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# INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION **CICAD**

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IDENTIFICATION STUDY OF INTERNATIONAL COOPERATION MECHANISMS  
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# Study on identification of international cooperation mechanisms ( formal and informal) that allow adequate information exchange for the prevention and repression of money laundering, terrorism financing and recovery illegally obtained assets

Since 1990, the OAS General Assembly recommended to Member States, within their respective legal systems, consider the development of mechanisms and proceedings of bilateral and multilateral cooperation for:

- 1.Preventing money laundering related with drug trafficking.
- 2.Facilitate the identification, tracing, apprehension, and seizure of such assets.

# Related Products

1. “ Internal guide of procedures for requesting mutual legal assistance in the field of monitoring and assets recovery”, presented in the XXXIII reunion of Galvex held in Caracas, Venezuela in September 2011, by the United States delegation.

- Points of Contact
- Legal basis for cooperation
- Mechanisms to locate and identify assets aboard (formal and informal)
- Procedure to enforce the confiscation, the containment and/or forfeited orders.
- Requirements to be included in requests for mutual legal assistance.
- International Cooperation mechanisms for the administration of seized and forfeited assets during the delay recovery and/or sharing state.

Work Plan of the forfeited subgroup 2010-2011

# Related Products

2. Document about “Mechanisms to share forfeited assets between countries” adopted in Argentina in September 2012.

Working Plan of the forfeited subgroup 2010-2011

3. Development of related issues through expositions, for example:

- “Strengthening of the international legal cooperation in areas related with the mutual legal assistance of forfeited assets” by the Hemispheric Net of Information Exchange for the Mutual Assistance in Criminal and Extradition Matters of the OAS’s Justice Department.
- “Strengthening of the international legal cooperation in relation with the forfeited and recovery assets” developed by the CICAD/OAS and STAR the initiative of the World Bank Institute and UNODC.
- Normative model of the United States for the sharing forfeited assets abroad.

# Related Products

4. “Study of international cooperation mechanisms (formal and informal) that allow adequate information exchange for the prevention and repression of money laundering, terrorism financing and the recovery of illegally obtained assets.

The present study will bring a proposal to allow member States to work on the prevention and repression of the money laundering and the recovery of illegal assets ; for which:

- Ø Will be carried out a brief identification of the international cooperation mechanisms (formal and informal)
- Ø Will indicate the limitations for the international cooperation, and
- Ø Will describe the proposal indicated.

# INTERNATIONAL COOPERATION MECHANISMS

## ■ INFORMAL

### 1. Objective

Obtain information that contributed to the development of the investigation

### 2. Type of assistance

No coercive investigation measures,  
Spontaneous disclosing of information, joint investigations

## ■ FORMAL

### 1. Objective

Execute proof measures and coercive measures, example execution of seizure orders, seized and forfeited.

### 2. Type of assistance

Coercive investigation measures (example raid orders) and other forms of legal assistance (example seizure orders or confiscation of goods)

# INTERNATIONAL COOPERATION MECHANISMS

## ■ INFORMAL

### 3. Contact

Direct. The judge or prosecutor can be reached directly the opposing part or the involved administrative agencies.

### 4. Requirements

In general there are no formal requirements. It could be necessary a MOU or the membership of a intergovernmental organization (INTERPOL or Egmont Group)

## ■ FORMAL

### 3. Contact

Mostly by the central Authority

### 4. Requirements

Existence of an international treaty

Reciprocity

Principle of the dual criminality

Ongoing criminal investigation

# INTERNATIONAL COOPERATION MECHANISMS

## ■ INFORMAL

### 5. Advantages

The information is quickly obtained. Formal requirements are not necessary. Allows to verify facts, and obtain information for the elaboration of a requirement.

### 6. Disadvantages

The information in general cannot be used as evidence. Can be difficult to establish which is the adequate counter part for the obtaining of information.

## ■ FORMAL

### 5. Advantages

The obtained proves are admissible in the criminal proceeding. Allows the execution of the legal decisions.

### 6. Disadvantages

Difficulty to meet the formal requirements. The processing of the requirements imply a significant time delay.



# International cooperation mechanisms, formal and informal

■ *Guidance on procedure for mutual assistance for monitoring the assets recuperation:*

- Ø Formal: Diplomatic channels and through central authorities according with the applicable convention: - Vienna Convention – Palermo Convention
- Ø Informal: Egmont Group, Iberred, RRAG and Interpol.

# Restrictions on international cooperation

- Legal terminology: difficulties in several areas: differences in the name of:

- § Criminal offenses
- § Precautionary measures
- § The term confiscation

- The differences in the legislation: requirements of the cooperation requests

- Variation in the proceedings to obtain assistance.
- Willingness in providing cooperation

# Restrictions on international cooperation

- Assets are subject of multiple transformations.
- There is not adequate legislation allowing the confiscation and recovery of the assets, neither specific legal proceedings, specifying what to do when a country request assistance of other.
- The execution of seizure aboard assets resolutions, arise the problem of the subsequent administration of the forfeited assets.

# Assets recovery program

Document of international cooperation dispositions for the asset recovery, that serve as a reference for all the hemisphere states.

Training for the application of the dispositions included in the previous document.

Develop of a structure data base to facilitate international cooperation.

# **Assets recovery program**

## **General Objective**

**To assist OAS's Member States to adequate their legal systems for asset recovery are performed on a harmonious, effective and responsive throughout the hemisphere.**

# Asset recovery program

## Specific Objectives

- To provide Member States a uniform legal framework to facilitate the exchange of information procedures and reduce the asymmetries of their various legal systems.
- Facilitate the exchange of experiences and good practices in asset recovery, with a different approach and proper to ensure mutual assistance between all member states.
- Train specialists in recovering assets abroad by previously accepted models and approved by member states.
- Implement strategies that facilitate communication integration on asset recovery in the hemisphere, both inside and outside the Member States.
- Providing the tools needed to solve asset recovery cases in which international elements concur.
- Improving judicial cooperation between Member States in the field of money laundering.

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