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**ANALYSIS OF SYSTEMS FOR THE COLLECTION OF DATA ON SEIZED AND FORFEITED ASSETS OF ILLICIT  
ORIGIN IN THE MEMBER STATES OF THE OAS**

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## **Background**

The exercise to analyze data on seized and forfeited assets of illicit origin in the member states of the Organization of American States (OAS) is an initiative carried out within the activities of Inter-American Drug Abuse Control Commission (CIDAD) and in line with the objectives already pursued by the Seized and Forfeited Asset Management project (BIDAL). The BIDAL Project is a program that provides technical assistance to States interested in developing and improving systems for identifying, locating and managing seized and forfeited assets. It establishes standards of good governance and administrative transparency in the management and administration of assets, in order to ensure maximum benefit and avoid corruption and misappropriation in their use and disposal. The project targets offenses related to organized crime and serves to help Member States improve their legislation, their administrative and management practices related to proceeds, instruments or objects of crime.

An evaluation of the current data collection practices and recommendations for the implementation and/or development of better data collection will further the progress made in previous phases of the BIDAL project. The hope is that through this simple exercise both BIDAL project countries and the larger community of OAS states will benefit from the sharing of information and consider the improvements that could be made to continue the progress made in the area of seized and forfeited asset management.

## **Relevance of the exercise**

Since the late 1980's the effort to target proceeds of crime has been a topic on the agenda of many international organizations. This crime fighting strategy has gained traction in the contrast of crimes ranging from corruption and embezzlement to illicit trade and organized crime. The development of agencies specialized in asset recovery, the administration and disposal of assets of illicit origin and the data generated by these activities have become major factors in ensuring the success of this strategy.

This exercise is part of the broader aim of the BIDAL project of promoting the creation and development of national systems of administration of assets of illicit origin in its member countries, in accordance with the principles and objectives contained in the Hemispheric Plan of Action on Drugs, 2011-2015.

To guarantee a transparent and accountable functionality of the agencies tasked with managing seized and forfeited assets it is crucial that the assets for which the agency is responsible be documented in an efficient manner.

The improvement of the collection of data on seized and forfeited assets aims to:

1. improve the efficiency of dedicated agencies, by increasing their knowledge of assets currently under their control;
2. aid national investigations and trials, by providing updated and clear information regarding assets currently and previously associated with criminal individuals and groups;
3. better integrate the activities of law enforcement tasked with investigating financial crime with the agencies responsible for the administration of seized and forfeited assets by creating common data collection standards;
4. facilitate international cooperation, by expediting the exchange of information regarding seized and forfeited assets, particularly in the case of transnational organized crime;
5. expedite disposal of assets in accordance with international standards, by efficiently and quickly providing information on assets that are eligible for disposal;
6. increase the transparency and accountability of asset recovery offices (AROs), by providing updated information on the assets and their status in relation to investigations, court cases, administration and disposal;
7. provide a basis for future analysis of the activities of AROs and their improvement in light of strengths and weaknesses that may emerge over time;
8. be a source of information on best practices that can be shared between OAS states to encourage national governments to develop and improve systems for

managing and administrating property, based on the experience of other OAS states;

9. provide, in due course, data for further research on illicit assets to inform decision makers, as has been carried out in other countries such as Canada, the Netherlands and Italy (van Duyne & Meloen, 2003; Schneider, 2004; van Duyne & Soudjin, 2009; Transcrime, 2013).

## **Results of the exercise**

### **1. Introduction**

The exercise to analyze systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS was divided into two activities. A more in depth description of the methodology used for this exercise can be found in Annex 1: Methodology.

The first activity (paragraph 2.1) aimed to identify best practices of data collection on seized and forfeited assets by highlighting case studies in the selected countries as well as experiences in other countries. This activity aims to circulate positive experiences between countries to improve the technical abilities of national agencies tasked with managing assets.

The second activity (paragraphs 2.2.1, 2.2.2, 2.2.3) aimed to understand the current collection procedures and availability of data regarding seized and forfeited assets in participating member states of the OAS. For this activity a questionnaire was administered to representatives from the relevant government agencies of ten OAS member states: Brazil, Colombia, Ecuador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Peru and the United States of America (Figure 1).

The recommendations (paragraph 2.2.4) for the improvement of national data collection on seized and forfeited assets are based on the results of the administered questionnaire.



**Figure 1: Countries included in the Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS**

## **2. Analysis**

### **2.1. Activity 1**

In this section best practices in the field of data collection on seized and forfeited assets will be presented along with case studies to highlight the experiences of OAS member States as well as other countries.

While the international community has repeatedly encouraged countries to create specialized agencies for the management of seized and forfeited assets and discussed the responsibilities, financial viability and practical aspects of these entities, there have been few instructions on how they should collect and manage data.

In 2005 the Criminal Legal Affairs working group of the G8, that included France, Germany, Italy, the United Kingdom, Japan, the United States, Canada, and Russia, proposed that:

“States should consider the use of information technology (IT) systems for the administration of seized property. Appropriate financial and property administration IT systems can, for example, be extremely useful for tracking and managing inventory or for meeting expenses associated with seized property as well as for maintaining a transparent and accountable system. States may also wish to use such IT systems for the administration of confiscated property” (G8 Lyon/Roma Group Criminal Legal Affairs Subgroup, 2005, p. 3).

This suggestion was echoed in the “Asset Management Systems in Latin America and Best Practices Document on Management of Seized and Forfeited Assets” of the OAS that added that:

“This technological tool will be used to record income, transfers, judicial proceedings, legal situation, identification of objects, and the location of each asset in custody, in order to permit quick verification of its current status. An AMS also will permit the generation of reports on the amount of real estate and personal property, as well as the preparation of statistics on assets seized and forfeited, accountability, management costs, and financial statements. It also seeks to promote transparency and good governance in management of seized and forfeited assets, because the data recorded in the system will be subject to public scrutiny” (OAS, 2011, p. 127).



Statistics are also mentioned specifically in the Financial Action Task Force International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. Recommendation 36 reads as follows:

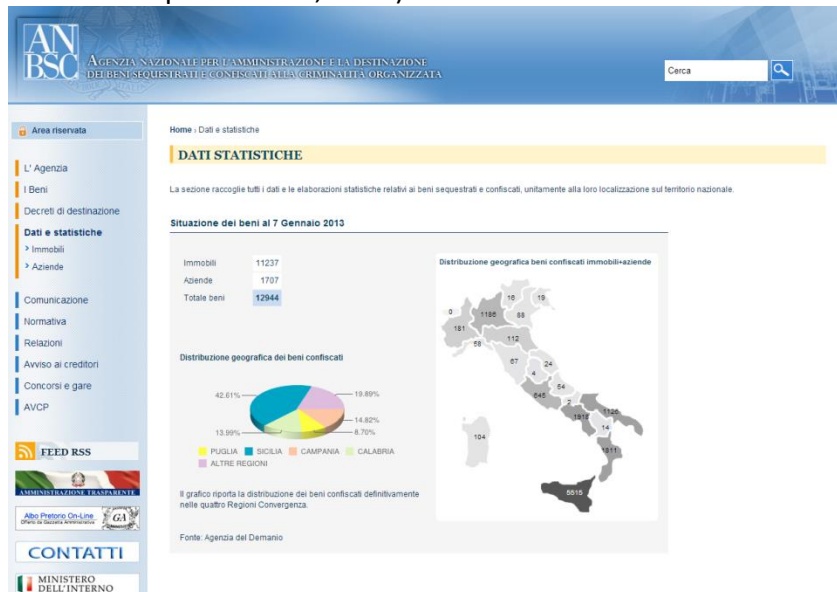
“Countries should ensure that their competent authorities can review the effectiveness of their systems to combat money laundering and terrorist financing systems by maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of such systems. This should include [...] property frozen, seized and confiscated” (Financial Action Task Force, 2012).

These documents stress the importance of using efficient data management to ensure transparency and efficiency in the management of seized and forfeited assets because this “increases the transparency of asset management activities and may raise awareness among the public about the purpose and achievements of the office” (Stolen Asset Recovery Initiative, 2011, p. 95). The implication is that data collection should be viewed by agencies not only as an internal process, but as a responsibility to the public which should be made aware of how seized and forfeited assets are being managed and disposed of to benefit society. To this end the agencies are given instructions to periodically produce statistics on various aspects of their activities.

The importance of statistics was also emphasized in the recent 2014 Directive of the European Parliament and of the Council on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (2014/42/EU). Article 11 of the directive states that:

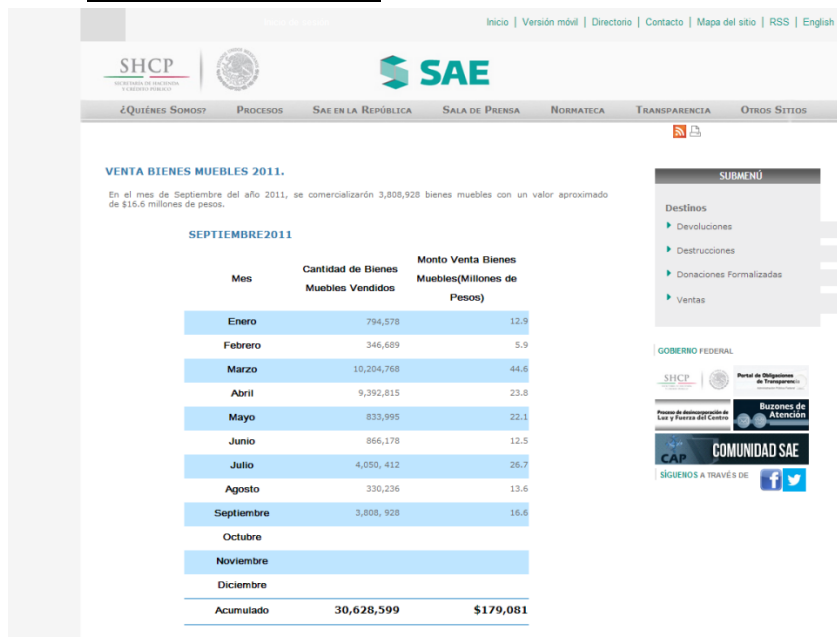
- “1. Member States shall regularly collect and maintain comprehensive statistics from the relevant authorities. The statistics collected shall be sent to the Commission each year and shall include:
  - (a) the number of freezing orders executed;
  - (b) the number of confiscation orders executed;
  - (c) the estimated value of property frozen, at least of property frozen with a view to possible subsequent confiscation at the time of freezing;
  - (d) the estimated value of property recovered at the time of confiscation.
2. Member States shall also send each year the following statistics to the Commission, if they are available at a central level in the Member State concerned:
  - (a) the number of requests for freezing orders to be executed in another Member State;

- (b) the number of requests for confiscation orders to be executed in another Member State;
- (c) the value or estimated value of the property recovered following execution in another Member State” (European Parliament and of the Council of the European Union, 2014).



**Figure 2: Statistics on the geographic distribution of seized and forfeited assets of the ANBSC**

Source: [Official website of the ANBSC](#)



**Figure 3: Statistics on the disposal of movable assets of the SAE**

Source: [Official website of the SAE](#)

The listed statistics highlight what type of information on seized and forfeited assets European member states should be able to report: the volume and economic value of national asset recovery over time as well as the involvement of other member States in these activities.

The emphasis on producing statistics that highlight the interaction between member States underlines the transnational nature of the crimes that the directive is trying to target.

Examples of countries that publish statistics on the activities of the agencies for the management of seized and forfeited assets are Italy and Mexico. Both countries have online

platforms that provide information on the activities of the agencies.

The websites of the Italian *Agenzia nazionale per l'amministrazione e destinazione dei beni sequestrati e confiscati alla criminalità organizzata* (ANBSC) and the *Servicio de Administración y Enajenación de Bienes* (SAE) in Mexico allow users to access information on the agency (director, structure, organization, offices and finances). The ANBSC website provides information on real estate and companies with details on the individual assets and updated statistics (Figure 2). On the SAE website it is possible to access statistics on assets that have been received, are in custody and disposed of divided into movable assets and real estate. Figure 3 shows a page on the website that presents statistics on the disposal of movable assets through sale providing the number and value of the assets in 2011.

While some information should be made available to the public it is important that information on specific seized and forfeited assets be shared with other agencies involved in the investigation of illegal proceeds and the prosecution of predicate offences. Practitioners in every phase of the process should be able to access information on the previous or subsequent steps that they are not involved in directly so as to have a comprehensive knowledge of a given case. Furthermore, information on past cases involving the same people or similar situations can be very useful in ongoing cases. Access to comprehensive records on specific assets can be a very useful tool to improve future investigations.

