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INTER-AMERICAN DRUG ABUSE  
CONTROL COMMISSION

**CICAD**

Secretariat for Multidimensional Security

**XXVI MEETING OF THE GROUP OF EXPERTS FOR  
THE CONTROL OF MONEY LAUNDERING  
October 1-2, 2009  
Montevideo, Uruguay**

**FINAL REPORT  
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**FINAL REPORT**

## **I. BACKGROUND**

At the XXV Meeting of the Group of Experts for the Control of Money Laundering, held in Mexico City, Mexico in October 2009, the Plenary identified the following areas of action within its sphere of competence: 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 working 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.

It was established that the following meeting would be hosted by the country chairing the Group of Experts in 2009. Uruguay was selected as chair of the group at the CICAD ordinary session, thus the XXVI Meeting of the Group of Experts for the Control of Money Laundering was set to take place on October 1-2 2009, in Montevideo, Uruguay.

## **II. OPENING, WORKING AND CLOSING SESSIONS**

The opening remarks were given by Mr. Ricardo Gil, representative of Uruguay, in his capacity as chairman of the Group of experts, Mr. Jorge Vásquez, President of Junta Nacional de Drogas, and Mr. Nelson Mena, Coordinator of the Anti-Money Laundering Section of CICAD.

Five plenary sessions were held focusing on the following agenda points:

1. Agenda approval and topic review
2. Presentation of the CICAD's Executive Secretary Activity Report.
3. Report of the coordination and integration between financial intelligence units (FIU) and law enforcement agencies (LEA) subgroup. Manual of best practices, by the delegation of Chile.
4. Information systems for registration and tracking of seized and forfeited assets presentation, by the delegations of Ecuador (CONSEP) and Bolivia.
5. Report of the forfeiture subgroup. BIDAL project progress. Approval of the best practices manual.
6. Approval of working subgroups reports. 2010-2011 Action Plan for subgroups.
7. Presentation of proposal for creating a working subgroup in terrorist financing, to be coordinated by CICTE/CICAD executive secretariats.
8. Presentation on the regional situation of seized and forfeited assets administration by the Executive Secretariat of GAFISUD.
9. Presentation of the comparative law study on the figure of "forfeiture by default or abandonment", by the delegation of Costa Rica.
10. Revision of anti-drug strategy for the Americas and action plan agreed at XLV regular sessions of CICAD.

11. Presentation on the progress of BIDAL phase II. Recommendations adopted by inter-agency working groups from Argentina, Chile and Uruguay.
12. Discussion on the incorporation in Article 9 of the CICAD Model Regulations of the paragraph "Forfeiture by Default or Abandonment"
13. Working Plan 2010–2011.
14. Conclusions and recommendations of the XLV regular sessions of the CICAD. Other topics.

The following delegations attended the meeting: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Grenada, Panama, Paraguay, Peru, United States, Uruguay and Venezuela.

### **III. CONSIDERATIONS**

#### **Agenda approval and Topic review**

The Chairman submitted the proposed agenda for consideration of the participating delegations. The agenda was approved with an amendment to incorporate the presentation of computer systems for registration and monitoring of seized and forfeited assets by the delegations of Bolivia and Ecuador.

#### **Presentation of the Executive Secretary of CICAD Activity Report**

The Executive Secretariat, through Mr. Nelson Mena, reported that its annual working program was based on the results of the working subgroups of forfeiture and coordination and integration of financial intelligence units (FIU) and criminal investigation agencies, and the Group of Experts for the Control of Money Laundering (GELAVEX) mandates. The priorities for 2009 were also determined by GELAVEX mandates based on available resources.

The greatest achievement for 2009 was the implementation of targeted programs and projects that had a regional impact, exceeding execution expectations. This was the case of the Latin America Seized Assets Project (BIDAL), which produced a regional best practices manual for seized assets management, skill enhancing training for seized assets management agencies' staff among others.

