XXXII MEETING OF THE GROUP OF EXPERTS FOR THE CONTROL OF MONEY LAUNDERING
May 26-27, 2011
Washington, D.C.

FINAL REPORT
(Provisional Version)
I. BACKGROUND

At the XXXI Meeting of the Group of Experts for the Control of Money Laundering, held in San José, Costa Rica in September 2010, the Plenary identified the following areas of action within its sphere of competence: Forfeiture, Non-Conviction Based Forfeiture (“Extinción de Dominio”), asset recovery agencies, coordination and integration between financial intelligence units and law enforcement agencies, and terrorist financing.

In order to implement these tasks, the Group of Experts agreed to create two subgroups, which separately would focus on their activities at subsequent meetings according to the agenda established by the Chair. These subgroups would work in coordination with the CICAD’s Executive Secretariat as follows:

The Forfeiture Subgroup, coordinated by the delegation of Costa Rica, would be responsible for the study on identification, seizure or preventive freezing, administration and use of seized assets; recovery of funds originated from criminal activities; asset recovery agencies; exchange of experiences in asset administration and international cooperation in the detection, identification, seizure and forfeiture of assets abroad. This subgroup is composed by the delegations of Uruguay, Colombia, Argentina, Bolivia, Paraguay, Chile, Ecuador, Brazil, Peru and United States.

The Coordination and Integration Subgroup, coordinated by the delegation of Chile, would be responsible to identify applicable standards, best practices, inter-agency cooperation and similar projects among countries. This subgroup is composed by the delegations of Argentina, Bolivia, Ecuador, Brazil, Colombia, Costa Rica, Mexico, Paraguay and Peru.

II. CONSIDERING THAT:

§ The Group of Experts has decided that, starting in 2007, two annual meetings will be held; one on the first semester exclusively for the Sub working Groups, and another on the second semester, which will feature a plenary meeting as well as Subgroup meetings. The participation at the first meeting of the subgroups will be exclusive to those delegations belonging to the Forfeiture and Coordination and Integration Sub-working Groups.

§ Without any disservice of the aforementioned in the paragraph above, the Executive Secretariat of CICAD has the prerogative of inviting, at its own discretion, any other delegation that does not belong to the sub working groups, if decided that the delegation’s previous experience will be advantageous and beneficial to the group.

§ According to the Final Report of the XXXI GELAVEX meeting, the following topics were identified as areas for action: Forfeiture, In rem forfeiture, Asset Recovery Agencies, Coordination and Integration of FIU and Law Enforcement Agencies (LEA), and Financing of Terrorism.

§ According to the Working Plan 2011-2012 of the Final Report, the Coordination and Integration Subgroup will focus in two subjects considering the new working methodology: (1) regarding the Information Sources Project, the subgroup shall continue reviewing the identified sources classified on the information sheet, promoting its dissemination among judicial operators. (2) Based on the proposal to start a strategic planning process for LAVEX and the CICAD Anti-Money Laundering Section approved by the Group, it was requested that the LEA-FIU Integration/Interaction Subgroup with the ES evaluate the work carried out during the last 10 years. Additionally, the Subgroup shall prepare an analysis report of the current country needs regarding money laundering and related areas, an evaluation report on the projects currently carried out by the Group, and a basic proposal for the Group’s strategic planning.
The Forfeiture Subgroup will be oriented to the following subjects: (1) development of a guide of internal procedures to request mutual legal assistance in asset tracing and recovery, which will be carried out by the delegation of the United States. The ES and subgroup of forfeiture coordination will collect the information missing from those countries that have not answered the questionnaire. (2) The preparation of a document on the legal nature of forfeiture in order to promote its analysis and study among delegations. This paper will be prepared by the delegation of Uruguay. This delegation will present the document to Member States of the Group of Experts for analysis and also will incorporate comments and observations to the final version.

