PRESENTATION

CHALLENGES REGARDING ADMINISTRATION AND DESTINATION OF FORFEITED ASSETS FACED BY OAS MEMBER STATES
STUDY ON THE CHALLENGES REGARDING ADMINISTRATION AND DESTINATION OF FORFEITED ASSETS FACED BY OAS MEMBER STATES

SUB-WORKING GROUP ON INTERNATIONAL COOPERATION AND FORFEITURE
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The Sub-Working Group on International Cooperation and Forfeiture and the Project Seized and Forfeited Assets in Latin America (BIDAL) 2008: DOCUMENTS

- 2012 "Legal Aspects in the Establishment and Development of Entities Specialized in the Administration of Seized and Forfeited Assets".
- 2013 "Guide for Self-Assessment of the Confiscation and Asset Management System".
- 2014 "Guide for the Management of Seized Businesses".
- 2015 "Analysis of the applicability and effectiveness of modern judicial instruments in the transfer of seized and forfeited assets".
- 2016 "Study on Challenges and Solutions in the Management of Complex Assets".
- 2017 "Trends and typologies detected in Money Laundering and Financing of Terrorism".
- 2017 "The effective management of seized companies": Case study.

Importance of strengthening at the academic level the human resources of specialized agencies in the administration of seized and forfeited assets of the countries, in order to achieve efficient asset management.

Study on training needs in matters of administration of seized and forfeited assets in OAS Member States.
Respuestas de países

- Chile
- Paraguay
- Brazil
- El Salvador
- United States
- Argentina
- Barbados
- Costa Rica
- Bolivia
- Nicaragua
- St. Vincent and the Grenadines
- Belize
- Guatemala
- Jamaica
- Granada
- Canada
- Guyana
OBJECTIVE

"Identifying countries that count on laws or regulations regarding asset recovery and offices in charge of the management of seized property and asset recovery" in OAS Member States

SPECIFIC OBJECTIVES

- Offering an updated list of countries that count on laws for the management of seized and forfeited assets, with the reference of the laws in force to date.
- Identifying the countries that are preparing legislation bills to implement laws for the administration of seized and forfeited assets or special confiscation laws.
- Contemplating the main benefits of having laws regarding administration of seized and forfeited assets or special confiscation laws.
- Identifying the main limitations that are found in the implementation of the new laws for the administration of seized and forfeited assets or special confiscation laws.
- Counting on a reference document for other countries in the matter.
METHODOLOGY

Coordination with GELAVEX and Sub-Working Groups

• QUESTIONNAIRE
  SEPTEMBER 26 AND 27, 2018

• ANSWERS
  XLV Meeting of the GELAVEX
SUBJECTS OF CONCERN INCLUDED IN THE ASSET RECOVERY QUESTIONNAIRE

- Legislation
- Language
- Asset tracking
- Freezing/seizure/forfeiture
- Registration of the assets
- Management of the seized and forfeited assets
- Forfeiture and confiscation
- Distribution and sharing of seized and forfeited assets
- Returning assets to the victims
- Assets related to public corruption
STUDY ON THE CHALLENGES REGARDING ADMINISTRATION AND DESTINATION OF FORFEITED ASSETS FACED BY OAS MEMBER STATES

USUAL BARRIERS

GENERAL
- Lack of comprehensive policies
- Insufficient resources
- Lack of effective coordination

LEGAL
- Official information to access or freeze financial accounts or account freezes
- Non-established response deadlines for cooperation requests
- Requirement of intelligence information from other FIUs

OPERATIONAL
- Lack of information – mutual legal assistance
- Unjustified delays
- Unclear communication channels
CHALLENGES

GENERAL
- Create specialized agencies with clearly defined objectives and procedures.
- States must ensure that their officials, including judges and prosecutors, are well trained in matters related to asset recovery.
- Improve communication between the states parties in terms of mutual legal assistance or international legal assistance, establishing deadlines for their response.
- The unification of institutions in terms of asset recovery to avoid the disparity of criteria and the obstacles when achieving results.

LEGAL
- Existing mutual legal assistance treaties should be reviewed and updated periodically to ensure their continued relevance.
- States must enact domestic legislation that allows for in rem forfeiture when the offender is dead, fugitive, absent, is immune to prosecution, or in other relevant cases.

OPERATIONAL
- States must provide adequate resources to allow their officials to attend relevant international meetings and forums and establish contacts with their counterparts at the bilateral level.
- The requestors and requested states must be willing to talk frankly to try to resolve the insufficiency of resources, including communications on how to distribute the costs and, where appropriate, share the recovered assets.
THANK YOU!!!