL OF MONEY LAUNDERING
October 4-5, 2018
Santa Cruz de la Sierra, Bolivia

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LIQUIDATION OR SALE OF SEIZED ASSETS FOR ITS PROPER DESTINATION

SUB-WORKING GROUP ON INTERNATIONAL COOPERATION AND FORFEITURE AND PROJECT BIDAL GELAVEX / SANTA CRUZ DE LA SIERRA, BOLIVIA

Marcela Carvajal, Sub-Working Group Co-coordinator
Dennis Cheng, Project BIDAL Director CICAD/OEA
STUDY
LIQUIDATION OR SALE OF SEIZED ASSETS FOR ITS PROPER DESTINATION

Line of Action – Strategic Plan 2018-2020:

- Coordination between administrative and judicial authorities for the management of seized assets

GENERAL OBJECTIVE

Identify the best practices to promote coordination between administrative and judicial authorities with the specialized offices for the administration of seized and forfeited assets or with the entity in charge of said function, in order to optimize and develop procedures to identify in a timely manner the necessary information to carry out an efficient transfer of seized assets, which allows maintaining the productivity of the assets or keeping them in the same or better physical conditions until their final destination is determined by a competent judicial authority, and thereby strengthening the rule of law.
SPECIFIC OBJECTIVES

- Collect information from the countries regarding the sale, the possibilities of liquidation or advanced sale of seized assets, as well as the sale of forfeited assets.
- Know the distribution of the profits of the liquidation or sale of seized and forfeited assets.
- Scope of the valuation of assets and their importance in the process.
Countries that answered:

- Argentina
- Bolivia
- Brazil
- Costa Rica
- Honduras
- Mexico
- Panama
- Paraguay
- Peru
- Uruguay
- Venezuela
"The creation of offices specializing in the recovery of assets can be the cornerstone in the effort to deprive perpetrators of their benefits and illegal assets, by whatever legal means available under criminal and / or civil law. "
### Advanced sale

The legislation system of the country counts on the possibility of carrying out advanced sale.

<table>
<thead>
<tr>
<th>Country</th>
<th>Yes (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARGENTINA</td>
<td></td>
</tr>
<tr>
<td>BOLIVIA</td>
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<tr>
<td>BRASIL</td>
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<tr>
<td>COSTA RICA</td>
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<tr>
<td>HONDURAS</td>
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<tr>
<td>MÉXICO</td>
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<td>PANAMÁ</td>
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<tr>
<td>PERÚ</td>
<td></td>
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<tr>
<td>URUGUAY</td>
<td></td>
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<tr>
<td>VENEZUELA</td>
<td></td>
</tr>
<tr>
<td>PARAGUAY</td>
<td></td>
</tr>
</tbody>
</table>

### Results

- **Yes (100%)**: All countries except Paraguay have legislation allowing advanced sales.
- **No**: Paraguay does not have legislation permitting advanced sales.
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LIQUIDATION. ADVANCED SALE.

Considerations to be taken in order to carry out the advanced sale
The specialized office for asset management 73%  
Other 18%  
The judge 9%  
The Police 0%  

The competent authority that manages or processes the authorization of the anticipated sale is:
LIQUIDATION. ADVANCED SALE.

Is the accused or owner of the property notified of the advance sale authorization?

- No: 67%
- Yes: 44%
LIQUIDATION OR SALE OF SEIZED ASSETS FOR ITS PROPER DESTINATION

LIQUIDATION. ADVANCED SALE.

What authority executed the advanced sale?

- Other: 0%
- The Police: 0%
- The Judge: 30%
- The specialized office in asset administration: 80%
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LIQUIDATION. ADVANCED SALE.

What is the source of financing of the competent authority that manages the assets?

- Self Sustaining: 11%
- Government transfer: 11%
- Mixed: 67%
- Other: 11%
LIQUIDATION. ADVANCED SALE.

How is the sale value of the assets determined?

- Evaluation by the state: 70%
- Market value: 20%
- By a specialized third party: 70%
- Other: 10%
LIQUIDATION. ADVANCED SALE.

Once the advance sale has been made, how does the transfer of registry of the assets is made:

- Judicial Order: 40%
- Asset’s Bill of Sale: 40%
- Particular Notary: 50%
- Public Notary: 10%
- Other: 10%
LIQUIDATION. ADVANCED SALE.