III. AGENDA: APPROVAL AND REVIEW OF THEMES.

Under the information provided by the ES concerning the non-participation of the delegation of Uruguay at the Meeting, and that the U.S. delegation has not advanced significantly in the “Analysis of the Mutual Legal Assistance in identification and localization of Foreign Assets,” due to the limited information provided by delegations, the delegation of Costa Rica proposed: a) that the agenda item on the presentation and discussion of progress on the "Document based on the legal nature of confiscation," scheduled for the working groups sessions on May 27 be deleted and be reported to the delegation of Uruguay to continue to advance the development of the document and that it be presented at the next Plenary Meeting of GELAVEX to be held in September 2011 in Venezuela, and b) that the item on the “Proposal for development of Strategic Planning Group of Experts to Control Money Laundering and the Anti-Money Laundering CICAD," scheduled for the Working Groups Sessions on May 27, be passed as the first item on the agenda and that at this meeting both working groups fully participate, as a matter of general interest to the GELAVEX.

Costa Rica's proposal is supported by the delegations of U.S. and Chile, and was approved unanimously. The Chair calls on the ES to introduce these amendments to the agenda and circulate them back to the delegations (Annex I)

Accordingly, the plenary agreed that the Sub-Working Groups of Forfeiture and FIU/OIC work on the development of the Guide of internal procedures for requesting mutual legal assistance in asset identification and recovery, and the Draft Information sources, respectively.

IV. CONCLUSIONS AND RECOMMENDATIONS OF THE SUB-WORKING GROUPS OF GELAVEX

1. The sub-groups recognize the importance of the issues addressed by the various delegations that were invited to make presentations or develop expositions in areas of:
   - Procedures for receipt, analysis and delivery of information relating to Suspicious Activity Reports processed by FinCEN, which was in charge of the delegation of United States.
   - The use of open information sources for the preliminary analysis of cases in the Financial Intelligence Unit of Colombia, which was in charge of the delegation of Colombia.
   - Regional model law on asset forfeiture, which was presented by the Technical Assistance Programme for Latin America and the Caribbean (LAPLAC), UNODC

2.- The reports of the Coordinators of the Working Groups of Forfeiture (Annex II) and Coordination and Integration of FIU/OIC (Annex III) are received and welcomed.
3.- In addition, the report of the Secretariat of CICAD for participation in the elaboration of a draft "Framework Law on Confiscation", conducted by the UNODC LAPLAC program (Annex IV) is also received.

4.- The CICAD Executive Secretariat, through the intervention of Mr. Rafael Franzini, Executive Secretary, and Mr. Bryce Pardo, Consultant, presented the Project (LEDA). LEDA is an ongoing project of legal analysis regarding laws on drug-related activity, including money laundering. Part of this project’s focus is to analyze and compare legal frameworks that allow for forfeiture. In this regard, delegations expressed their appreciation that the draft has been proposed GELAVEX participation in the formation of a team of experts to carry out or participate in a task force to help analyze constitutional and legal frameworks regarding anti-laundering laws and norms, for which the ES invites 1 or 2 offices with an interest in participating, and communicate them to the ES the appointment of a national expert for each.

5.- Regarding the proposed development of Strategic Planning of the Group of Experts to Control Money Laundering and the Anti-Money Laundering Section of the CICAD, it was agreed that the ES will prepare a summary of the contributions of the delegations and look for points of convergence and circulate them in the days following this meeting of Sub-Working Groups of the GELAVEX (Annex V).

6.- Finally, regarding Analysis of the Mutual Legal Assistance in identification and localization of foreign assets, entrusted to the Delegation of the United States under the Plan of Action 2010-2011, the Chair and the ES invite delegations which have not processed and/or sent the form through the ES to do so, setting a deadline of June 15, 2011, once referred, the ES will send them to the distinguished delegation of United States of America to prepare the draft project document in question, so that it be circulated by the ES before the conclusion of the next plenary meeting of GELAVEX to be held in Caracas, Bolivarian Republic of Venezuela, in which the United States will present the report.
AGENDA

Thursday May 26

Registration and Opening Session

08:15 – 09:00  Registration of Participants

09:30 – 09:45  Welcome remarks by the Chair of the Group of Experts for the Control of Money Laundering of CICAD.

09:45 – 10:00  Remarks by Mr. Nelson Mena, Anti-money Laundering Section, Executive Secretary of CICAD

10:00 – 10:15  Approval of Agenda and Review of Themes

10:15 – 10:30  Break

Second Plenary Session

10:30 – 11:00  Report of the Executive Secretariat on the elaboration of a draft "Model Law on In Rem Forfeiture" undertaken by the LAPLAC Program of the UNODC.
Nelson Mena
OAS/CICAD

11:00 – 12:00  Procedures of reception, analysis and delivery of information relating to Suspicious Activity Reports processed by FinCEN.
Bess Michael
FinCEN, United States.