Access to the records of agencies for the management of seized and forfeited assets is not always readily given. A report by the European Commission on "Cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime" in 21 of its member States in 2011 found that "half of the AROs do not have access to judicial statistics on freezing and confiscation" (European Commission, 2011, p. 8).

Examples of countries that have developed the sharing of information on seized and forfeited assets between agencies are Ireland, the United Kingdom and Peru.

In Ireland the Criminal Assets Bureau (CAB) established in 1996 is a "multi-agency approach to criminal investigations [...] into the suspected proceeds of criminal conduct" (An Garda Síochána, 2014). It is based on a holistic approach in which the "sharing of information is perhaps the most important factor in the successful completion of a multi agency investigation and any subsequent court outcome. Such shared information is of

particular relevance and importance in the preparation of the reports, analysis and any evidence given by the forensic accountant involved in the case” (CEART, 2012).

In the United Kingdom the Joint Asset Recovery Database (JARD) was created as a result of the Proceeds of Crime Act (POCA) in 2002 (NCA, 2014). It is an information database on asset recovery cases that can be accessed by approximately 4,500 users, among which financial investigators, prosecutors and enforcement staff involved in asset recovery in the UK (CEART, 2012; NCA, 2014). It has three objectives: a) improving asset recovery with the active involvement of Financial Investigators, Prosecutors and Courts; b) providing a single source of historic information about asset recovery actions, for the use of ongoing investigations and c) supporting a holistic approach throughout the entire operational process of asset recovery (CEART, 2012).

In Peru Legislative Decree No. 1104, of April 19, 2012 amending Legislation on the Loss Domain instituted the *Registro Nacional de Bienes Incautados* (RENABI) or the National Register of Seized Assets. Article 35 states that:

“The goods, objects, tools, effects and profits seized for offenses against the State shall be recorded in detail in the National Registry of Seized Assets - RENABI, by the CONABI, whose character is public. The use of information contained in the RENABI is compulsory for notaries and registrars prior to any registration or act within their functions. The CONABI, will keep the historical record of those goods seized and/or declared loss of domain under its jurisdiction, reporting these cases to the National Superintendence of Assets of the State.

While the sharing of information between the agencies involved in asset recovery and administration in a given country should be standard practice and facilitated, it is important to recognize that investigations increasingly involve multiple countries. The increasingly transnational features of money laundering and organized crime require an increased ability for investigators from different countries to exchange information quickly and securely.

The Financial Action Task Force of South America (GAFISUD) established the *Red de Recuperación de Activos de Gafisud* (RRAG), the GAFISUD asset recovery network, in 2010. It is an electronic platform for the exchange of information in a safe environment that is located at the Financial Intelligence Unit in Costa Rica. There are seventeen countries in the

RRAG: the sixteen GAFISUD countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay) and Spain. Each of the GAFISUD countries has two contact points and another is in Spain for a total of 33 contact points (GAFISUD, 2011; GAFISUD, 2014).

The report on ARO's by the European Commission also recognized that a major issue with sharing of information between European AROs was that confidential details on the cases were exchanged via unsecure method of communication (European Commission, 2011). For this reason it was proposed that ARO's use the existing the Secure Information Exchange Network Application (SIENA) already in use by Europol. SIENA is a "tool designed to enable swift, secure and user-friendly communication and exchange of operational and strategic crime-related information and intelligence between Europol, Member States and third parties that have cooperation agreements with Europol" (Europol, 2014). As of 2012 seventeen European AROs have access to SIENA: Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Hungary, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Spain and the United Kingdom. It also has operational Europol agreements of Co-operation with: Australia, Canada, Croatia, Iceland, Norway, Switzerland, the United States of America and Monaco (Mühl, 2012).

Another challenge related to the investigation of illicit proceeds is the need to access national property databases and registries. The information provided by these resources can help to trace beneficial ownership and past transfers of property that are crucial in the collection of evidence on assets suspected of being crime related. This issue was address by the FAFT as one of the "impediments to effective asset tracing and financial investigation" (Financial Action Task Force, 2012, p. 2). It recommends the implementation of "mechanisms that allow for rapid access to high quality information on the ownership and control of such property (e.g. land, vehicles, legal persons)" even without a formal request and when the requesting country has only limited information on the asset that is being traced (Financial Action Task Force, 2012, p. 2).

This was recognized as being an obstacle for ARO's by the European Commission as well which found that "most AROs do not have access (direct or indirect) to all relevant databases that would allow them to perform their task more effectively" and in addition it observed that "while all AROs have access to company registers, centralised land registers do not exist in all Member States. Only one ARO has access to a national register of bank accounts, which is found in only five countries" (European Commission, 2011, p. 8).

This issue prompted the Stolen Asset Recovery Initiative of the World Bank/UNODC to include in its operational recommendations that:

“a) Jurisdictions should develop and maintain publicly available registries, such as company registries, land registries, and registries of nonprofit organizations. If possible, such registries should be centralized and maintained in electronic and real-time format, so that they are searchable and updated at all times.

b) Jurisdictions should eliminate requirements for overly specific descriptions of the property to be restrained or confiscated, such as requirements for the lot registration number rather than the street address; jurisdictions should also ensure that the requirements applied do not inhibit effective implementation of the requested measure” (STAR, 2011, p. 93).

All of these measures that aim to guarantee the integration of property databases with the activities of asset recovery offices should also be extended to include asset management offices. The information collected on seized and confiscated assets should be shared and updated by all of these entities.

An example of collaboration between asset management offices and property databases can be seen in a case provided by the Department of Assets Recovery and International Legal Cooperation (BRD) in Brazil. Private companies were contracted to manage and auction off vehicles related to illicit activities such as drug trafficking. For the success of this initiative the participation of the National Traffic Department of the country was crucial in providing data on seized vehicles.

This case also highlights another important function of agencies for the management of seized and forfeited assets in which data collection is essential: the disposal of assets. Once an asset has become eligible it can be disposed in various ways, for example the assets can be used by law enforcement agencies, donated to nonprofit organizations or be sold at auction and the proceeds of sale can be used to fund public institutions or drug treatment programs (OAS, 2011). As with all of the other functions of agencies for the management of seized and forfeited assets, transparency and efficiency are key elements of the disposal process and steps should be taken to ensure that the process is public, the identities of the new owners of the assets are verified and recorded and that funds resulting from the sale are also managed transparently and efficiently.

Several OAS member states have had positive experience with the disposal of assets through auctions. Since 1985 the U.S. Marshals Service administrates the Department of Justice's Asset Forfeiture Program by managing and disposing of properties seized and forfeited by federal law enforcement agencies and U.S. attorneys nationwide. It is responsible for the selling of forfeited assets such as cars, fine jewelry, watches, coins, bullions, diamonds, boats, aircrafts and real estate. The information on the assets is published on a dedicated page of the website<sup>1</sup> that specifies the time and location of the auction of each asset throughout the United States. Each auction is managed privately and listed separately.

Other countries now allow citizens to buy confiscated assets through online auctions.

In Mexico the SAE website is also the portal to the online auctions<sup>2</sup>. Registered users can browse a database of the items that are currently eligible for disposal. The assets are

Filtros	Foto	Lote	Descripción	Monto de salida	Oferta actual	Ubicación
Bienes inmuebles						
Bienes inmuebles (53)						
Bienes muebles		1	Vehículo apto para circular marca chevrolet tipo pick up mod...	\$12,500		(cd) barbachanc vial juan gabi
Abarrotes (12)		2	Vehículo apto para circular marca volkswagen tipo sedan mode...	\$23,000		(cd) barbachanc vial juan gabi
Arte y cultura (15)		3	Vehículo apto para circular marca honda tipo cuatrimoto mode...	\$6,500		(cd) barbachanc vial juan gabi
Artículos de oficina y papelería (52)		4	Vehículo apto para circular marca ford tipo sedan modelo 200...	\$10,400		(cd) barbachanc vial juan gabi
Artículos de viaje (16)						
Artículos navideños (9)						
Artículos personales (29)						
Artículos publicitarios						

Figure 4: The auction web page of the SAE. Source: Official website of the SAE

<sup>1</sup> United States Marshall Official Website: [http://www.usmarshals.gov/assets/sales.htm#real\\_estate](http://www.usmarshals.gov/assets/sales.htm#real_estate)

<sup>2</sup> Auction webpage of the SAE in Mexico: <http://subastasenlinea.sae.gob.mx/Electronica/Pages/Inicio.aspx>

divided into real estate and personal property and a large number of subcategories, such as art pieces, tools, jewelry, household furnishings and vehicles. For each asset photos, a description, the price and the current location of the asset are posted. The user can also filter the assets in the database for example by type of assets or location (Figure 4).

The *Comisión Nacional de Bienes Incautados* (CONABI) in Peru also has a public database of assets available for disposal (Figure 5). CONABI also uses social media and the national news to inform people about upcoming auctions and the items that will be auctioned. It also uses a Facebook<sup>3</sup> and Twitter account<sup>4</sup> and a YouTube channel<sup>5</sup> where it posts news segments about seizures of assets in its custody and upcoming auctions. It also posts videos showing the properties that are up for auction. For the auction of the jewels forfeited in one particular case a special catalog<sup>6</sup> of the assets were published online as well. In another case CONABI used videos<sup>7</sup> to show the estates being auctioned and posted links to the videos on their Facebook and Twitter accounts.

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<sup>3</sup> <https://www.facebook.com/CONABIPERU>

<sup>4</sup> [https://twitter.com/CONABI\\_PERU](https://twitter.com/CONABI_PERU)

<sup>5</sup> <https://www.youtube.com/user/conabiperu/videos>

<sup>6</sup> [http://issuu.com/conabiperu/docs/catalogo\\_subasta\\_de\\_joyas\\_decomisa/9?e=0/8734297](http://issuu.com/conabiperu/docs/catalogo_subasta_de_joyas_decomisa/9?e=0/8734297)

<sup>7</sup> [https://www.youtube.com/watch?v=n1\\_I8FglHg&list=UUtnhDh4c7-auccsTMZ5Ve3A](https://www.youtube.com/watch?v=n1_I8FglHg&list=UUtnhDh4c7-auccsTMZ5Ve3A)



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### REGISTRO NACIONAL DE BIENES INCAUTADOS

**FORMULARIO DE CONSULTA**

Por ubicación del bien

Departamento [-- TODOS --]

Provincia [-- TODOS --]

Distrito [-- TODOS --]

Tipo Bien

☐ Exp

[-- TODOS --]

[-- TODOS --]

DINERO

**JOYAS**

MUEBLES

VEHICULOS

Delito

[BUSCAR](#)

Nro	Renabi	Juzgado	Imputado	Delito	Ubicación	Archivo
1	0740	TERCER JUZGADO PENAL NACIONAL	CIRILO DE LA CRUZ AUCCAPUCLLA Y OTROS	TRAFILO ILICITO DE DROGAS	PUNO/CARABAYA/SAN GABAN	
2	0739	TERCER JUZGADO PENAL NACIONAL	CIRILO DE LA CRUZ AUCCAPUCLLA Y OTROS	TRAFILO ILICITO DE DROGAS	PUNO/CARABAYA/SAN GABAN	
3	0738	SALA PENAL NACIONAL	ORLANDO GABRIEL ROMERO MORENO	TRAFILO ILICITO DE DROGAS	LIMA/LIMA/SAN ISIDRO	
4	0731	JUZGADO PENAL DE TURNO DE ANDAHUAYLAS	CIPRIANO, GONZALES LOA - JULIO, SUPO PARILLO - ALICIA GONZALES BERROCAL	CONTRA LA SALUD PUBLICA - TRAFICO ILICITO DE DROGAS	APURIMAC/ANDAHUAYLAS/ANDAHUAYLAS	
5	0730	JUZGADO PENAL DE TURNO DE ANDAHUAYLAS	CIPRIANO, GONZALES LOA - JULIO, SUPO PARILLO - ALICIA GONZALES BERROCAL	CONTRA LA SALUD PUBLICA - TRAFICO ILICITO DE DROGAS	APURIMAC/ANDAHUAYLAS/ANDAHUAYLAS	
6	0729	NO DETALLA	NO DETALLA	NO DETALLA	HUANUCO/LEONCIO PRADO/RUPA-RUPA	
7	0728	NO DETALLA	NO DETALLA	NO DETALLA	HUANUCO/LEONCIO PRADO/RUPA-RUPA	
8	0727	SEGUNDO JUZGADO PENAL TRANSITORIO DE LEONCIO PRADO	RAUL BENANCIO TINEO	NO DETALLA	HUANUCO/LEONCIO PRADO/RUPA-RUPA	
9	0726	NO DETALLA	NO DETALLA	NO DETALLA	HUANUCO/LEONCIO PRADO/RUPA-RUPA	

Figure 5: The auction web page of the CONABI. Source: [Official website of the CONABI](#)

The disposal process can have a strong symbolic value. Especially when the criminal is well known or part of an infamous criminal organization, the guilty verdict and the forfeiture of the proceeds of the crime are visible signs of justice and build society's faith in the criminal justice system. Publicizing the disposal process can symbolize not just the retributive and deterrent aspects of justice but also denunciation and restitution to the community.