It was carried out with the collaboration of CICTE and the United Nations a regional workshop on terrorist financing in Costa Rica, whose objective was to promote the development of legislation on terrorist financing in the region. The workshop facilitated regional cooperation on the subject, and accelerated related legislative processes boost the treated legislative initiatives related and supportive development monitoring, such as the carried missions undertaken recently in Paraguay, and specialized technical assistance.

The Anti-Money Laundering Section and the Narcotic Affairs Section (NAS) at the United States Embassy in Lima have been developing a comprehensive training program to provide judges, prosecutors, public defenders, law enforcement officials and FIU analysts with anti-money laundering techniques and tools. This program has carried out workshops on: special research techniques and circumstantial evidence for judges, analysis course (AVR), and special research techniques. A series of training courses for officials from other Peruvian cities is scheduled to be carried out during the second semester.

A series of Mock Trials were conducted in Brazil and Panama with the participation of UNODC, and it is anticipated a new delivery in Nicaragua. The Mock Trials were designed to skill-train judges, prosecutors, public defenders, specialized police and FIU analysts through the development of an anti-money laundering court case.

CICAD, in collaboration of the Guatemala Prosecutor Office Training Unit, carried out a theoretical course for prosecutors on an anti-money laundering investigation and prosecution and a workshop in AVR in August 24-26, in Guatemala City.

#### **Report of the subgroup of coordination and integration. Best Practices Manual**

The Working Subgroup on Coordination and Integration presented their ongoing work on the FIU-LEA interaction paper, and the Information Sources Exchange Project and the Virtual Library Sentences Project. The second phase of the Information Sources Exchange Project was also presented.

The data collection form and the information classification chart were also presented. The Subgroup asked for the definition of topics to be addressed or further explored (specific interaction problems, compared analysis of experiences, etc.), as well as the participation of the Executive Secretariat in promoting among countries the adoption of agreements.

**Information systems for registration and monitoring seized and forfeited assets presentation, by the delegations of Ecuador and Bolivia.**

The delegations of Ecuador and Bolivia made a presentation of their computer systems for registration and tracking of seized and forfeited assets. The plenary stressed out the importance for Member countries to have a similar system adapted to their needs. Presentation will be available at CICAD's website.

**Report of the subgroup of forfeiture. BIDAL project progress. Approval of the best practices manual.**

The Working Subgroup on Forfeiture made the latest modifications to the document "**Best Practices of Seized and Forfeited Assets Administration Systems in Latin America**", who previously was circulated by the Executive Secretariat and GELAVEX Chair, following the mandate and procedure agreed in at Subgroups Meeting in Washington, DC, May 27-28, 2009.

The Executive Secretariat made a brief presentation on the procedure to receive and incorporate comments sent by the delegations (Brazil, Canada, Chile, Costa Rica, El Salvador, United States and Uruguay), and on technical and style changes made by the specialists at the Anti-Money Laundering Section.

The Executive Secretariat met with the delegations of Uruguay and the United States to find solutions for controversial issues in the document, raised during the plenary session. This meeting was held at the end of the first day and its objective was to find alternatives to ensure the agreement of the countries with the document and the unanimous approval by the plenary.

Furthermore, BIDAL Project Coordinator, Dennis Cheng, made a presentation about the progress of the program, highlighting the establishment of inter-agency working groups in each country to elaborate recommendations on the results of the situational analysis of Argentina, Chile and Uruguay.

Based on these recommendations the working plan was developed, including the improvement of the asset research system, and the elaboration of proposals for modifications on legislation and the elaboration of internal rules for the asset administration agency. Local consultants were hired to perform this work.

The comparative legislation study between asset management systems in the Americas and Europe was completed. This study was conducted by the Isidoro Blanco Cordero, a CICAD/OAS consultant, and will be posted at CICAD website for comments until December 15, 2009.

The BIDAL Project reported the implementation of two seminars in Buenos Aires and Lima on asset research and management of seized and forfeited assets. Implementation and law enforcement agencies and the as well as the recently formed inter-agency groups for asset management by the beneficiary countries were also addressed.