12:00 – 13:00  The use of open information sources for the preliminary analysis of cases in the Financial Intelligence Unit of Colombia.
Javier Alberto Gutierrez Lopez
UIAF, Colombia.
13:00 – 14:30  Lunch

**Third Plenary Session**

14:30 – 16:00  Regional "Model Law on In Rem Forfeiture"
Kristian Hoelgue, Andrés Ormaza
Technical Assistance Programme for Latin America and the Caribbean (LAPLAC), UNODC.

16:00 – 16:30  Discussion and Proposals

16:30 – 16:45  Break

16:45 – 17:00  Report of the working paper on the interaction between the FIU-OIC
Sub Coordinator
Subgroup Coordinator of OIC/FIU (Chile)

17:00 – 17:30  Discussion and Proposals

17:30 – 18:00  Break

18:00 – 19:30  Welcome Reception

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**Friday May 27**

**Fourth Plenary Session**

09:00 – 10:30  Proposals for the development of Strategic Planning of the Group of Experts for
Money Laundering Control of the Anti-Money Laundering Section of CICAD.
Marcelo Contreras
UIF/OIC Subgroup Coordinator
Delegation of Chile

10:30 – 10:45  Break

10:45 – 13:00  Continuation of Working Group Sessions

OIC/FIU Subgroup:

- Project of Sources of Information

Seizure Subgroup:

1. Guide of internal procedures for requesting mutual legal assistance for
asset identification and recovery.
13:00 – 14:30     Lunch

*Fifth Plenary Session*

14:30 – 16:30     *Conclusions and Recommendations from the Group of Experts*

16:30 – 17:30     Proposals for the Final Report
                   Conclusions and Recommendations to the Plenary of CICAD
                   Other business
                   Closing
Annex II

Report of the Sub-Working Group on Forfeiture
Washington, DC, 26 and 27 of May 2011

The work plan for 2010 - 2011, defines two issues on which the subgroup of forfeiture must work on during this period, which are detailed as follows, considering the new proposed methodological change.

1- Development of the Guide of internal procedures for requesting mutual legal assistance in locating and identifying assets and their recovery.

The U.S. delegation reported that it was not possible to update the information from all countries, to date not all have sent the questionnaires, which affected the development of the design of the structure of the guide.

Accordingly, in compliance with the approved methodology for doing work in situ by the delegates, the subgroup made a draft guide, which is delivered to the U.S. delegation as an input for consideration and use.

A breakdown of the topics to be included as minimum points to be contained in the guide on the work plan 2010 - 2011 are as follows:

1. Points of contact

   ᶦ Name of functionary
   ᶦ Institution and position to which he/she belongs; physical address of the office and the institution, and to which agency does he/she belong.
   ᶦ Contact information of the functionary and the institution (phone, fax, email.)

2. Legal bases of cooperation: international instruments and national laws

   ᶦ Determine if they exist or not.

3. Mechanisms to locate, identify and localize goods abroad

Indicate what are the possibilities of each country to use informal or formal mechanisms, and what type, for example :

   ᶦ Informal Mechanisms: networks (EGMON Group, Iberred, RRAG, etc), Interpol
   ᶦ Formal Mechanisms: diplomatic or by central authorities or others

4. Procedures to enforce confiscation orders, freezing and seizure

   ᶦ Identify if legal authorization is required by the public prosecutor or the police depending on the international instruments and domestic legislation.
   ᶦ Existence of forms, formats or other documentation to realize the application process.

5. Requirements to be included in the request for mutual legal assistance and confiscation and seizure of property
In addition to the requirements and conditions established by the relevant conventions, in general the application should be structured considering at least the following:

- Indication of who makes the request and to whom it is directed
- Description of facts
- Legal foundation
- Purpose of the request
- Information and documentation required
- Term to comply with the request
- Any other required national legislation

6. **Mechanisms of international cooperation for the management of assets seized and forfeited during the delay of their recovery and/or sharing**

   If there is property management office, if they have a legal system in terms of administration of property, who is the contact point, and an indication of whether there are guidelines on the management and maintenance of seized or confiscated by a foreign authority.

