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Secretariat for Multidimensional Security

**XLV MEETING OF THE GROUP OF EXPERTS  
FOR THE CONTROL OF MONEY LAUNDERING  
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Santa Cruz, Bolivia**

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**CHALLENGES FACED BY OAS MEMBER STATES REGARDING MANAGEMENT AND DISPOSAL OF  
FORFEITED ASSETS**

## I. BACKGROUND

The Group of Experts for the Control of 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 constituted as one of the advisory bodies of CICAD.

The GELAVEX is currently comprised of two Sub-Working Groups: the Sub-Working Group on International Cooperation and Forfeiture and the Sub-Working Group on Financial Intelligence Units (FIU) and Law Enforcement Agencies (LEA), whose activities are determined by strategic plans that define lines of action, and work plans specifying the concrete activities to be developed as per prior agreement. .

The draft Strategic Plan for the period 2018-2020 ([DTCO/LAVEX/doc.7/17](#)) was approved at the Sixty-second Regular Session of CICAD ([CICAD/doc.2363/17](#)) and serves as a guide for the activities to be developed by the Group in the 2018-2020 triennium.

In accordance with the approved 2017-2018 work plan, the Sub-Working Group on International Cooperation and Forfeiture will work on the following lines of action: a) A study on the liquidation or sale of seized assets: valuation for their proper destination; and b) identification of challenges that OAS member States face in terms of asset recovery: a diagnosis that will include confiscation laws and victims. The Sub-Working Group on Financial Intelligence Units and Law Enforcement Agencies will work on: a) A study on new AML / CFT typologies, including the use of virtual currencies; and b) A study on expert reports (experts) in AML / CFT cases.

A total of 16 Member States participated in this XLV GELAVEX Meeting: Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, United States of America, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic and Trinidad and Tobago.

The following participated as observers: Spain; the Caribbean Financial Action Task Force (CFATF); The Financial Action Task Force of Latin America (GAFILAT); the Asset Recovery Inter-Agency Network of the Caribbean (ARIN-Carib); and as a guest at this plenary, the International Union of Notaries (UINL).

## **II. GENERAL OBJECTIVE**

To identify the countries that have laws or regulations related to asset recovery and offices in charge of the Recovery and Management of Seized Assets in the OAS Member States.

The aforementioned study also aims to share information with countries that are modifying their legislation and that require a guide with solutions to improve and develop their technical and operational capacities to resolve cases of management and administration of seized and forfeited assets.

## **III. SPECIFIC OBJECTIVES**

- Provide an updated list of countries that have laws for the management of seized and forfeited assets, with reference to the laws in force to date.
- Identify the countries that are preparing bills to implement the management of seized assets or special forfeiture legislation.
- List the main benefits of having laws for the management of seized and forfeited assets or special forfeiture laws.
- Identify the main limitations that are found in the implementation of the new laws for the management of seized and forfeited or special forfeiture laws.
- Have a reference document on the subject for the other States.

## **IV. METHODOLOGY**

The development of this study included the participation of the BIDAL Project and the information submitted by 16 Member States, in response to a questionnaire circulated in order to share experiences and information related to asset recovery and the administration of seized and forfeited assets, in order to determine what are the challenges that are presented and the solutions found.

The questionnaire on asset recovery was designed by the Caribbean Asset Recovery Inter-Agency Network (ARIN-CARIB) and is published in the following [link](#).

## **V. REGIONAL CHALLENGES**

Finally, some challenges have been identified at a regional level, and have been divided into the following areas: general, legal and operational.

### **General**

1. Create specialized agencies with clearly defined objectives and procedures.
2. States must ensure that their officials, including judges and prosecutors, are well trained in matters related to asset recovery.

3. Improve communication between the Member States in matters of Mutual Legal Assistance or International Legal Assistance, establishing deadlines for their response.
4. The unification of Asset Recovery Agencies to avoid the disparity of criteria and the obstruction at the moment of obtaining results.
5. Where there is no *in rem* forfeiture, it is suggested that norms and / or procedures be developed to respond positively to requests for confiscation of assets subject to non-criminal forfeiture processes.

### **Legal**

1. Existing mutual legal assistance treaties should be reviewed and updated periodically to ensure their continued relevance.
2. States should consider enacting domestic legislation that allows non-criminal confiscation (when the offender is dead, a fugitive, absent, immune from prosecution, or in other appropriate cases).

### **Operational**

1. 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.
2. The requesting and requested States must be willing to speak candidly and establish agreements to try to resolve issues such as insufficient resources, communications on how to share the costs and, where appropriate, share the recovered assets.