For these reasons an important part of the disposal process is the verification and recording of the identity of the new owner. If the assets are used by law enforcement or donated to social institutions it is essential to record this information so as to avoid accusations of corruption and abuse of power (OAS, 2011). Other concerns can arise from the disposal of assets to private citizens as well. In Italy much concern has surrounded the disposal of assets due to fears that public auctions will allow organized crime groups to buy back the forfeited assets and intimidating other bidders (CNEL, 2007).

Background checks have been instituted in many disposal processes. For example the *Unidad de Recuperación de Activos* (URA) of the *Instituto Costarricense sobre Drogas* (ICD) in Costa Rica requires that interested buyers, both individuals and legal entities, register by printing out a form from the website<sup>8</sup> and provide other documents including:

- A photocopy of the identity card of the bidder, or the legal representative in case of legal persons;
- If the legal representative is not the owner of the shares must be furnished leaf crime of the person or persons who are the owners of them;
- Documentation on the business form and shareholders of the Company in the case of legal entities;
- A utility bill showing the home address of the bidder;
- Crime record of the bidder and in case of legal persons, of their legal representative.

The form and required documents must be submitted to the central offices of the ICD. This registration process is valid for a one year. The ICD then sends email invitations to registered users to inform them of assets for sale and how to participate in the auctions (Instituto Costarricense sobre Drogas, 2014).

The SAE website in Mexico, which allows users to bid directly online, requires that users first register on the website. To do so, they must submit the required documentation and wait for the information to be validated. To confirm that the registration was carried out successfully, they then receive an email stating that you are part of the community SAE online auction.

If the bidder is a natural person they must state their name(s), father's last name, mother's last name, date of birth, tax returns (RFC), unique population registry code (CURP), address of residence, email address, phone number and a bank account number (CLABE). The must also provide

- A copy of an official, valid ID (Voter registration card, passport, ID).
- A copy of Copy of Tax Identification Card issued by the SAT (RFC) with 13-digit key code (thirteen characters) or Proof of Unique Population Registry Code (CURP).
- Copy of proof of residence this being a utilities bill, no older than three months.
- Copy of the balance of the checking account or bank debit card in the name of the holder in which the account number, branch and 18-digit CLABE are visible.

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<sup>8</sup> [http://www.icd.go.cr/portalicd/images/docs/ura/Formulario\\_de\\_inscripcion.doc](http://www.icd.go.cr/portalicd/images/docs/ura/Formulario_de_inscripcion.doc)

It is also possible to bid through a proxy with power of attorney in which case the following documents must be submitted:

- A copy and original for comparison of the document granting power of attorney that grants sufficient powers as well as written statement in which it is stated that the powers have not been limited or revoked;
- A copy and original for comparison of a current photo ID of the proxy (voting card issued by the IFE, Professional Certificate or Passport New Laser format)
- A copy and original of proof of residence this being a utilities bill, no older than three months, containing the address.

If the bidder is a legal person the required information includes all the documents that are required for individuals, as well as:

- A copy of the company's Constitutive Act and it's last amendment, which must contain a seal from the Public Registry of Property and Commerce;
- A copy of the Tax Identification Card issued by the SAT (RFC) with the 12-digit key code;
- A copy and original of proof of residence this being a utilities bill, no older than three months, containing the address.
- A copy of the balance of the checking account of the corporate entity in which the account number, branch and 18-digit CLABE are visible.

The Legal Representative of the legal entity must provide:

- A copy of the document granting power of attorney in effect on the date of its submission that grants sufficient powers as well as written statement in which it is stated that the powers have not been limited or revoked;
- A copy and original for comparison of a current photo ID;
- A copy of the Tax Identification Card issued by the SAT (RFC) with 12-digit key code or Proof of Unique Population Registry Code (CURP).

(SAE, 2014)

By collecting and verifying all of this information the agencies can ensure that there is a record of participants of the auctions and guarantee that the final owner of the sold asset is recorded by the agency. In doing so the agency can ensure transparency up until the last instance in which assets are in their custody.

## **2.2. Activity 2**

In this section the results of the questionnaire on data collection on seized and forfeited assets are presented. The answers given by the ten polled countries, Brazil,

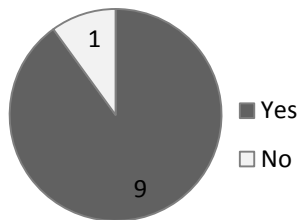
Colombia, Ecuador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Peru and the United States of America are presented in aggregate form

The purpose of this section is to offer an overview of the current data collection practices in above mentioned countries as well as suggest possible vulnerabilities of the current practices and the problems that could arise in the future.

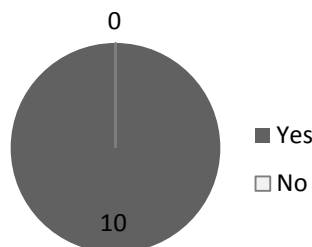
### 2.2.1. Section 1

In Section 1 of the questionnaire the focus was on how information is collected and more specifically the agencies and the individuals responsible for data collection on seized and forfeited assets.

Nine out of ten of the polled countries reported having a centralized agency tasked with collecting data on seized and forfeited assets (Figure 6). All ten countries reported having a centralized database for data on seized and forfeited assets (Figure 7). Even in the case of the country that did not have a centralized agency responsible for the management of seized and forfeited assets yet, the information provided on a case by case basis was collected in a centralized database.



**Figure 6: Is information collected by one centralized agency?**



**Figure 7: Is the information collected in a single centralized database?**

The countries were asked to list the agencies involved in the collection of information on seized and forfeited assets. Besides the centralized national agencies, countries also listed the judicial system and the office of the state's attorney. Other sources of information were financial intelligence units (FIUs) and government agencies dedicated to the contrast of drugs.

All of the countries reported that the information was recorded in the centralized database in the moment in which the asset is taken into custody by the agency for the administration of seized and forfeited assets as the result of a seizure at the beginning of a trial. Some countries also indicated that the information was updated with each new development in the judicial proceedings.

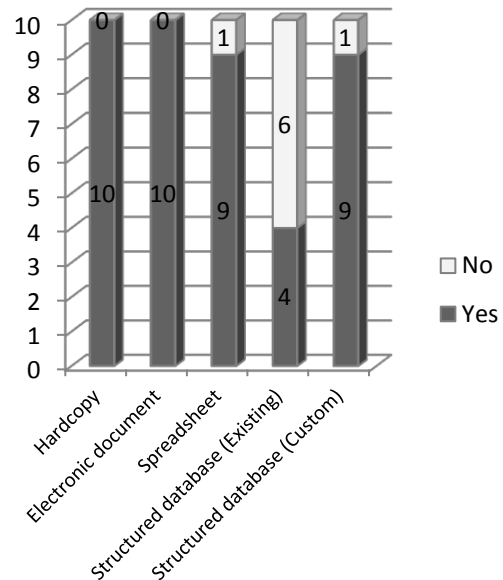
In most of the countries a specialized employee within the administration agency is responsible for updating the information. The issue of inputting information that had previously only been available in hardcopy form was also mentioned adding that these records were in the process of being digitalized so as to be included in the database.

Seven out of ten countries reported that less than 10 people were responsible for data input into the database. In the other cases a greater number of people were responsible for data entry along with the other functions they performed for the agency. In all of the countries the discretion to modify information was restricted to a limited number of employees. In most cases the same individuals responsible for data entry were also the only ones who could change the information in the system. In other cases where a wider number of people were responsible for data entry a special authorization or clearance was necessary to modify existing information.

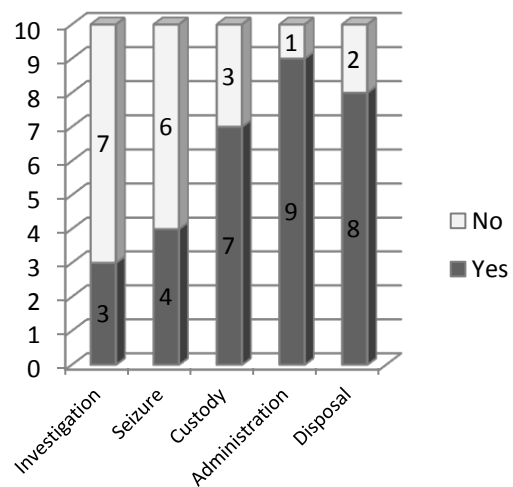
### 2.2.2. Section 2

This section focused on the characteristics and the content of the database on seized and forfeited assets.

Regarding the type of format in which data is collected and stored (Figure 8) all of the agencies reported having information saved as hard copies, meaning case files and printed documents. This could be due to the involvement of many different agencies in the process that may not have all transitioned to electronic documents, resulting in a large volume of “traditional” paper work. This method can pose a problem over time when organizing large quantities of information and makes converting the hard copies to



**Figure 8: Format used to collect and store the information**



**Figure 9: Phases involving assets in which the agency is involved**

electronic documents and inputting the information into a database time-consuming. It also increases the chances of documents being lost and information not being transcribed correctly when it is inputted in a database. All of the agencies indicated that they also had electronic versions of the documents and almost all of the agencies reported using a spreadsheet (e.g. Excel) to organize the information. Exclusively using a spreadsheet could increase the risk of security breaches.

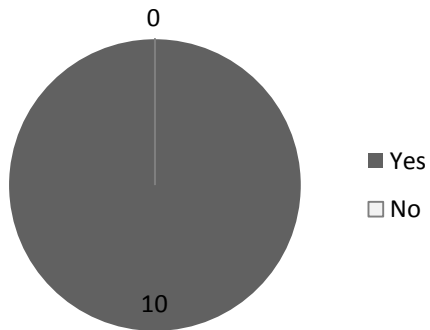
Only one country reported not having any kind of structured database. Four countries out of ten reported that an existing database was adopted. All of the countries that reported having a structured database of some kind were using a database that was customized to their needs, whether by modifying an existing structured database or having a new custom one created for this purpose.

Regarding the phases in which the agency is involved all but one of the countries were involved in the administration phase and the majority were involved in the preceding custody and subsequent disposal of assets (Figure 9). Fewer countries reported that the agency was involved in the investigation and seizure phases of asset recovery. In the one country where the data was reported as not being collected during the administration phase the information is instead collected in a centralized database during investigations and judicial proceedings because there is currently not yet an agency responsible for the administration of assets (see also description of Figure 6).

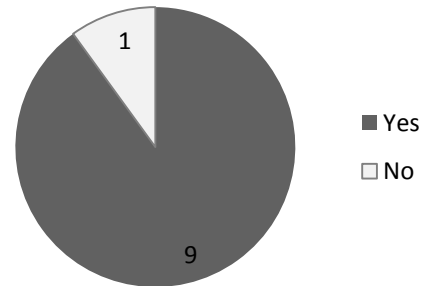
All of the countries reported that a description of each asset is recorded when it is taken into custody (Figure 10).

All but one of the countries reported that their data collection system allows them to determine the exact number of the assets in their custody (Figure 11). Nine out of ten countries also reported that they refer to a catalogue of possible descriptions of assets and it is possible to determine how many assets are in custody for each type of description (Figure 12 and Figure 13). The one country that reported that it was not possible to know the total count of seized or forfeited assets is once again the country that did not yet have a centralized agency for asset management (see also Figure 6 and Figure 9). Since the database is updated remotely by investigators and judges case by case the total number was not always reliable and the descriptions provided for the assets were not standardized.