   This will be considered by the U.S. delegation, to process information and present a consolidated document in Venezuela.

2. **Creating a document on the Legal Nature of Forfeiture, which shall be subjected to analysis by members of the Group and refined through comments and feedback to be included in the final version.**

   The Delegation of Uruguay, in charge of this issue, could not attend the meeting nor had a draft document to send and to serve as the basis for the delegates of the member countries of the in situ sub-group to work on.

   Therefore, it was not possible to work on the background document on the legal nature of confiscation. The item was deleted from the agenda and the presentation of the document postponed for the next plenary meeting of GELAVEX.

   Additionally, the Subgroup gave a space to continue the theme of the Model Law on asset forfeiture, with the delegates making their comments and observations.

   Considering that this is a product of united nations, for which the GELAVEX appointed a delegate to represent, and because of the importance of the issue and the need for some countries that have implemented or are in the process of developing legislation on in rem forfeiture or similar arrangements, the document will move to the respective countries by the delegates to be reviewed and studied, for further discussion during the GELAVEX Plenary meeting in September in Venezuela, considering it is a reference document for the member countries, without being bound by them.
Annex III

Report of the Sub-Working of Coordination Between FIU/OIC
Washington, DC, 26 and 27 of May 2011

BACKGROUND

Work assigned during the last meeting (Costa Rica 2 and 3 September 2010)

a-. Instruct the group of interaction and integration among FIU/OIC and to prepare jointly with the Executive Secretariat an assessment of work done by the group in the last 10 years, highlighting the achievements that have been obtained and discuss the main difficulties that have been observed, presenting concrete proposals to improve or enhance the work.

Difficulties: A lot of issues were raised without having clear objectives / or are being duplicated in several projects without assessing their real impact / not properly completing the projects or commissioned work / little participation of delegations.

Specific proposals: Implementation of the new methodology of work / Generation of adequate strategic planning.

b-. Conduct a situational analysis of needs for money laundering and related areas by the countries, in order to find common denominators to ensure that all countries are represented in projects that are being developed.

c-. Similarly, it was requested that an evaluation report for projects (final reports) be prepare jointly with the Executive Secretary that are currently running the group, in order to strategically plan the work that is pending. For the preparation of this report experts are invited to participate in the planning that can support the work of the group.

Evaluation report on projects (final reports) that are currently being carried out by the group

a. Group FIU/OIC
   i. Sources of information
   ii. Reports of Judgements

b. Group Asset Seizure
   i. Legal nature of the seizure study
   ii. Guide of international cooperation

d-. Finally, it is sought to develop a proposal relating to the basic guidelines that are necessary to structure a strategic planning regarding the group’s work, which includes at least one thematic body (objectives or pillars which underpin the work) and identification of minimum activities to be performed.

Who we are:

The Expert Group of CICAD is the hemispheric forum for discussion, analysis and exposition of conclusions in the fight against money laundering and terrorist financing.
The Group's main product is the Model Regulations Concerning Laundering Offenses Connected to Illicit Drug Trafficking and Other Serious Crimes. It is a guide in the form of legal text for those states that establish or modify rules of law on money laundering control.

General guidelines for appropriate strategic planning

a. Strategic objectives.
b. Lines of work
c. Mission
d. Vision
e. Who are our “clients”
f. Who are our strategic partners
g. Who make up the group and what our responsibilities
h. Methodology
i. Period fixed for strategic planning
I. Summary:

In order to participate in the 3rd Meeting of Experts to draft a framework law on forfeiture, representing the Anti-Money Laundering Section of CICAD/OAS, attended the activity planned and hosted by UNODC from 23 to 28 January 2011, which was held in Bogotá, Colombia.

In the XXXI Meeting of the Group of Experts to Control Money Laundering (GELAVEX) held in San José, Costa Rica, 2 and 3 September 2010, the Plenary agreed that, given the application of UNODC-Colombia on LAVEX to designate a representative to participate in the development of a "Model Law on Seizure", and the proposal of the delegation of Costa Rica that such a designation be awarded to the distinguished delegation of Uruguay, both were approved unanimously and instructed the ES to notify UNODC of this appointment, upon notification by the Delegation of Uruguay of the appointee.