Additionally, national coordinators of BIDAL in Argentina, Chile and Uruguay made a brief presentation on the project progress in their respective countries, with achieved goals and targets set, following the completion of the project.

## **Approval of working subgroups reports. 2010-2011 Action Plan for subgroups**

**Subgroup of Coordination FIU-LEA Action Plan:** the subgroup working program will focus on the following topics:

- § Current working topics:
  - § Document on the interaction between FIU-LEA
  - § Information Sources Exchange Project
  - § Virtual sentences library
- § Possible topics to be addressed:
  - § Information Sources Exchange Project phase 2
  - § Proposals from the group

The selected methodology for information collection and analysis aims to produce a draft document as close as possible to its final version. Thus, the subgroup coordinators kindly request the countries to send brief suggestions and comments as soon as possible.

**Subgroup of Forfeiture Action Plan:** the subgroup working program will focus on the following topics:

- 1 - Analysis of the Mutual Legal Assistance in identification and localization of assets abroad. Discuss procedures for requesting mutual legal assistance and information from the central authorities according to the various instruments on money laundering and related crimes. United States.
- 2 – Analysis of the experiences of countries that work with advance sale of assets system, with pledges or mortgages. Colombia and Brazil.
- 3 – Conclusion of the document "Seizure or Forfeiture by Default or Abandonment" in order for it to be uploaded to CICAD/s webpage.
- 4 – Inclusion of Seizure and Asset Forfeiture in Mock Trials.

## **Presentation of the Proposal for creating a working subgroup in financing of terrorism, to be coordinated by CICTE/CICAD Executive Secretariats**

Following the El Salvador proposal the Plenary commended the GELAVEX Chair (Uruguay) and Vice-Chair (Costa Rica) to analyze with CICAD and CICTE secretariats the feasibility to create a working subgroup on terrorist financing. At the preparatory meeting held on May 17, 2009 in Washington DC, the Chair, Vice-Chair, Chile's representative, ES/CICAD and ES/CICTE agreed upon the importance of the subgroup creation and decided to present a formal proposal at the plenary meeting.

CICTE's representative presented the proposal, emphasizing their experience addressing terrorist financing through legislative technical assistance and support in strengthening capacities of Member States (judges, prosecutors, officials of financial intelligence units, etc.). This experience would constitute a key input from CICAD and CICTE secretariats to the subgroup.

The secretariats recent strategic technical cooperation has allowed synergies between their different areas of responsibility.

Considering the current context, the conclusions and recommendations of the preparatory meeting in May 2009, and the subgroup creation proposal submission for approval by GELAVEX, CICTE and CICAD secretariats presented the following working plan:

1. Objectives:
  - a. mapping of legislative needs to address terrorist financing in the Americas, in order to prioritize technical assistance and capacity strengthening;
  - b. definition of subgroup's main thematic areas;

- c. progress report of the implementation of points a) and b) to be presented at GELAVEX meeting in Washington DC, spring of 2010.  
This work will be supported by CICTE and CICAD staff.
- 2. Subgroup formation:
  - a. definition of member selection criteria in order to provide the subgroup with technical knowledge and sustainability;
  - b. invitation to a GELAVEX member state to participate as coordinator or member of the subgroup.

The Plenary delegated to CICAD and CICTE secretariats the preparation of a report on the legal situation of the Americas regarding terrorist financing, to be presented at the next subgroups meeting in Washington DC.

Regarding this proposal, the Plenary has considered that, while Terrorism Financing is an issue included into the GELAVEX mandates, creating a working group is not for the moment a key component responsible for addressing this topic in this forum; however, the Panel considered that the proposal to undertake a study on the hemispheric legislative situation about Terrorism Financing is relevant in order to identify and approach the GELAVEX fields of action to treat future.

Consequently, the Plenary agreed to delegate to the SE of CICAD, with the collaboration of the SE CICTE, a study bounded on the hemispheric legislative situation regarding Financing of Terrorism, and reports the results of this study at the next meeting of the subgroups that will be held in Washington DC during the first half of next year.