Bona fide third parties, pledge and mortgage

90%  80%

The third parties, pledges and mortgages are allowed to oppose to the sale

NO

Is it necessary to obtain the contentment of the third party, pledge or mortgage to carry out the advanced sale?

YES
LIQUIDATION. ADVANCED SALE.

Does the law establish requirements to participate in an advance sale of assets?

- YES: 70%
- NO: 30%
LIQUIDATION. ADVANCED SALE.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Exceptional cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>50%</td>
<td>40%</td>
<td>10%</td>
</tr>
</tbody>
</table>

Is there a register of bidders to participate in the processes of advance sale of assets?

Yes

No

Exceptional cases
LIQUIDATION. ADVANCED SALE.

How is the advanced sale carried out?

- Public auction: 90%
- Internet auction: 30%
- Direct sale: 40%
- Through a specialized third part: 20%
- Other: 30%
LIQUIDATION. ADVANCED SALE.

The product of the advanced sale:

- 100% is deposited in the seized money account until needed.
- 10% is distributed according to the national legislation.
SALE OF FORFEITED ASSETS.

Which of the following procedures are used for the sale of forfeited assets?

- Other: 9%
- Through a specialized third party: 18%
- Direct sale: 18%
- Internet auction: 18%
- Public auction: 100%
SALE OF FORFEITED ASSETS.

Which authority carries out the sale of forfeited assets?

- The specialized office for asset management: 73%
- A government institution: 27%
- A jurisdictional institution: 18%
- The police: 9%
- A specialized third party: 9%
SALE OF FORFEITED ASSETS.

Is it possible to payout the collateral or mortgage guarantees on forfeited assets?

- SI: 90%
- NO: 10%
SALE OF FORFEITED ASSETS.

After the asset have been sold, how is updated the new owner's in the public registry?

- Judicial Order: 27%
- Asset's Bill of Sale: 55%
- Particular Notary: 36%
- Public Notary: 18%
- Other: 18%
SALE OF FORFEITED ASSETS.

To participate on the sale of forfeited assets, it is necessary to comply with the requirements established on the legal work frame?

- SI: 90%
- NO: 10%
STUDY
LIQUIDATION OR SALE OF SEIZED ASSETS FOR ITS PROPER DESTINATION

SALE OF FORFEITED ASSETS.

There is a registry of bidders to participate in the sale processes of forfeited assets?

- SI: 70%
- NO: 30%
SALE OF FORFEITED ASSETS.

WHAT IS THE USE OF THE MONEY PRODUCT OF THE SALE?

- Prevención del delito y del consumo de drogas: 80%
- Programas de rehabilitación del consumo de drogas: 70%
- Programas sociales: 50%
- Fortalecimiento de instituciones de aplicación de la ley: 100%
- Proyectos de interés nacional: 30%
SALE OF SEIZED AND CONFISCATED ASSETS
THE COSTA RICAN CASE

Exceptional process authorized by the Office of the Comptroller General of the Republic, based on the Law on Administrative Procurement and the Law on Narcotics, Psychotropic Substances, Non-authorized Use Drugs, Related Criminal Offences, Money Laundering and Financing of Terrorism:

"The Institute may sell, auction, or dispose the assets assumed in advanced judicial deposit"
There is no restriction on the type of seized assets that may be liquidated or sold in advance.

Prior information is not required nor the consent of the owner of the seized property that will be sold in advance.

The authorization of the competent judge is not required to sell in advance.

The amount of the sale and the deposit of the money in the accounts of the institution is subsequently reported.
The IDC’s General Director is informed that if it does not issue a rejection within a maximum period of 5 working days, the disposition for the sale of seized and forfeited assets is approved.
The restriction is in relation to those who can participate, since registration in a Bidder Registry is required.