However, though the Delegation of Uruguay appointed an expert staff for this initiative, due to employment-related reasons, the official delegate could not attend the meetings, so the ES was requested to attend in place to represent the GELAVEX CICAD/OAS.

The meeting was conducted according to the annex agenda to this report sets out (Annex 1).

II. Conclusions:

The discussions of the meeting were based on a previous draft document prepared by the Expert Group convened for the purpose in 2 previous meetings, both held during the second semester of 2010 in Bogotá.

The expert group for drafting the Framework Law consists of the following professionals:

- Kristian Hoelge, Legal Expert, UNODC
- Andrés Ormaza, Legal Expert, UNODC
- Isidoro Blanco Cordero, Jurist Univerdad Alicante, Spain
- Dennis Cheng, Legal Expert, Costa Rica
- Julia Príncipe Trujillo, Public Prosecutor for Crimes of Money Laundering and Forfeiture Process, Peru
- Gerardo Simms, Legal Expert, Department of Justice, USA
- Michel Diban, Legal Expert, Chile
- Julio Ospina, Judge for Justice and PeaceColombia
- Gilmar Santander, Forfeiture Attorney, Colombia
- Nelson Mena, CICAD/OAS

According to the agenda for the 3rd meeting, the continuation of the drafting of the Framework Law on Confiscation involved the revision of the draft structure designed in the first two meetings and discussion of outstanding policy issues.

Later, the chapters concerning international cooperation on confiscation and forfeiture, asset management and forfeited assets, annulments and resources were revised.
Finally, the final text, prompting discussion and comments from experts to the full text of the proposal was reviewed.

For conclusions of the work done in the meetings of the 3rd meeting agreed that specialists from UNODC would undertake a review of the document style and wording of the preamble of the Model Law, justifying arguments and legal hermeneutics, each institutions underlying principles and procedural rules and substantive proposal.

A final text of the Model Law, with its respective preamble, will circulate in the coming weeks by UNODC experts for final comments.

III. Recommendations:

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Annex V
Summary of the Technical Secretariat of GELAVEX on the contributions of the Delegations and Convergent Points on the development of the Strategic Planning of the Group of Experts for the Control Money Laundering and the Anti-Money Laundering Section of CICAD

Considering the new methodological changes proposed by the GELAVEX in the XXXI Meeting in San José, Costa Rica during the month of September 2010, the working procedure for the discussion of the issues raised were as follows:

- Coordination of the subgroup or the delegation in charge of a specific topic would make a brief presentation (maximum 15 minutes) on the subject.
- Each of the delegation will be given the floor (maximum 5 minutes) in order to present their approaches.
- The Executive Secretariat shall conduct a summary of the comments made by delegations looking for points that have achieved a general consensus.
- A debate will be reopened in order to clarify or explain unclear or controversial points.
- Coordination of the subgroup, together with the Executive Secretariat, would prepare the report to be presented at the second day of the plenary session.

SUMMARY

The Delegation of Argentina suggested that the work of GELAVEX not be the responsibility of a single delegation, this is to ensure that tasks do not appear overwhelming due to the lack of participation. Although justified, one of the delegations that this mandate fell upon likewise suggested the revision of the composition of the groups currently working within the GELAVEX formed to address the issues of greatest interest to the Group. Finally, along with the delegation of Bolivia, the group agreed that the work scheme GELAVEX should be based on setting short, medium and long term goals.

The delegations of the Bahamas, Belize, Dominica, Suriname and Venezuela, agreed that the proposal on the Model Law of Forfeiture is important, and therefore urged the Group to continue its study, especially in each of the member countries. Suriname said it is important to assess how an initiative of this nature would fit in the countries with common law, and that there should be greater contact between the delegations using communications technology like the Internet and email to continue the work assigned by the Group.

The representative of Bolivia, also stressed that the exchange of information at the level of FIUs that are not part of the Egmont Group be enhanced, as well as access to information on statements on ML. This also coincides with the delegation of Paraguay, which at the same time suggests to use the offices of the national facilitator so that the competent authorities may be able to provide information promptly. Finally, Bolivia proposes that strategic planning includes the delegation of tasks and responsibilities monitored by the Presidency with the support of the ES, similarly to what was mentioned by the representative of Panama.