#### **Presentation on the regional situation of seized and forfeited assets administration by the Executive Secretariat of GAFISUD**

Considering the importance the Group of Experts assigned to asset recovery and management and in order to keep GELAVEX informed on current developments on this topic in the Americas, the Chair and the Executive Secretariat requested GAFISUD to make a presentation on the subject with the latest results of their mutual evaluations.

The Plenary recognized the importance of GELAVEX to interact with other international and regional agencies through CICAD/ES to seek technical assistance for the benefit of member countries, therefore welcomed GAFISUD and CICAD/ES proposal to carry out in the near future technical assistance activities to prevent and suppress money laundering and related offences.

#### **Presentation of the compared law study on the figure of "abandoned or unclaimed asset seizure during legal proceedings", by the delegation of Costa Rica**

The Costa Rica delegation made a presentation on "forfeiture by default or abandonment", which will be available at CICAD's website.

#### **Revision of anti-drug strategy for the Americas and action plan agreed at XLV regular sessions of CICAD**

The group welcomed information that was received on the ongoing process and expressed their firm commitment to participate actively in this process. Consequently, the group requests that during the next meeting the Executive Secretariat provides definitions and general requirements that allow properly insertion and action of the group on this subject.

#### **Discussion on the incorporation to Article 9 of the CICAD Model Regulations of the paragraph "Forfeiture by Default or Abandonment"**

Under the mandate agreed by CICAD at its Forty-Fifth Regular Session, held in May 2009 in Washington

DC, the recommendation was to fully incorporate to Article 9 of the CICAD/Model Regulations the paragraph "Forfeiture by Default or Abandonment" according to the following:

#### Article 9. FORFEITURE OF PROPERTY, PROCEEDS OR INSTRUMENTALITIES

1. When a person is convicted of a money laundering offense, the financing of terrorism, or an offense included in the definition serious criminal activity, the court shall order that the property, proceeds or instrumentalities connected to such an offense be forfeited and disposed of in accordance with the law.
2. When the objective circumstances of the case permit the competent authority to reasonably infer the illicit origin or destination of assets, it shall also order in the sentence of conviction the forfeiture of such assets, unless the convicted person has demonstrated their legal origin. Objective circumstances of the case shall include, among others, those circumstances relating to the time or manner of acquisition, personal characteristics, economic characteristics, the convicted person's ordinary sphere of activities, or any other circumstances deemed relevant.
3. When, as a result of any act or omission of the person convicted, any of the property, proceeds or instrumentalities described in this Article cannot be forfeited, the court shall order the forfeiture of any other property of the person convicted, for an equivalent value or shall order the person convicted to pay a fine of such value.
4. States should establish clear legal procedures to order forfeiture if, after appropriate notice a person fails to claim the assets within the time period to protect his interest in the property. The competent authority may issue a final decision ordering definitive forfeiture when: a) If after a reasonable period of time from the seizure of the asset, it has not been possible to identify **the owner of the assets, author** or perpetrator of the act or that person has abandoned the assets; b) If after a reasonable period of time from the end of the criminal proceeding persons who might have legitimate legal interest in the assets have made no effort to claim the assets. In any of these cases, due process of law should be followed in order to guarantee rights of persons with an interest in the property.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

The group identified the following areas of action within its competence: Forfeiture, "Extinción o Pérdida de Dominio" Asset Recovery Agencies, Coordination and Integration between Financial Intelligence Units and Law Enforcement Agencies, and Terrorist Financing.