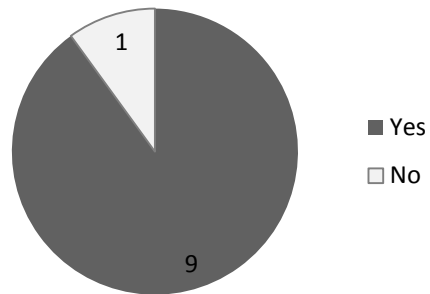
All of the countries reported that the assets could be classified into categories (e.g. real estate, registered assets, movable assets and companies) and it was possible to know the total number of assets for each category (Figure 14 and Figure 15).



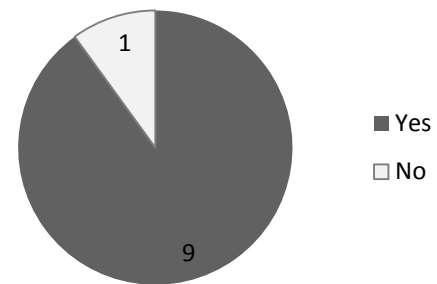
**Figure 10: Is a description of the assets included?**



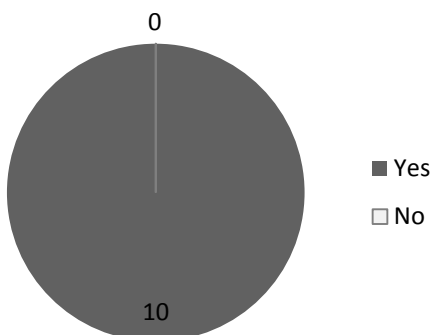
**Figure 11: Is there an exact count of the number of assets currently in your custody?**



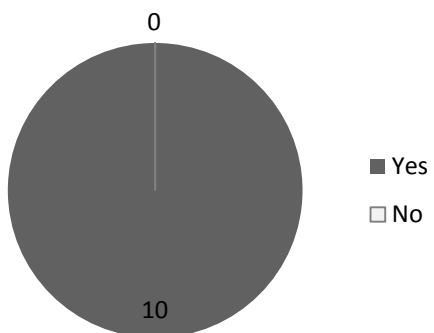
**Figure 12: Is there a catalogue of possible descriptions of assets?**



**Figure 13: Is there an exact count of the number of assets by description currently in your custody?**

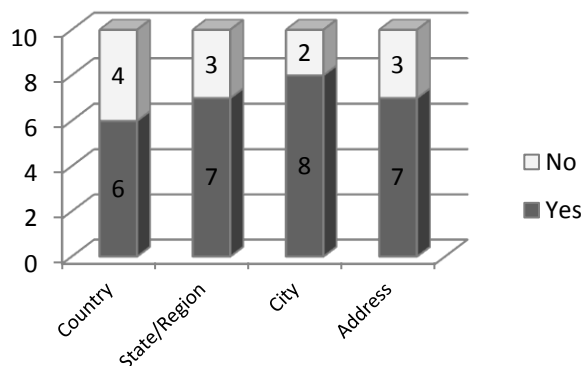


**Figure 14: Are the assets classified into categories?**



**Figure 15: Is there an exact count of the number of assets by category currently in your custody?**

When assets are recorded in the database (Figure 16), only two countries reported not providing any information on the location of the asset at time of seizure. The least recorded type of information on the location of the asset was the country, possibly because assets were only seized within the country in question and therefore it is not necessary to specify it. This could be problematic if assets are traced to other countries and seized in other jurisdictions.



**Figure 16: Information provided when an asset is seized in a given location**

The region, city and address of the location of the asset at the time of seizure were recorded by the majority of countries. This type of information is important not only to have a record of the location of assets that cannot be moved (such as land or buildings) but also to map out which areas have the greatest concentration of seized assets.

Only two countries reported keeping no record of the owner of the seized asset (Figure 17 and Figure 18). All of the other countries reported that the name of the owner, whether it is a natural or legal person, was always recorded. However approximately half of the countries recorded the number of the national identification documents associated with the owners.

In the case of both natural and legal persons, recording the national identification number (for example the U.S. social security number or Canadian Business Number) is an important aspect of guaranteeing the correct identification of the owner of the asset. In many cases the name of a person or a legal entity can be misspelled. Also, it is possible for multiple businesses and individuals to have the same or very similar names. Even people associated with the same asset can have the same name, for example if they are members of the same family and have been named after each other. For this reason, recording the national identification document number can help avoid errors because it is associated with only one possible person or legal entity. However in some countries it is difficult to obtain a national identification document so as to identify people connected to the case. The person



in question may not have one or only part of the information may be available. In these cases the date of birth could be another way to identify the individual in question.

In the case of natural persons, only half of the countries recorded the nationality of the natural person that owned the asset. This information is useful in part for the

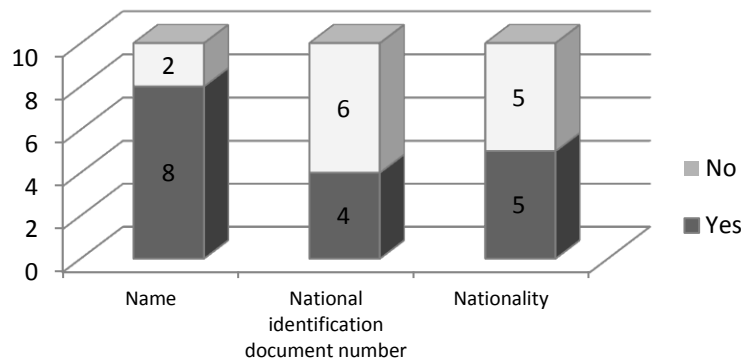


Figure 17: Information provided if the owner is a natural person

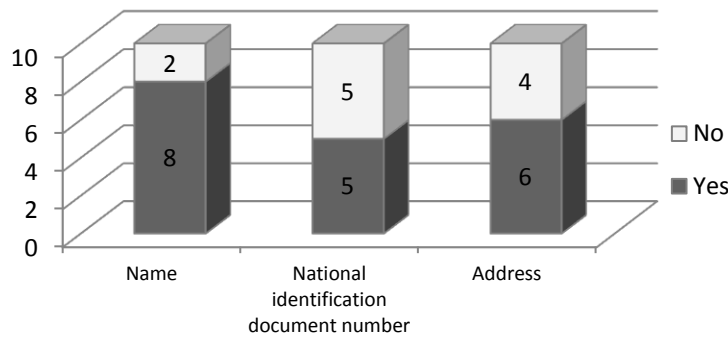


Figure 18: Information provided if the owner is a legal person

identification of the country associated with the national identification number, but also to aid in investigations involving multiple jurisdictions.

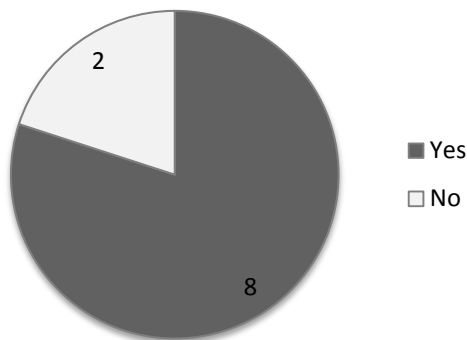
Similarly, the address of the legal person that owns a seized asset, which was reported as being recorded by six of the countries, can help to identify in which country the entity is registered and aid investigations involving multiple jurisdictions. It can also assist in mapping, as with the location of the assets themselves, the locations of legal entities that have been

Eight of the ten polled countries reported that they assign a serial number to each asset in their custody (Figure 19). This practice can be an essential tool in the management of a large number of assets over time because it is a way to ensure that each asset is univocally identified by a number or code by the agency.

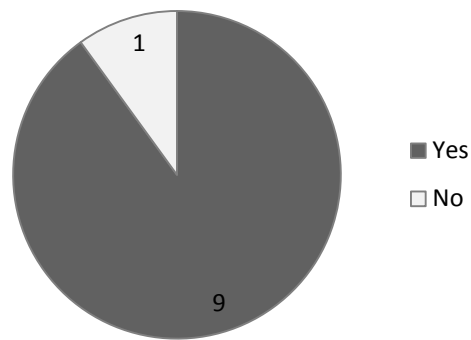
Almost all of the agencies reported that they record the serial numbers of assets that already have one, such as license plates and serial numbers on objects (Figure 20). This information is crucial when large numbers of the same type of asset are taken into custody, such as weapons or jewelry.

Almost all of the countries (nine out of ten) reported that they record the condition of the asset at the time of seizure (Figure 21). Since the role of the agencies for the management of seized and forfeited assets is the preservation of the property over time, an evaluation of the condition of the asset at the moment of seizure is essential (Stolen Asset Recovery Initiative, 2011).

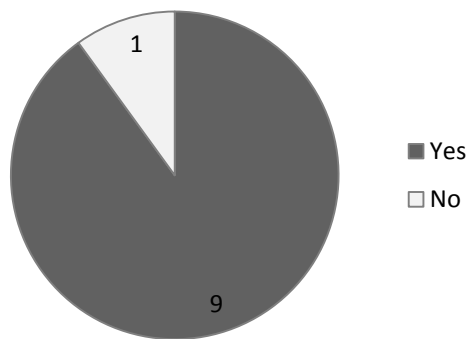
The value of the asset at the time of the seizure is also a crucial piece of information in the effort to preserve assets in the custody of government agencies. Not all of the



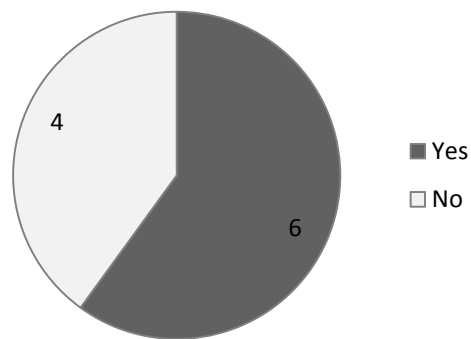
**Figure 19: Does your agency assign a serial number to each asset in custody?**



**Figure 20: If the asset already has a specific serial number, is this information recorded by your agency?**



**Figure 21: Is the condition of the asset at the time of seizure specified?**



**Figure 22: Is the value of the asset specified?**

countries (six out of ten) reported having information on the value of assets at the time of the seizure (Figure 22).

Most countries reported that they record the value of the assets in their national currency. Calculating the value of the asset only in the national currency, rather than a common currency, such as US Dollars, could be an obstacle to international asset recovery when different countries need to share recovered assets<sup>9</sup>.

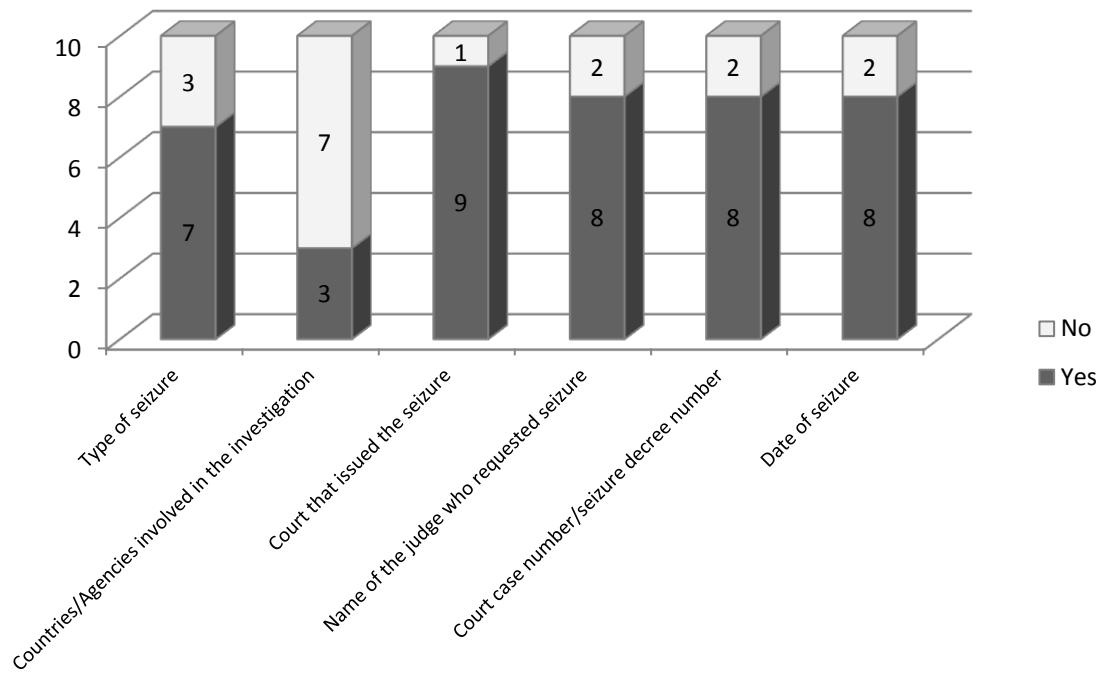
All of the countries indicated that if a valuation of the asset is carried out, regardless of whether the information is formally recorded in a database by the agency, it is performed by a specialized agent, either within the agency or external. The value of assets is usually based on the market value of similar assets. Some countries indicated that additional factors are considered, such as legal status, condition and depreciation. An important factor to consider is that the value of the asset may not be the same as the market value of similar asset that are not subject to seizure. For example, the value of a company may be based on goodwill and reputation of the brand. If the company is seized its value may decline rapidly given the uncertainty of its future. Other assets are perishable, such as food or plants in the inventory of a store or company, have a very short life span and therefore have essentially no value after a certain period of time.