The delegation of Brazil stressed the importance of defining the mission and vision of the group, which should have the prospect of eliminating the obstacles to justice, especially for the recovery of assets resulting from ML and related crimes. The objectives of GELAVEX should seek to avoid the polarization of the subjects under study and analysis of the Group and to seek consensus. The delegation also suggests the incorporation into the strategic planning of measurement indicators, including within the same training programs as a way to measure the work done by the Group.
The Delegation of Chile invited the delegations to support this initiative to develop a strategic planning in the way as proposed in the country’s capacity as Coordinator of one of the Sub-Working Groups of GELAVEX, a position also supported by the Dominican Republic.

The representative of Colombia supports the initiative but suggested that the group clearly define the procedure for achieving the purposes for which it has been proposed.

The delegation of Costa Rica stressed the need for delegations that are assigned a responsibility or specific jobs, be involved seriously and to fulfill the tasks, a position which is also supported by Peru and Mexico. Costa Rica also stated, like Colombia, to clearly define the procedure for achieving the purposes that have been proposed in the strategy plan.

The representation of Dominica, also spoke in favor of this strategic planning initiative, adding that it is important to designate responsibility within the Sub-Working Groups to develop this strategic plan. The delegations of El Salvador and the Dominican Republic agreed, adding that this latter working group ought to develop a draft to be presented and discussed by the GELAVEX at the next meeting, appointed to that effect at least 2 delegations, adding that Dominica would be desirable to designate a working group -which is also supported by the U.S. and Venezuela. El Salvador also suggested the appointment of an expert in strategic planning, which could be provided by CICAD taking into account that the staff are experienced in these issues.

The delegation of Ecuador suggests that such strategic planning be defined, on the following lines of action: a) Seizure and forfeiture; b) International cooperation and c) Ensure the continuation of the attendance of the same delegates to this forum, in order to properly monitor all initiatives being carried out.

The delegations of El Salvador and the United States agree that it is important that the strategic plan has a clearly defined vision and mission for the Group as well as identifying weaknesses and strengths of GELAVEX. U.S. emphasizes that it is a good time that GELAVEX assesses the course that ought to be taken, identifying the most relevant themes and of interest to member countries, thereby Peru also stated that technical assistance be based on the identification of regional needs for AML/CFT.

The delegation of Paraguay calls that the strategic plan take into account the lack or limitation of financial resources to ensure the participation of countries in this forum, mainly because it is now required the participation of two delegates to the meetings of the Sub-working groups. The delegation also suggests the inclusion, within the mission and vision of GELAVEX, this group’s importance for FIUs.

The delegation of Peru referred that in the Strategic Plan the formation of two working groups of GELAVEX would be taken into account, made up of expert delegates on issues of importance to the Group, and also urged that before beginning the study or analysis of other issues, the GELAVEX must exhaust the topics proposed in the work plans previously approved by the Group.

The representation of the Bolivarian Republic of Venezuela, agreeing with the statement made by Argentina and other delegations, supported the development of a proposal for strategic planning, noting that this project will provide a framework for the Group, including in an outline the mission, vision, strategic objectives, definition of customer (member state), strategic partners (international agencies such as FATF, CFATF, GAFISUD, World Bank, IDB, UNODC, among others) and methodology to implement (SWOT matrix) and also supporting the allocation of responsibilities to a small working committee, without waiting for the next meeting in Venezuela to launch this project.
The Chair, after having completed the presentations of each of the delegations present and considering the procedure adopted, opened the floor so that the delegations who volunteered to participate in the working committee draw up a proposal for the Strategic Plan.

The delegations of **Venezuela, Argentina, Costa Rica and Chile** are put forward as delegated members. The Group has unanimously approved the creation of this Task Force, which will work in coordination with the Sub-Working Groups of FIU/OIC and Seizure with the support of the ES.

The Technical Secretariat will support the Task Force to develop a proposal for the strategic plan, specifically coordinating communications between the delegates who do so through email and other media as well as the establishment of a "forum" through the Internet for the exchange and discussion of ideas or proposals, also, to consult internally the CICAD Executive Secretariat on the possibility that a specialist in strategic planning part of staff attend this Task Force.