Similarly, the group agreed on the following conclusions and recommendations:

1. Approve Reports of the Subgroups of Forfeiture and the Coordination and integration between FIUs and LEA.
2. Recognize the importance of member countries having a system to register and monitor seized and forfeited assets, derived from the contributions outlined in the presentations made by the delegations of Ecuador and Bolivia.
3. Unanimously adopt the Best Practices document on Administration of seized and forfeited assets, and agree that it replaces the document adopted at the Plenary Meeting of GELAVEX, held in Mexico in 2008. This is being done under the mandate agreed by CICAD at its Forty-Fourth Regular Session, held in November 2008 in Santiago, Chile.
4. Recognize the substantial progress made in project BIDAL.
5. Approve Working Plans for 2010-2011 proposed by the Forfeiture and coordination and integration between FIUs and LEAs groups.
6. Regarding the proposal by the ES of CICAD and CICTE on the feasibility of creating a working subgroup of Financing of Terrorism and its Working Plan, the Plenary considered that for the moment, it isn't an essential component for an responsible approach to this topic within this forum, and it was agreed in order to identify and focus the areas for action to be addressed in the future by the Group, to delegate the ES of CICAD, with the collaboration of the ES of CICTE, a study

bounded on hemispheric legislative situation regarding Terrorism Financing, and report the results of this study at the next meeting of the working subgroups that will be held in Washington DC during the first half of next year.

7. Recognize the importance of the Group of Experts in interacting with other specialized agencies to ensure international and regional technical assistance for the benefit of members, welcoming the proposal of GAFISUD and CICAD to plan and execute in the near future joint technical assistance activities in the prevention and suppression of money laundering and related crimes.
8. Regarding the revision of the Anti-Drug Strategy in the Hemisphere and its Plan of Action agreed at the XLV Regular Session of CICAD, the group welcomed information that was received on the ongoing process and expressed their firm commitment to participate actively in this process. Consequently, the group requests that during the next meeting the Executive Secretariat provides definitions and general requirements that allow proper insertion and action of the group on this subject.
9. Under the mandate agreed by CICAD at its Forty-Fifth Regular Session, held in May 2009 in Washington DC, the group recommends the incorporation into Article 9 of the Model Regulations of CICAD/OAS "Forfeiture by Default or Abandonment" according to the text above.
10. In response to their specific request, Panama becomes a member of the Forfeiture and Coordination and Integration between Financial Intelligence Units (FIUs) and LEAs subgroups.
11. Annexed to this Final Report are the yearly Report of Activities submitted by the Executive Secretariat, and other working documents submitted by the Subgroups of Forfeiture and Coordination and Integration between FIU and LEA.
12. Distribute, within 15 calendar days and through the web site of CICAD, the Final Report and other documents related to this Plenary Meeting.
13. With the initiative of the delegation of the United States, and recognizing the invaluable contribution over many years provided to CICAD/OAS, the group offers a posthumous tribute to the memory of Michael Bradley Sullivan, who died on June 26, 2009.

### **Working Plan 2010-2011**

- § Prepare a working paper on the interaction of FIU-LEA, to implement phase 2 of the Information Sources Exchange Project and Sentences Virtual Library Project.
- § Prepare an analysis of the mutual legal assistance on identification and localization of assets abroad. To identify procedures for request of legal assistance and information related to money laundering and related crimes prevention instruments. (United States)
- § Analyze experiences of countries with asset liquidation during proceedings or "*Extinción de Dominio*" with securities. (Colombia and Brazil)
- § Finish the document ""Forfeiture by Default or Abandonment" for circulation through CICAD website.
- § Promote the insertion of seizure and forfeiture in "Mock Trials".
- § Report by CICAD and CICTE secretariats on the legal situation of the Americas regarding terrorist financing, to be presented at the next subgroups meeting in Washington DC.
- § Discussion of the Hemisphere Antidrug Strategy and its action plan based on CICAD's general definitions and requirements.

### **Other Topics**

#### **1. Training**

The Group recommends that the Executive Secretary continues their training programs for judges and prosecutors, mock trials and mock investigation on money laundering, without prejudice to the training of other agencies involved in combating money laundering. Also, to continue technical assistance activities and horizontal cooperation and promote the establishment of national training programs for public officials involved in combating money laundering.

#### **2. Work Methodology**

The group decided to continue the work methodology agreed at the November 2006 meeting, which

convenes a meeting exclusively for sub-working groups during the first half and a plenary and subgroup in the second half of the year.