Regarding the seizure of the assets in the custody of administration agencies (Figure 23), only one country reported that they do not record information on the seizure itself. Most countries reported that the type of seizure, the court and name of the judge that issued the order, the court case number and the date of the seizure were recorded. However, only three countries out of ten reported that they have record of the countries or agencies that were involved in the seizure. The lack of this type of information could be an indication that joint investigations with other countries and agency do not occur or are infrequent and therefore this type of information is superfluous.

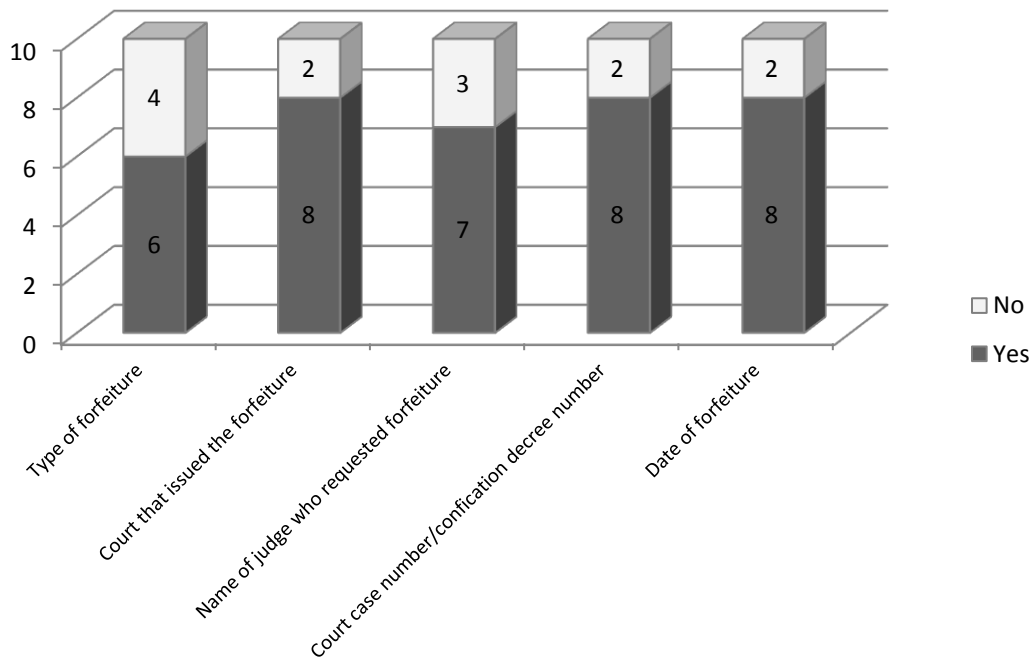
Regarding the final forfeiture of the asset (Figure 24), once again only one country reported that they do not record any information on the forfeiture itself. In some countries slightly fewer details on the forfeiture (the type of forfeiture, the court that issued the forfeiture, the name of judge who requested forfeiture, the court case number and date of forfeiture) were reported as being recorded than on the seizure of the asset. This could indicate that in some countries the administration agency is not as involved in the subsequent phases of the legal process as it in the initial seizure of the asset.

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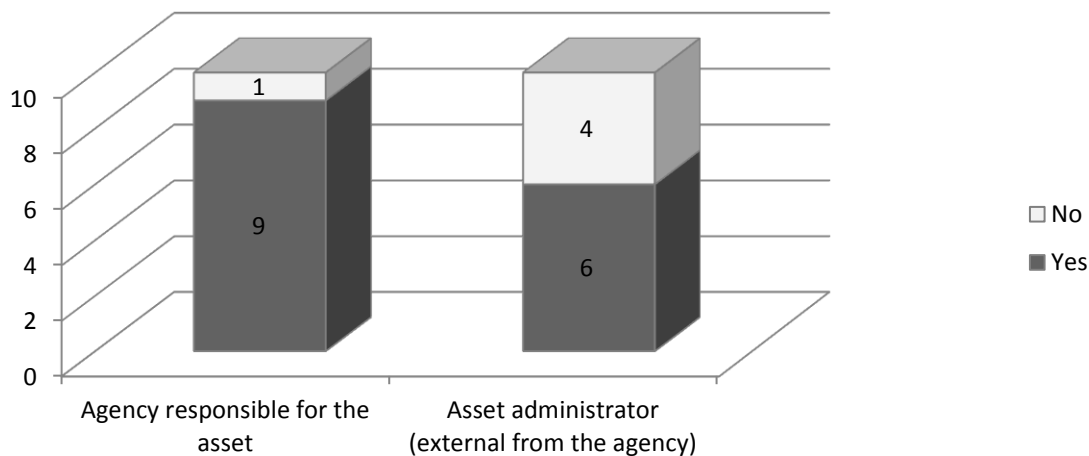
<sup>9</sup> For more information on this practice see OAS, 2011, pp. 77-78 and OAS, 20 September 2011.



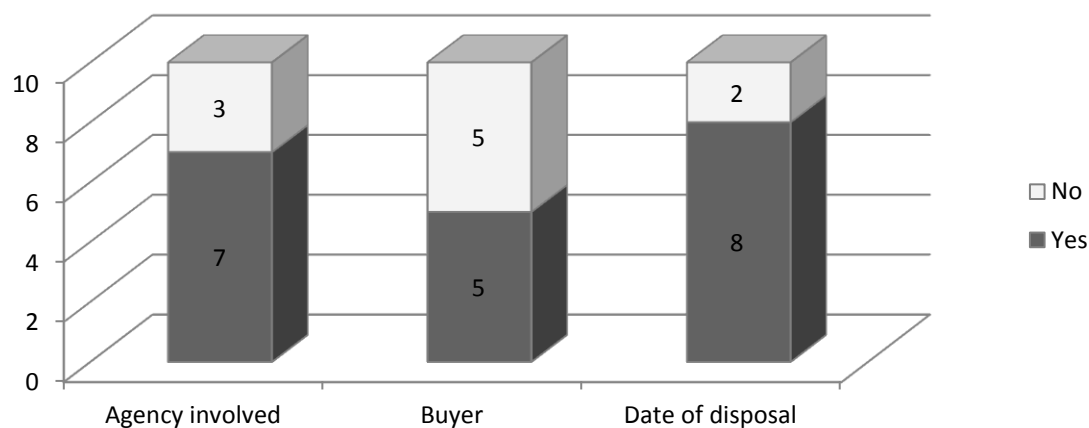
**Figure 23: Information on judicial proceedings, the following information is provided for seizures**



**Figure 24: Regarding information on judicial proceedings, the following information is provided for forfeiture**



**Figure 25: Regarding information on judicial proceedings, the following information is provided for custody and administration**



**Figure 26: Regarding information on judicial proceedings, the following information is provided for disposal**

Almost all of the countries reported that they record the name of the agency responsible for each asset (Figure 25). The exemption was the country that did not yet have a centralized asset management agency (see also Figure 6, Figure 9, Figure 12 and Figure 13). However, only six out of ten reported that they record the name of the asset administrator if a manager who is external from the agency has been appointed.

Most of the countries reported that they record the name of the agency involved in the disposal of the asset as well as the date of disposal, however only half of the countries recorded information on the buyer of the disposed asset (Figure 26). Given the concerns regarding criminals buying back forfeited assets, proper documentation on the disposal of the asset and the new owner should be recorded by the agency for future reference (CNEL, 2007).

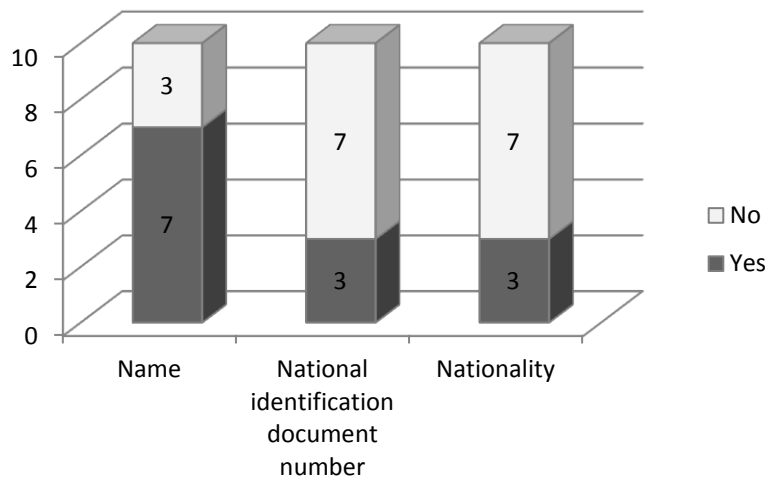


Figure 27: Information provided regarding indicted person/people

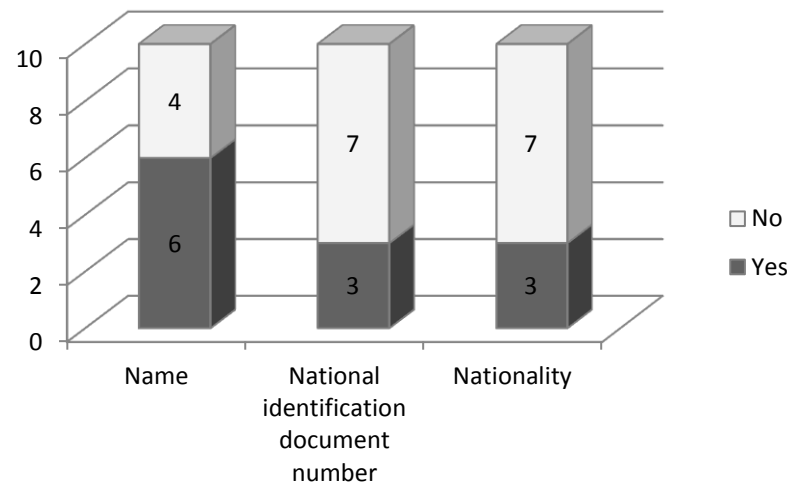


Figure 28: Information provided regarding third parties

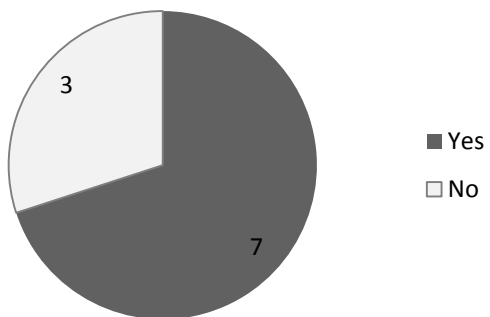


Figure 29: Predicate offence

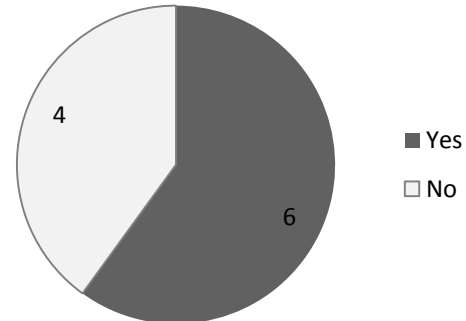


Figure 30: Related offences (one or more)

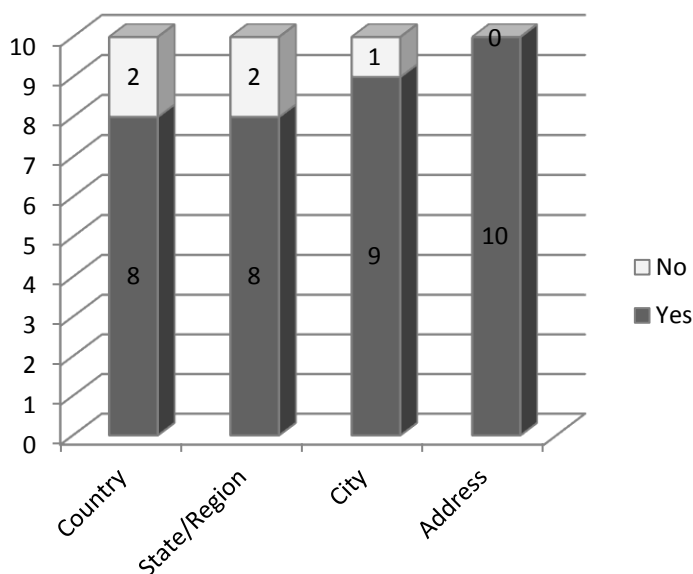
Most of the countries (seven out of ten) reported that they record the name of the person(s) who was indicted for the crime that was at the origin of the seizure of assets (Figure 27). However, only three countries reported that they record the national identification document number and nationality of the indicted person(s). Three countries reported that they do not record any information on the indicted person(s).