Review of the background of judicial cases for infringement of the Law on Narcotics, Psychotropic Substances, Non-authorized Use Drugs, Related Activities, Money Laundering and Financing of Terrorism or Proceedings of the Law against Organized Crime.
The method of sale is defined in the invitation sent to the bidders:

- Sale with closed envelope.
- Sale with public bid among registered participants.
- Online sale
The valuation of the movable assets assumed in judicial deposit, for disposal purposes, will be carried out by personnel of the Asset Recovery Unit of the Costa Rican Institute on Drugs.
With the proceeds of the liquidation or advance sale of seized assets, the garments or mortgages that weigh on the assets must be canceled.
In the case of liquidation or anticipated sale of seized property, the money is deposited in ICD’s accounts, awaiting the outcome of the judicial process. The proceeds from the sale of confiscated property, is distributed between repressive and preventive agencies and the Asset Recovery Unit (URA).
The inscription of seized assets sold can be made:
Through the Asset Recovery Unit (URA).
By a notary public elected by the one who was awarded the property, to whom the URA will deliver the award certificate for its protocolization.
Liquidation or sale of confiscated assets

1. Timing of application
2. Valuation
3. Sales processes
4. Guarantees for participation
5. Identification of clients
6. Price recovery
Timing for application of assets
Depreciation

If you don’t know where you’re going ... All roads will take you there ...

TABLA DE VIDA ÚTIL O DEPRECIACIÓN DE LOS ACTIVOS FIJOS

La ley establece el tiempo de vida útil de cada activo indicando un porcentaje (%) de depreciación anual.

Vida útil de activos fijos y/o % de depreciación anual

<table>
<thead>
<tr>
<th>Bienes</th>
<th>(%) Depreciación</th>
<th>Vida Útil</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ganado de trabajo y reproducción.</td>
<td>25%</td>
<td>4 años</td>
</tr>
<tr>
<td>Vehículos de transporte</td>
<td>20%</td>
<td>5 años</td>
</tr>
<tr>
<td>Maquinaria y equipo</td>
<td>20%</td>
<td>5 años</td>
</tr>
<tr>
<td>Equipos de procesamiento de datos.</td>
<td>25%</td>
<td>4 años</td>
</tr>
<tr>
<td>Otros activos</td>
<td>10%</td>
<td>10 años</td>
</tr>
</tbody>
</table>

Resumen de la tabla:
- Ganado de trabajo y reproducción. Vida útil: 4 años
- Vehículos de transporte (excepto embarcaciones): Vida útil: 5 años
- Maquinaria y equipo (para explotación minera): Vida útil: 5 años
- Equipos de procesamiento de información (computadora, laptop): Vida útil: 4 años
- Otros activos: Vida útil: 10 años
Types of advanced sale

ADVANCED
SALE

MORE GARANT
LESS EFFICIENT

MORE
EFFICIENT
LESS
GARANT
One thing worth what people are willing to pay for it

PUBLIO SIRO (85 - 43 a.C.)
How bad branding affects the price of seized and confiscated assets
Establishing the price

Valuation

Method to compare the price of the object in a subjective manner either by appreciation or market study.

Assessment

Established by an expert through an objective assessment of the asset based on technical expertise.
To carry out the valuation or assessment, the information must be:

1. Reliable, useful, timely and valid for assessment, destination and decision making.

2. Specific and clear complete description of the property.

3. Technical data and correct specifications.

4. Recent photographs (condition, physical, marks, damages).

5. Situation and legal issues (registry situation, encumbrances, pledges, pending rights and obligations, possession, deeds, easements).

A. For establishing recovery price

B. Reliability and loyalty of the buyers

C. Credibility of the auction

D. Institutional Trustiness
Types of processes of sale

Public Auction

1. English Auction
2. Mixed Auction Dutch and English

Subasta Presencial
Sale with public bid
Direct sale

Movable Assets
Immovable Assets

Exceptional cases due to urgency or need or a certain quantity of public auction procedures
Mixed Auction

Bad Branding
What is your target?
Buyers or Costumers

Provider → $ → intermediary → $+% → Costumer

Bad Branding → Eliminates Bad Branding
Product of the sale and recovery of value

Graph of Anticipated Sale

- Blue line: Transporte, maquinaria y equipo
- Orange line: Otros activos
- Gray line: Venta anticipada e inversión al 9% intereses anual BCCR
THANKS !!!!

Marcela Carvajal, Costa Rica
mcarvajal@icd.go.cr

Dennis Cheng, BIDAL Project
dennischeng77@yahoo.com