### **Presidency and Vice Presidency**

The panel agrees to the nomination of the delegations of Costa Rica and Venezuela to the presidency and vice presidency, respectively, recommending that such delegations manage such nominations within their own delegates for the next regular session of CICAD.

### **Next Meeting:**

The group agreed that future meetings of the working subgroups and the plenary will be coordinated by the new presidency and the Executive Secretariat, who shall from time to time set dates and places.

The group expressed gratitude to the Delegation of Uruguay for the excellent organization of this meeting and their outstanding management during their mandate.

# **ANNEX**

## Annex 1

### Working Plan Proposal Subgroup of coordination and integration FIU-LEA (2009-2010)

#### Program

- § Current working topics:
  - § Document on the interaction between FIU-LEA
  - § Information Sources Exchange Project
  - § Virtual sentences library
- § Possible topics to be addressed:
  - § Information Sources Exchange Project phase 2
  - § Proposals from the group

#### Working document

- § To define topics to be addressed or further explored in the document (interaction specific problems, comparative analysis of experiences, etc.)
- § To define a working process for the Executive Secretariat to promote the implementation of adopted agreements by the countries.
- § To complement the document with received comments regarding specific issues with this type of interaction

#### Information Sources Exchange Project

- § Phase 1: sources identification
  - § It is proposed a form to be filled by countries regarding information sources.
  - § The group should be specific with the information provided through this form.
  - § The group should review the classification of the relevant types of information.
  - § A minimum of sources of information by countries must be set.
- § Proposed Form

| Source country of origin                           | Any OAS member country  |
|--|---|
| Item or activity                                   | Business directory / Tax revenue office / customs / central bank / oversight agency / FIU-LEA           |
| Main Website address                               | It refers to the homepage at the Website  |
| type of information                                | patrimonial / personal / legal / business / police / corporate / norms                                  |
| type of agency                                     | public / private / NGO / international agency   |
| Access to information                              | free / paid (how)   |
| Origin of data                                     | Is the information produced by the source/ is the information processed from third parties              |
| Information provided by source / direct link.      | To identify the delivered data / direct link to the information provider's Internet address             |
| Search parameters                                  | name / passport number / other  |
| Problems and/or difficulties to access information | Slow server / Internet page doesn't work properly / information is not updated                          |
| Observations                                       | Ask for registration, saves the information of who is searching, there are limits to consultation, etc. |
| Last update date                                   | Date of data gathering by country   |

- § Proposed Classification
  - § Patrimonial: sources of information related to asset ownership of an individual or company (vehicles, real state, horses, jewels, industrial real state, airplanes, stocks, weapons, etc.)
  - § Personal: sources of information related to data of an individual such as marriage status, contact information, phone number, passport number, occupation, etc.
  - § Legal: sources of information related to civil, criminal, business, and labor litigation of an individual.
  - § Business: sources of information related to economic activity or business conducted by an individual.
  - § Police: sources of information related to traffic infractions, fines, or any other relevant police information.
  - § Corporate: sources of information related to incorporation of companies and change in partnership quota, trust funds, board of directors, etc.
  - § Norm: sources of information related to a country's norms and regulations with updates, and its jurisprudence.

- § Phase 2: Evaluation of sources of information to determine the information access route
  - § Objective: to select functional sources of information to be used in an anti-money laundering transnational investigation, through different criteria categorization.
  - § Methodology: to analyze previously identified sources of information in order to determine relevancy, and which source should be classified by the group's agreed parameter.
    - § Every country will prepare a summary table with the data of information sources
    - § The information sources will be classified according the adopted criteria (open or semi-open [mix], free or paid, information provided immediately or after a period of processing.
- § Phase 3: Systematization of information, development of information sources updating procedures
  - § Objective: Systematization of gathered information to a website in which countries may have access. Prepare updating procedures and revision of sources of information.
  - § Methodology: Compilation of countries' information sources in a table including Internet information.
    - § Preparation of a summary table with the information of all countries, and a graphical chart for the information access route.
    - § Updating: once the first database is ready and all websites are mapped, a semester or annual updating will be scheduled.