Information on third parties involved in the case that lead to the seizure of the asset was reported as being recorded even less frequently with four countries not having any information (Figure 28). Once again, only three countries reported that they record the national identification document number and nationality of the indicted person(s). As is the case with the identification of legal owners of the assets, only identifying the indicted person(s) and third parties by name can lead to errors and false positives when recording information on seized assets. Correctly identifying indicted people and

third parties can be useful over time in tracking repeat offenders and the crime careers of criminal groups.

Seven of the ten countries reported that they record the predicate offence in connection to which the asset was seized and six countries reported that they record information on related offences (Figure 29 and Figure 30). Collecting information on the crimes at the origin of the asset forfeiture measures can be useful in the evaluation of investigation and conviction trends and crime statistics.

The majority of countries reported that they record information on the current



**Figure 31: Information provided regarding the current location of the asset**

location of assets (Figure 31). All of the countries recorded the current address, but not all of the countries specified the country, state or region and city. This information obviously coincides with the information on where the asset was located at the time of seizure (Figure 16) when assets are not movable (for example land, houses or commercial real estate). Other types of assets which are removed from the premises where they are seized (such as cars and jewelry taken from the home of the alleged criminal) could be stored at multiple locations at the discretion of the agency for the management of seized and forfeited assets. Vehicles, planes and machinery may be stored in warehouses or garages owned by the agency and jewelry and other valuables may need to be stored in more secure locations, such as police stations or designated facilities. Assets may also be temporarily

taken into custody in another jurisdiction when asset recovery involves multiple countries. For these reasons, not adequately recording the locations of the asset after it is seized can lead to errors and increase the likelihood of mismanagement.

To efficiently manage and dispose of assets in a timely manner the agencies should be able to determine in which phase of the process each asset is currently found. All of the countries reported that they record the legal status of the assets, as in if the asset is seized or forfeited (Figure 32).

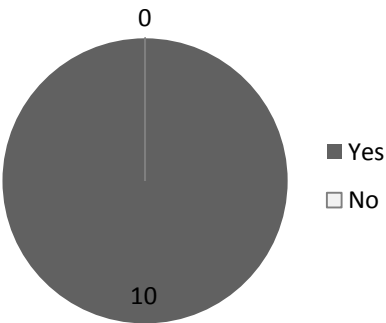


Figure 32: Is the current legal status of the asset specified?

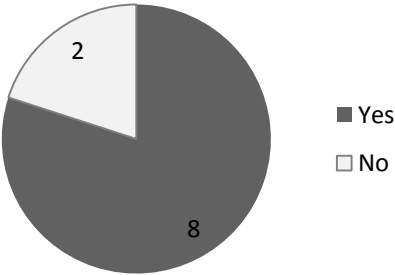


Figure 33: Is the percentage of the asset that has been seized indicated?

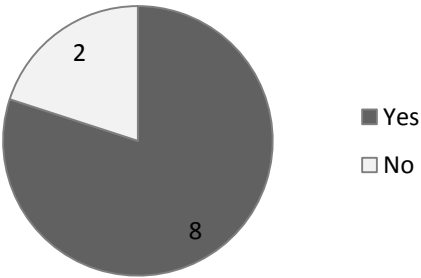


Figure 34: Is the eligibility of the asset for disposal specified?

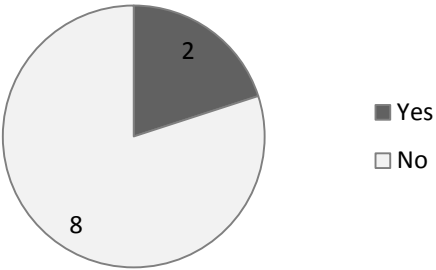


Figure 35: Is the urgency of the disposal of the asset specified?

However this information alone is not sufficient to efficiently manage the disposal of a large number of assets over time. One factor is the percentage of the asset that has been seized and conclusively forfeited. This information, collected by eight out of ten of the polled countries (Figure 33), can be relevant when an asset is only partially owned by an alleged or convicted criminal.

Another key factor is the eligibility of the asset for disposal. This information was reported as being recorded by eight out of ten of the polled countries (Figure 34). The eligibility of an asset for



disposal does not necessarily coincide with a criminal conviction in connection to the case. In fact in certain limited cases when the preservation of the seized asset during the length of the proceedings cannot be guaranteed, the cost of preserving the asset exceeds the value of the asset itself or the asset has been abandoned, explicitly or tacitly, by the owner, the transfer of the asset may occur before a formal conviction has been reached<sup>10</sup>. For these reasons, if the database does not identify unequivocally whether or not the assets are eligible for disposal, based on the legal status, the seized percentage of the asset and the factors that make it eligible for transfer without a conviction, this information may not be easily discernable.

All of the factors that make an asset eligible for disposal however still do not give a clear picture of the urgency of the disposal process. Only two of the polled countries reported that they indicate the urgency of the disposal of assets in their custody (Figure 35). Knowing the urgency of the disposal of assets that are eligible for disposal is a key element in the efficient disposal of assets for which preservation is an issue. Especially when a large volume of assets is being managed by an agency, without a ranking of the urgency of disposal of eligible assets there can be two negative consequences for the agency itself. First, it could be difficult to ensure the preservation of assets that could deteriorate or depreciated despite being eligible for disposal, implying that the efforts made throughout the management process have been wasted. Secondly the inability to dispose of assets that are more costly to the agency, both financially and in terms of human resources, as quickly as possible could compromise the efficiency of the agency itself.

### **2.2.3. Section 3**

This section focused specifically on the collection of financial documents pertaining to productive assets, such as companies and trusts. These assets should remain active throughout the time that they are in the custody of agencies tasked with the management of criminal assets. To this end the agency for the management of seized and forfeited asset should have at its disposal all relevant documents on these types of assets so as to take over the management as efficiently as possible<sup>11</sup>.

Among the polled countries only two countries reported that they do not collect any financial document pertaining to productive assets and another only reported that they only collected tax reports (Figure 36). All of the other countries, seven out of ten, reported that they collect balance sheets, income statements, cash flow statements and tax reports pertaining to productive assets. Only six out of ten countries collected information on employees of the companies. Countries specified that other documents collected on productive assets regarded bank accounts, invoices, receipts, bills and investments.

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<sup>10</sup> For more information on this practice see OAS, 2011, pp. 56-62

<sup>11</sup> For more information on this practice see OAS, 2011, pp. 64-67 and Cheng, 2014.

When a company is seized “it is extremely important to secure and obtain certain documents that are necessary for the company to function” because it “may be the last opportunity to identify and collect such documents for the investigation itself and for the agency in charge of receiving and managing the seized business” (OAS, 2014, p. 3). Only three countries out of ten however reported that they collect financial documents pertaining to the years before the seizure of the productive assets (Figure 37).

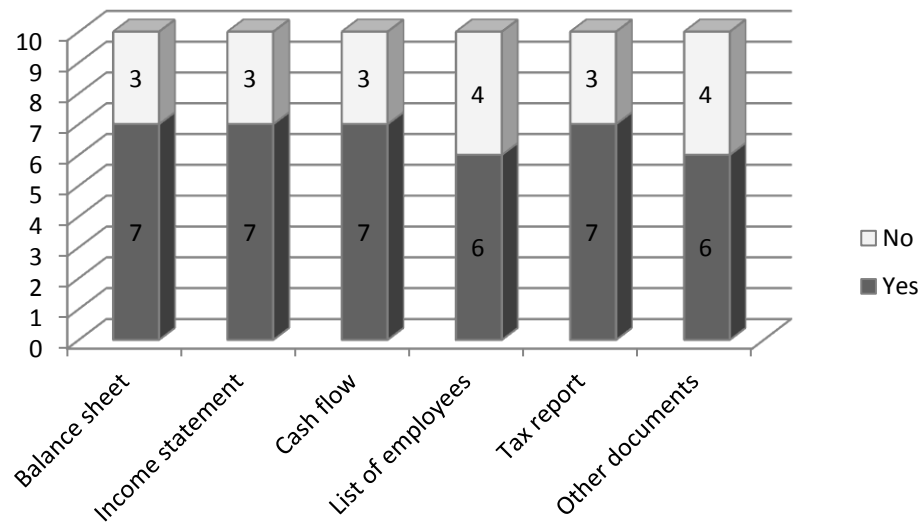


Figure 36: Available financial documents

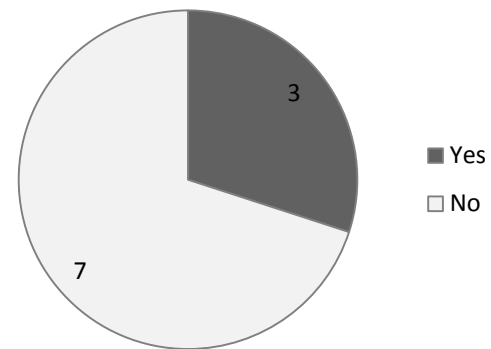


Figure 37: Are the financial documents from years before the seizure available?

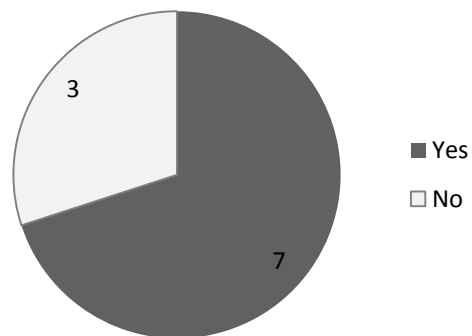


Figure 38: Are the financial documents from years after the seizure available?

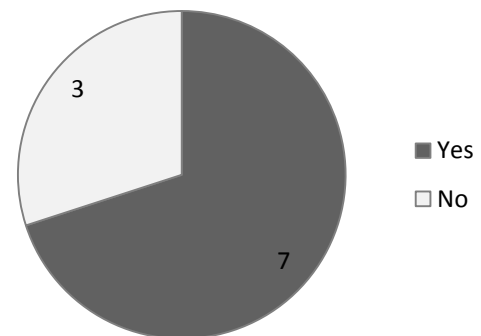
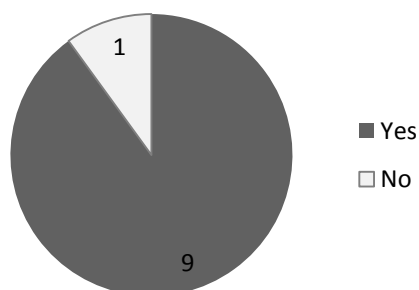
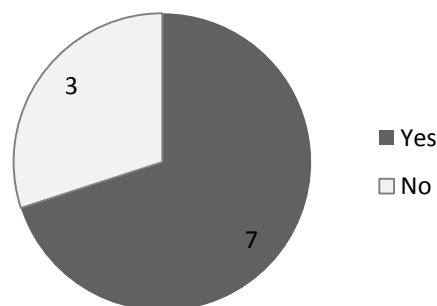


Figure 39: Do all the documents specify the author?