**Sentences Project**

It is proposed a form to be filled by countries with information regarding sentences in order to ease the classification and search process.

- § The group should agree upon the minimum parameter to set this form
- § The group could agree that non verified sentences can be supported with judicial ruling.
- § A minimum of sentences or judicial ruling could be established by country.

§ Proposed Form

| Source country of origin | Any OAS member country  |
|--------------------------|---|
| Type                     | Money laundering / illicit enrichment / Extinción de Dominio  |
| Identification data      | court, date, case number, if it was appealed, etc.  |
| Ruling                   | condemnation / absolution   |
| Description              | Search key words  |
| Doctrine                 | Sentence relevant topic to highlight (typology, base crime, circumstantial evidence, auto money-laundering, etc.) |
| Related ruling           | Other related sentences in your country   |
| Applied law              | Mention main laws/norms   |

|              |   |
|--------------|---|
| Observations | If the ruling is isolated or currently enforced |
|--------------|---|

## Annex 2

### Forfeiture Subgroup Report

During the XXV Meeting of Experts for the Control of Money Laundering, held in Mexico in October 2008, the plan of action for the forfeiture subgroup for 2009-2010, was approved, as follows:

1. Exchange of experiences regarding the auction of seized and forfeited assets, particularly the experiences of Brazil, Colombia and Honduras.
2. Participation in the development of a comparative law study of forfeiture by default or abandonment within Costa Rica and Latin American countries with similar legislation.
3. Participation in the comparative study of the mechanisms for the "*Extinción de Dominio*" in Brazil, Colombia, Honduras, Mexico and Peru.
4. Collect, analyze and, where appropriate, integrate the observations and comments from countries to the manual of best practices.

#### Results of the agreements

The delegations of Brazil and Colombia held their presentations, contributing their experience regarding the issues agreed upon.

Brazil for its part gave a presentation focusing on selling or auctioning assets online. This model should be analyzed by the group of experts. For its part, Colombia contributed with their presentation, highlighting their model that accounts for asset auction, saying that they do not use the Internet auction system, but do use this system for their "*Extinción de Dominio*".

Regarding the second agreement, Costa Rica initiated a comparative legislation study on forfeiture by default or abandonment in Costa Rica and Latin American countries with similar legislation.

Under this paragraph, Costa Rica handed out a questionnaire with five questions related to the subject in order to initiate a comparative legislation study among member countries of the Expert Group and responded to information requested by Argentina, Chile, Uruguay, Mexico, Bolivia and Peru .

The information received was analyzed and Costa Rica intends to forward the questionnaire to the various delegations that did not send the information back, in order to complete the final document and append to document that the delegation of Costa Rica prepared. Regarding the third section, the issue was not developed by the working group.

The Best Practices Manual was analyzed and the observations were integrated to the final document. It was discussed in the Working subgroup and was sent to the Plenary for approval. The Manual was written by Mr. Dennis Cheng, BIDAL Project Manager, with the collaboration of the Executive Secretariat of  
CICAD.

#### Working plan for the year 2010 to 2011

1. Analysis of the Mutual Legal Assistance in identification and localization of assets abroad. Discuss procedures for requesting mutual legal assistance and information from the central authorities according to the various instruments on money laundering and related crimes. United States.
2. Analysis of the experiences of countries that work with advance sale of assets system, with pledges or mortgages. Colombia and Brazil.
3. Conclusion with the document "Seizure or Forfeiture by Default or Abandonment" in order for it to be uploaded to CICAD/s webpage.
4. Inclusion of Seizure and Asset Forfeiture in Mock Trials.

During the meeting, the Executive Secretary will distributed amongst the countries an English and

Spanish version of the questionnaire requested by the delegation of Costa Rica in order to conclude the document on Seizure or Forfeiture by Default or Abandonment.

The delegations will have until November 1, 2009 to send to the Executive Secretariat the answered questionnaire.

### **Recommendations**

To promote internet auction, for this type of auction is more democratic in the sense that there is a wider possibility for buyers.

Request commitment from the participating delegations to respond to the documents sent by the Executive Secretariat until set deadline.