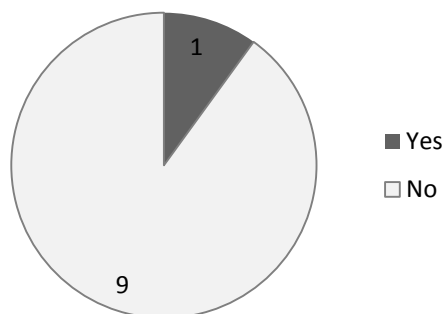
After a productive asset has been seized and its management has become the responsibility of the agency for the management of seized and forfeited assets, every part of the process should be documented to ensure transparency and efficiency. Seven of the polled countries reported that they collect financial documents pertaining to the years after seizure (Figure 38), as is required of the agency for the management of seized and forfeited assets in certain jurisdictions<sup>12</sup>. These same countries also reported that the author of the financial documents is always indicated (Figure 39). Nine out of the ten countries indicated that they have record of who is the administrator of the asset after seizure (Figure 40) and seven out of ten reported that the current status of the company (e.g. active or bankrupt) is recorded (Figure 41).



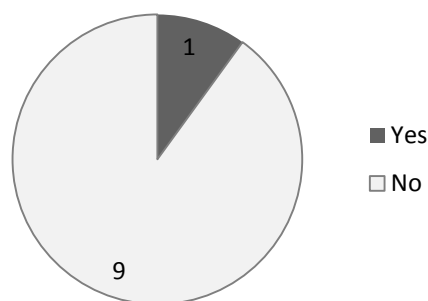
**Figure 40: Is the current administrator specified?**



**Figure 41: Is the current status of the company specified?**



**Figure 42: Is the financial information shared directly with the Chamber of Commerce?**



**Figure 43: Does your agency have free access to the Chamber of Commerce registry?**

<sup>12</sup> For more information on this practice see OAS, 2011, pp. 66-67

Given the difficulties associated with obtaining information on productive assets, a key element of the collection of documents is access to the business registry of the national chamber of commerce. Accessing business registries can often require user authorization and payment for consultation. Also, due to the sensitive nature of information on legal proceeding involving productive assets, updated information on seizures subsequent legal actions is of great importance to relevant business organizations. Only one of the polled countries reported that they share information directly with the national chamber of commerce and that in return they benefit from free access to business registries (Figure 42 and Figure 43).

#### **2.2.4. Recommendations**

The recommendations below are the result of the analysis of the current practices in data collection on seized and forfeited assets as well as recommendations to avoid possible vulnerabilities and problems that could arise from current practices.

- I. Information should be collected by a centralized agency.
- II. Information should be collected in a centralized structured database.
- III. All of the agencies involved in phases of the process related to seized and forfeited assets (investigation, seizure, custody, administration and disposal agencies) should provide information on their activities to be collected in the centralized database. Each phase of the process should be accurately documented so as to provide all of the necessary information to successfully complete all subsequent phases.
- IV. The information should be updated by specialized personnel. The ability to change information in the database should be granted only to authorized personnel.
- V. Information should be collected in a customized database. The database should allow searches with different criteria (e.g. year, type of asset, individuals connected to the case etc.). The database should keep a log of the changes made by the users and must provide tools to track changes in the records since their creation. The database should allow users to export the information in excel spreadsheets or other compatible formats.
- VI. The information should cover all of the phases of the process related to seized and forfeited assets (investigation, seizure, custody, administration and disposal) and therefore be provided by the relevant agencies involved in each phase.
- VII. For each asset a description should be available. The possible descriptions should be standardized and listed in a metadata catalogue with additional information (e.g. house, motorcycle, diamond ring, a construction company etc.). Assets should also be classified into categories by type of asset (e.g. real estate, registered assets, movable assets, companies etc.). The possible categories for the classification of assets should also be listed in the metadata catalogue. The metadata catalogue of descriptions and categories should be made available for consultation when assets are first recorded, throughout the management process and for the interpretation of statistics on assets.
- VIII. The updated total number of assets, total number of assets by description and by category should be publicly available.
- IX. The physical location of the asset should be recorded specifying the country, state or region, city and address at the time of seizure.
- X. The owner of the asset should be recorded specifying the name, national identification document number (or the date of birth if a national identification document is not available) and nationality if the owner is a natural person and the name, national identification number and address if the owner is a legal person.

XI. A serial number should be attributed to each asset when they are taken into custody.

XII. If the asset has a specific serial number (e.g. Serial numbers, vehicle registration plate etc.) this should be recorded when the asset is taken into custody.

XIII. The condition of the asset at the time of seizure should be recorded.

XIV. The value of the asset at time of seizure should be recorded in both local currency and US dollars. The valuation should be carried out by a specialized agent based on the market value of the asset.

XV. For each asset information on the legal history of the asset should be recorded. In particular:

XV.1. Regarding the seizure: the type of seizure (e.g. freezing, seizure of assets etc.), the countries / agencies involved in the investigation, the court that issued the seizure, the name of judge who requested seizure, the court case number number and the date of seizure should be specified.

XV.2. Regarding custody and administration: the agency responsible for custody/administration of the asset and the asset administrator (if external from the agency) should be specified.

XV.3. Regarding forfeiture: the type of forfeiture (e.g. criminal, of equivalent value, in rem, *extinción de dominio* etc.), the court that issued the forfeiture, the name of the judge who requested forfeiture, the court case number and the date of forfeiture should be specified.

XV.4. Regarding asset disposal: the agency involved, the buyer and the date of disposal should be specified.

XVI. The person/people indicted in connection to the asset should be recorded specifying the name, national identification document number (or the date of birth if a national identification document is not available) and nationality.

XVII. Third parties connected to the asset should be recorded specifying the name, national identification document number (or the date of birth if a national identification document is not available) and nationality.

XVIII. The predicate and related offences connected to the seizure of the asset should be recorded.

XIX. The location of the asset while in custody after seizure should be recorded specifying the country, state or region, city and address at the time of seizure.

XX. The current legal status should be recorded (e.g. Seized, registered, mortgaged etc.)

XXI. If the entirety of the asset was not seized, the percentage of the asset that has been seized should be recorded (e.g. 50%, 75%, 100%)

XXII. The eligibility of the asset for disposal should be recorded.

XXIII. The urgency of the disposal of the asset, based on the condition of the asset and the eligibility for disposal, should be specified.

XXIV. Regarding productive assets:

XXIV.1. Documentation on the financial situation of productive assets (e.g. balance sheets, income statements, cash flow statements, lists of employees, tax reports etc.) should be available through the centralized database. These documents should be available for years preceding seizure as well as the years during which the asset has been under management of the specialized agency. Each document should specify the author.

XXIV.2. The current administrator should be recorded specifying if the administrator of the asset is a third party external to the agency.

XXIV.3. The current status of the asset should be recorded (e.g. active, in liquidation, under the supervision of an administrator etc.).

XXIV.4. The information in the database should be shared directly with the national Chamber of Commerce. To ensure that information on productive assets is accurate and updated, the agency should also have free access to the Chamber of Commerce.

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Milan, Volunteer Researcher for BIDAL Project ES/CICAD



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## **Annex 1: Methodology**

The exercise was carried out in the course of 6 months (February-July 2014) and included two main activities.

I. The first activity identified best practices in the collection of data on seized and forfeited assets and highlighted case studies in the participating countries as well as experiences from other countries. This activity aimed to circulate positive experiences between countries to improve the technical abilities of national agencies tasked with managing assets.

II. The second activity aimed to understand the current collection procedures and availability of data regarding seized and forfeited assets; on the basis of this information, this activity also produced recommendations for the improvement of data collection for each of the countries.

For the first activity, a wide group of countries was considered. A review of best practices in the collection of data on seized and forfeited assets was carried out based on the recommendations of a variety of international institutions. All of the countries considered in the second activity were also asked to provide case studies if available. Case studies from other countries beyond the OAS member states were also considered.

For the second activity the countries to which the questionnaire was administered were chosen due to:

a) Geographical location: the countries were selected trying to include a balance of countries from northern, central and southern America and the Caribbean.

b) Strategic in the fight against organized crime: the presence of organized crime groups was considered relevant to the objective of targeting proceeds of crime and therefore this was taken into account in the selection of countries.

c) An ongoing process of development of systems for the collection of data on seized and forfeited assets of illicit origin: both countries with a history of success in the area of seized and forfeited assets as well as countries that have begun a process of implementing these activities in more recent years were included.

Based on these criteria, the ten included countries were Brazil, Colombia, Ecuador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Peru and the United States of America.

For each country, the dedicated Permanent Missions to the Organization of American States who were asked to contact the relevant government agencies and a contact person to provide the necessary information (Table 1).

**Table 1: Countries and agencies**

<b>Organization Of American States</b>	<b>Agency</b>
<b>Member State</b>	
<b>Brazil</b>	Department of Assets Recovery and International Legal Cooperation
<b>Colombia</b>	National Narcotic Drugs Directorate
<b>Ecuador</b>	National Directorate for Management of Property in Deposit
<b>Guatemala</b>	National Secretariat for the Administration of Seized Assets (SENABED)
<b>Haiti</b>	National Commission for the Fight against Drugs (CONALD)
<b>Honduras</b>	Administrative Office of Seized Assets (OABI)
<b>Jamaica</b>	Financial Investigations Division (FID) of the Ministry of Finance and the Public Service
<b>Mexico</b>	Asset Management and Disposition Agency (SAE)
<b>Peru</b>	National Commission of Seized Assets (CONABI)
<b>United States of America</b>	United States Marshals Service

### Activity 1

The review of best practices and relevant case studies of data collection on seized and forfeited assets took into account a variety of institutions that have encouraged the development of asset recovery (for a complete list of the sources please see the References).

The relevant case studies included those provided by the participating countries as well as other countries with similar experiences.

The case studies were included to highlight practical applications of the international recommendations.

### Activity 2

The questionnaire was intended for the agencies tasked with the seizure, custody, administration and disposal of assets of illicit origin to assess the level of availability of data on seized and forfeited assets and methods of collection. The questionnaire was developed based on the recommendations of international organizations and the experience of CICAD experts.

The questionnaire includes three sections:

- Section 1

This section focuses how information is collected: the agencies and the individuals responsible for data collection.

- Section 2

This section focused on the characteristics and the content of the database of information.

- Source and format of information on seized and forfeited assets: in which phase of the judicial process the information was collected and the current format in which it can be found;
- Information on assets: whether an overall total number of assets is available, how the assets are classified (e.g. by type, divided into categories, with a serial number) general characteristics of the assets (e.g. location at different times of the judicial process, owner, condition and value of the asset);
- Legal information: information on the past and current legal situation of the asset (e.g. indicted individuals and judicial authorities, dates, legal status of the asset).
- Section 3

This section focused specifically on the management and accounting of productive assets, such as companies and trusts, which must remain productive throughout the time that they are in the custody of agencies tasked with the management of criminal assets.

The questionnaire was administered using computer-assisted self-interviewing (CASI). Some questions were presented in the form of multiple choice questions while others were open-ended. A complete list of the questions is available in **Error! Reference source not found.**

The answers of the questionnaire were analyzed in aggregate form and are presented in paragraph 2.2: Activity 2. The analysis of the results of the questionnaires aimed to identify weaknesses and strengths of the national systems for data collection based on the provided answers;

In turn this activity, as well as the best practices and case studies presented in Activity 1, led to the recommendations for data for systems on seized and forfeited assets presented in 2.2.4: Recommendations.



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### Information on the respondent

Please fill out this form so as to provide contact information in the event of follow up questions to clarify the provided answers to the questionnaire

1. Name\*

Name of the person responding to the questionnaire

2. Position in the agency\*

Please specify your role in the agency

3. Years in the agency\*

Please specify how many years you have worked in the agency

4. Email contact\*

Please specify an official or personal email address

5. Phone number\*

Please specify an official or personal phone number

6. Work address\*

Please specify the address of your place of work



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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

Page 2

### Section I

How information is collected

7. Is information collected by one centralized agency?\*

Indicate if a single agency is responsible for the collection of information on assets

-- Please Select -- ▼

8. Is the information collected in a single centralized database?\*

Indicate if information on assets if collected in a single centralized database

-- Please Select -- ▼

9. Which agencies are responsible for the collection of information on seized and forfeited assets?

Indicate which agencies are involved in the information registration process. E.g. Investigation agency Seizure agency Custody agency Administration agency Disposal agency When the seizure occurred, when the administrator was selected, when the asset was forfeited (...)

**Name of  
Agency**

1

2

3



4	<input type="text"/>
5	<input type="text"/>
6	<input type="text"/>
7	<input type="text"/>
8	<input type="text"/>
9	<input type="text"/>
10	<input type="text"/>

10. In which phases of the judicial process is information collected?\*

Indicate in which moments of the judicial process the information is recorded. E.g. When the seizure occurred, when the administrator was selected, when the asset was forfeited (...)