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### **ACTIVITY REPORT**

The priorities of activities during 2009 were established according to the mandates of CICAD and Group of Experts for the Control Money Laundering. The activities were conducted in accordance with the availability of resources.

The greatest achievement of the area during 2009 was the development of programs and projects planned for specific targets that had a regional impact, exceeding the goals set in designing them.

Such is the case of the Seized and Forfeited Asset Project in Latin America (BIDAL), which has created regional documents such as the Best Practices Manual for Seized and Forfeited Asset Management, specialized training, among others.

Likewise, the Regional Terrorist Financing workshop held in Costa Rica jointly with the Inter-American Committee against Terrorism (CICTE) and with the collaboration of the United Nations, which objective was to foster the development of laws related to financing Terrorist in the region and to facilitate the process of horizontal cooperation in the field. This workshop enabled legislative changes and also enabled monitoring missions, carried out recently in Paraguay, as well as specialized technical assistance.

Since countries have shown interest in some of the activities undertaken by the Money Laundering Section it was necessary to redesign them to include participants from other countries by giving the events a more regional approach.

A significant number of experts participating in specialized training are officials of governmental agencies from countries that have had successful experiences related to money laundering issues.

Moreover, in most of the activities carried out the host country contributes in order for the event to take place.

The agenda of the Group of Experts for the Control of Money Laundering in 2009 included two working sessions, the first one held in May this year in Washington, DC and another held in Uruguay during the month of September. The central themes of the meetings were addressed in the subgroups of Forfeiture and coordination and integration among FIUs and Law Enforcement agencies.

The main objective of the Forfeiture subgroup is to provide technical assistance to Member States to develop, implement and strengthen the institutions responsible for the administration of forfeited assets. In the case of the Subgroup on Cooperation and Integration between FIU and LEA, we have started the process of gathering information in order to develop a diagnostic paper on the current state of relations between these entities in the hemisphere, as well as the legal frameworks and experiences in the countries that can lead to working papers and recommendations in the hemisphere.

Within the framework of the project BIDAL, we have conducted two training workshops jointly with the Ministry of Spain, and have benefited more than 60 experts from the SAAs in the region. A Regional Seminar on Seized and Forfeited Asset Management and Investigation was also held in Buenos Aires and Lima.

Similarly, Asset Laundering Section and the office of NAS of the U.S. Embassy in Lima, are developing a comprehensive training program for judges, prosecutors, public defenders, enforcement agents and FIU analysts on techniques and tools to Combat Money Laundering. Under this program, we have conducted workshops for judges on special investigative techniques and circumstantial evidence, analysis workshops (AVR) and workshops on special investigation techniques. For the second half of this year the section has scheduled several training courses for government officials who work outside of the urban area of Lima.

In February 2009 a sub regional Workshop on Terrorist Financing, was held in San José, Costa Rica. This activity was focused on the investigation of a terrorist financing case with the objective to strengthen both the research skills of participants and cooperation between Law enforcement agencies in the participating countries. This event was attended by 27 participants in the roles of legislators, prosecutors, police and FIU analysts from Bolivia, Brazil, Costa Rica, Ecuador, Honduras and Paraguay.

So far this year, with the participation of UNODC, the section held mock trials in Brazil and Panama, and plans to hold a mock trial in Nicaragua. The mock trials are aimed at training Money Laundering specialists in these countries through the study and analysis of a real money laundering case, and judges, prosecutors, public defenders, FIU analysts and police work together on the case.

CICAD also performed a theoretical course for prosecutors on the investigation and prosecution of money laundering and an AVR workshop organized in collaboration with the Fiscalía General in Guatemala, carried out in the city of Guatemala, from August 24 – 26, 2009.

Finally, CICAD has signed a Memorandum of Understanding with the Superintendence of Banks (SBS) of Peru to carry out in December a training seminar-workshop aimed at Compliance Officers in order to update the concepts related to Money Laundering and Terrorist Financing and provide tools for detection, reporting and tracking.