11. Who is responsible for the recording of information?\*

Indicate the types of agents responsible for the recording of information. E.g. Investigator, specialized technician, prosecutor (...)

12. How many people are responsible for the recording of information?\*

Indicate the approximate number of people responsible for the recording of information. E.g. 10 (...)

13. Who can modify the information?\*

Indicate which types of people can modify the information. E.g. Any investigator, only specialized personnel (...)



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### Section II

Part 1: Source and format of information on seized and forfeited assets

14. In which of the following phases involving assets is you agency involved in?

\*

Select one or more options. E.g. Investigation agency, Seizure agency, Custody agency, Administration agency, Disposal agency (...)

	Yes	No
Investigation	<input type="radio"/>	<input type="radio"/>
Seizure	<input type="radio"/>	<input type="radio"/>
Custody	<input type="radio"/>	<input type="radio"/>
Administration	<input type="radio"/>	<input type="radio"/>
Disposal	<input type="radio"/>	<input type="radio"/>

15. Is the the information collected and stored in hardcopy form?\*

E.g. Archives (...)

-- Please Select -- ▼

16. Is the information collected and stored in an electronic document?\*

E.g. Word, pdf (...)

-- Please Select -- ▼

17. Is the information collected and stored in a spreadsheet?\*

E.g. Excel (...)

-- Please Select -- ▼

18. Is the information collected and stored in a structured database?\*

Indicate if an existing database was adopted (E.g. Access, SQL Server, MySQL (...)) or a structured database was created specifically for your agency.

	Yes	No
Existing	<input type="radio"/>	<input type="radio"/>
Custom	<input type="radio"/>	<input type="radio"/>



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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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### Section II

#### Part 2: Information on assets

19. Is a description of the assets included?\*

Indicate if a description of the assets is provided

-- Please Select -- ▼

20. Is there an exact count of the number of assets currently in your custody?\*

Indicate if there is an exact count of the number of assets currently in your custody

-- Please Select -- ▼

21. Is there a catalogue of possible descriptions of assets?\*

Indicate if there is a list of the possible descriptions of assets that is consulted when assets are taken into custody.  
E.g. Cars, horses, cash, computers (...)

-- Please Select -- ▼

22. If so, is there an exact count of the number of assets by description currently in your custody?\*

If your agency has a catalogue of descriptions, indicate if there is an exact count of the number of assets by description currently in your custody

-- Please Select -- ▼

23. Are the assets classified into categories?\*

Indicate if there is a list of possible categories used to classify assets when they are taken into custody. E.g. Real estate, registered assets, movable assets, companies (...)

-- Please Select -- ▼

24. If so, is there an exact count of the number of assets by category currently in your custody?\*

If your agency has a classification of categories, indicate if there is an exact count of the number of assets by category currently in your custody

-- Please Select -- ▼

25. When an asset is seized in a given location, is the following information provided?\*

	Yes	No
Country	<input type="radio"/>	<input type="radio"/>
State/Region	<input type="radio"/>	<input type="radio"/>
City	<input type="radio"/>	<input type="radio"/>
Address	<input type="radio"/>	<input type="radio"/>

## 26. If the owner is a natural person, is the following information provided?\*

Indicate if the name of the owner at the time of seizure is provided. E.g. Pablo Cordoba. Indicate if the national identification document number of the owner at the time of seizure is provided. E.g. AB9642761. Indicate if the nationality of the owner at the time of seizure is provided. E.g. Brazilian, Colombian, Haitian (...)

	Yes	No
Name	<input type="radio"/>	<input type="radio"/>
National identification document number	<input type="radio"/>	<input type="radio"/>
Nationality	<input type="radio"/>	<input type="radio"/>

## 27. If the owner is a legal person, is the following information provided?\*

Indicate if the name of the owner at the time of seizure is provided. E.g. XYZ Inc. Indicate if the national identification document number of the owner at the time of seizure is provided. E.g. AB9642761. Indicate if the address of the owner at the time of seizure is provided. E.g. Av. das Nações, Quadra 801, Lote 03

	Yes	No
Name	<input type="radio"/>	<input type="radio"/>
National identification document number	<input type="radio"/>	<input type="radio"/>
Address	<input type="radio"/>	<input type="radio"/>

## 28. Does your agency assign a serial number to each asset in its custody?\*

Indicate if your agency assigns a serial number to each asset that comes into custody

-- Please Select -- ▼

## 29. If the asset already has a specific serial number, is this information recorded by your agency?\*

Indicate if your agency includes in the database the serial numbers of registered assets in custody. E.g. Serial numbers, vehicle registration plate (...)

-- Please Select -- ▼

## 30. Is the condition of the asset at the time seizure specified?\*

Indicate if the condition of the asset at the time of seizure is specified

-- Please Select -- ▼

## 31. Is the value of the asset at the time of seizure specified?\*

Indicate if the monetary value of the asset at time of seizure is specified. E.g. 12.000.000\$

-- Please Select -- ▼

## 32. In which currency is the value of the asset specified?\*

Indicate the currency in which the value of the asset is specified. E.g. US \$, EU € (...)

## 33. Who is responsible for determining the value of the asset?\*

Indicate who estimates the monetary value of the asset. E.g. Estimate is made by a specialized agent (...)

## 34. How is the value of the asset determined?\*

Indicate how the value of the asset is estimated. E.g. Estimate is calculated based on the market value of the asset (...)



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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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### Section II

Part 3: Legal information. Is the following information provided regarding the seizure?

## 35. Type of seizure\*

Indicate if the type of seizure is specified. E.g. Freezing, seizure of assets (...)

-- Please Select -- ▼

## 36. Countries / Agencies involved in the investigation\*

Indicate if the countries and agencies involved in the investigation are specified. E.g. Financial intelligence units from Brazil and Haiti (...)

-- Please Select -- ▼

## 37. Court that issued the seizure\*

Indicate if the court or judicial authority that issued the seizure is specified. E.g. Tribunal Regional de Minas Gerais

-- Please Select -- ▼

## 38. Name of judge who requested the seizure\*

Indicate if the name of the judge who issued the seizure is specified. E.g. Juez Rodríguez Jiménez

-- Please Select -- ▼

## 39. Court case number/seizure decree number\*

Indicate if the court case/seizure decree is specified. E.g. 946351/2011

-- Please Select -- ▼

## 40. Date of seizure\*

Indicate if the date of seizure is specified. E.g. 2nd of March 2011

▼

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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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### Section II

Part 3: Legal information. Is the following information available regarding custody and administration?

41. Agency responsible for the asset\*

Indicate if the agency responsible for custody/administration of the asset is specified

 ▼

42. Asset administrator (external from the agency)\*

Indicate if the administrator of the asset, if there is a third party external to the agency involved, is specified. E.g. Juan Valdez

 ▼

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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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### Section II

Part 3: Legal information. Is the following information available regarding forfeiture?

43. Type of forfeiture\*

Indicate if the type of forfeiture is specified. E.g. Criminal, of equivalent value, in rem (...)

 ▼

44. Court that issued the forfeiture\*

Indicate if the court that issued the forfeiture is specified. E.g. Tribunal Regional de Minas Gerais

-- Please Select -- ▼

45. Name of judge who requested forfeiture\*

Indicate if the name of judge who requested forfeiture is specified. E.g. Juez Rodríguez Jiménez

-- Please Select -- ▼

46. Court case number/confiscation decree number\*

Indicate if the court case number/confiscation decree number is specified. E.g. 946351/2011

-- Please Select -- ▼

47. Date of forfeiture\*

Indicate if the date of forfeiture is specified. E.g 2nd of March 2013

-- Please Select -- ▼



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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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### Section II

Part 3: Legal information. Is the following information available regarding disposal?

48. Agency involved\*

Indicate if the agency responsible for disposal is specified. E.g. Disposal agency

-- Please Select -- ▼

49. Buyer\*

Indicate if the owner is specified. E.g. Luis Oliveira

-- Please Select -- ▼

50. Date of disposal\*

Indicate if the date of disposal is specified. E.g. 2nd of March 2014

-- Please Select -- ▼



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## Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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### Section II

Part 3: Legal information. What information is provided regarding predicate and connected crimes?

#### 51. Indicted person/people\*

Indicate if the name/names of the indicted person/people is/are specified. E.g. Pablo Cordoba. Indicate if the national identification document number/numbers of the indicted person/people is/are specified. E.g. AB9642761 Indicated if the nationality/nationalities of the indicted person/people are specified. E.g. Brazilian, Colombian, Haitian (...)

	Yes	No
Name	<input type="radio"/>	<input type="radio"/>
National identification document number	<input type="radio"/>	<input type="radio"/>
Nationality	<input type="radio"/>	<input type="radio"/>

#### 52. Third parties\*

Indicate if the names of involved third parties are specified. E.g. Maria Cordoba Indicate if the national identification document numbers of involved third parties are specified. E.g. AB9642761 Indicate if the nationalities of involved third parties are specified. E.g. Brazilian, Colombian, Haitian (...)

	Yes	No
Name	<input type="radio"/>	<input type="radio"/>
National identification document number	<input type="radio"/>	<input type="radio"/>
Nationality	<input type="radio"/>	<input type="radio"/>

#### 53. Predicate offence\*

Indicate if the predicate offence of the indictment is specified. E.g. Money laundering (...)

-- Please Select -- ▼

#### 54. Related offences (one or more)\*

Indicate if the related offences of the indictment are specified. E.g. Drug trafficking, conspiracy (...)

-- Please Select -- ▼



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# Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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## Section II

Part 3: Legal information. Other information

55. Regarding the current location of the asset, which of the following information is provided?\*

	Yes	No
Country	<input type="radio"/>	<input type="radio"/>
State/Region	<input type="radio"/>	<input type="radio"/>
City	<input type="radio"/>	<input type="radio"/>
Address	<input type="radio"/>	<input type="radio"/>

56. Is the current legal status of the asset specified?\*

Indicate if the current legal status of the asset is specified. E.g. Seized, registered, mortgaged (...)

-- Please Select -- ▼

57. Is the percentage of the asset that has been confiscated indicated?\*

Indicate if the percentage of the asset that is subject to seizure is specified. E.g. 50%, 75%, 100% (...)

-- Please Select -- ▼

58. Is the eligibility of the asset for disposal specified?\*

Indicate if the eligibility for disposal of the asset is specified. E.g. Eleggible, not elegible (...)

-- Please Select -- ▼

59. Is the urgency of the disposal of the asset specified?\*

Indicate if the urgency of the disposal of the asset is specified. E.g. Based on the condition of the asset and the eligibility for disposal

-- Please Select -- ▼



Organización de los  
Estados Americanos

# Analysis of systems for the collection of data on seized and forfeited assets of illicit origin in the member states of the OAS

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## Section III

Information on the management and accounting of productive assets

## 60. Which financial documents are available?\*

Indicate which financial documents regarding productive assets are available

	Yes	No
Balance Sheet	<input type="radio"/>	<input type="radio"/>
Income Statement	<input type="radio"/>	<input type="radio"/>
Cash flow	<input type="radio"/>	<input type="radio"/>
List of employees	<input type="radio"/>	<input type="radio"/>
Tax reports	<input type="radio"/>	<input type="radio"/>

## 61. Are any other financial documents available?

\*  
Indicate which other financial documents regarding productive assets (if any) are available

## 62. Are the financial documents from years BEFORE the seizure available?\*

Indicate if the agency is in possession of financial documents from years BEFORE the seizure

## 63. Are the financial documents from the years AFTER the seizure available?\*

Indicate if the agency is in possession of financial documents from years AFTER the seizure

## 64. Do all the documents specify the author?\*

Indicate if the name of the author of financial documents is specified

## 65. Is the current administrator specified?\*

Indicate if the administrator of the asset is specified (if the case of third parties external to the agency)

## 66. Is the current status of the company specified?\*

Indicate if the current status of the asset is specified. E.g. Active, in liquidation, under the supervision of an administrator (...)

## 67. Is financial information shared directly with the Chamber of Commerce?\*

Indicate if information is obtained directly from the Chamber of Commerce regarding the financial administration of productive assets and if information is provided to the Chamber of Commerce regarding assets in custody

## 68. Does your agency have free access to the Chamber of Commerce registry?\*

Indicate if the agency has free access to consult documents from the Chamber of Commerce

