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

Secretariat for Multidimensional Security

**XL GROUP OF EXPERTS FOR THE CONTROL OF MONEY LAUNDERING**  
**May 19-20, 2015**  
**Washington, D.C.**

**OEA/Ser.L/XIV.4.40**  
**CICAD/LAVEX/doc.16/15**  
**19 May 2015**  
**Original: Español**

**REACT PROJECT PROGRESS REPORT**  
**ANA ALVAREZ, CICAD**



# REACT

Program for international cooperation  
in asset recovery

## REACT Project Progress Report

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# REACT Project

- Identify practical difficulties in recovering illicit assets in cases featuring international elements
- Offer tools so that asset recovery can occur seamlessly, effectively and can conform with international standards

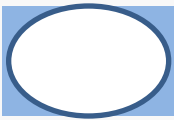


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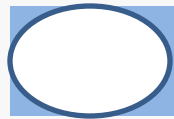
# Product 1: Situational Assessment



Introduction



Period prior to forfeiture



Forfeiture



Period following forfeiture



Next steps



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# The problem



- Assets of illicit origin sent to foreigners

↳ Purpose: Avoid assets being found, and if they are found, avoid their confiscation and forfeiture;

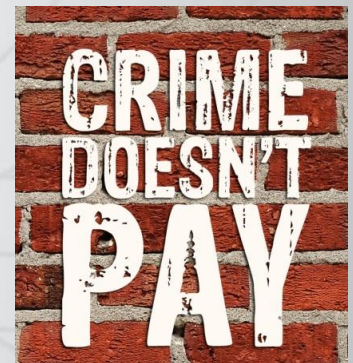
- Criminals take advantage of States' difficulties in cooperating ;
- They stop collecting significant amounts of wealth.



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# Objective: Show that crime doesn't pay

- Through money laundering techniques, illicit income enters the economy;
- This is then used to finance other criminal activities;
- Criminals and their relatives / front men benefit from their illicitly obtained assets



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# Changes and Trends

## 1) In international legal cooperation

- 20th Century —————> handing over fugitives (extradition and right to asylum)
- Formation of horizontal networks among diverse State agencies with their foreign counterparts
- Rules on mutual legal assistance
- Focus on seizure and forfeiture



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## 2) In confiscation matters

- Historically: crime of “*civil degradation*”;
- Abuses of power on the part of absolute monarchies and conflicts with nobility;
- 18th Century liberalization: Liberal constitutions with strong limitations (e.g. forfeiture and expropriation based on the law and the possibility that a tribunal would revise the adequacy of the penalty)



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# Situational assessment

- Where are we now?
- Where are we going?



- Allocate resources
- Appropriately route next steps

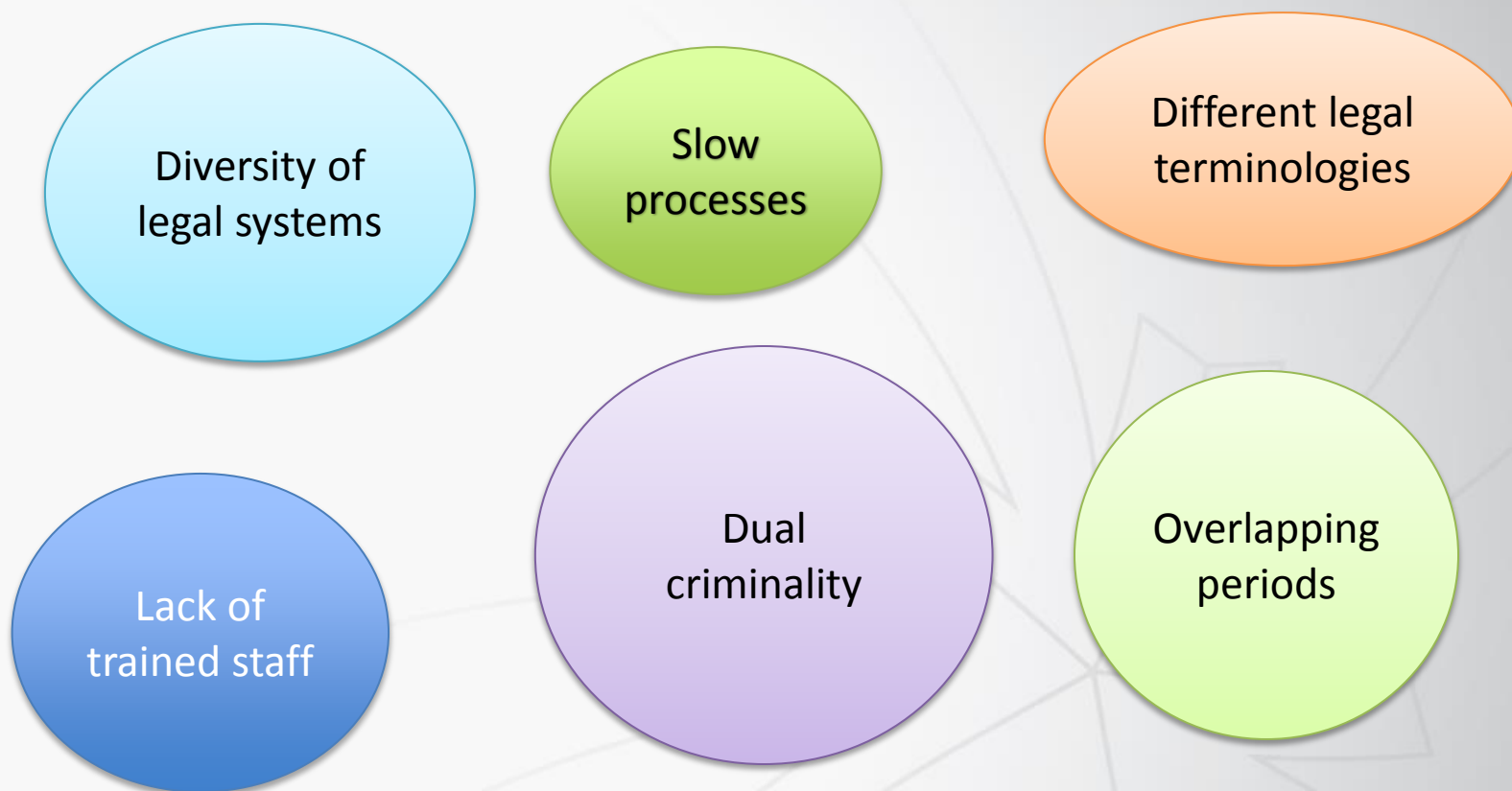


(15 years since the creation of  
GELAVEX?)



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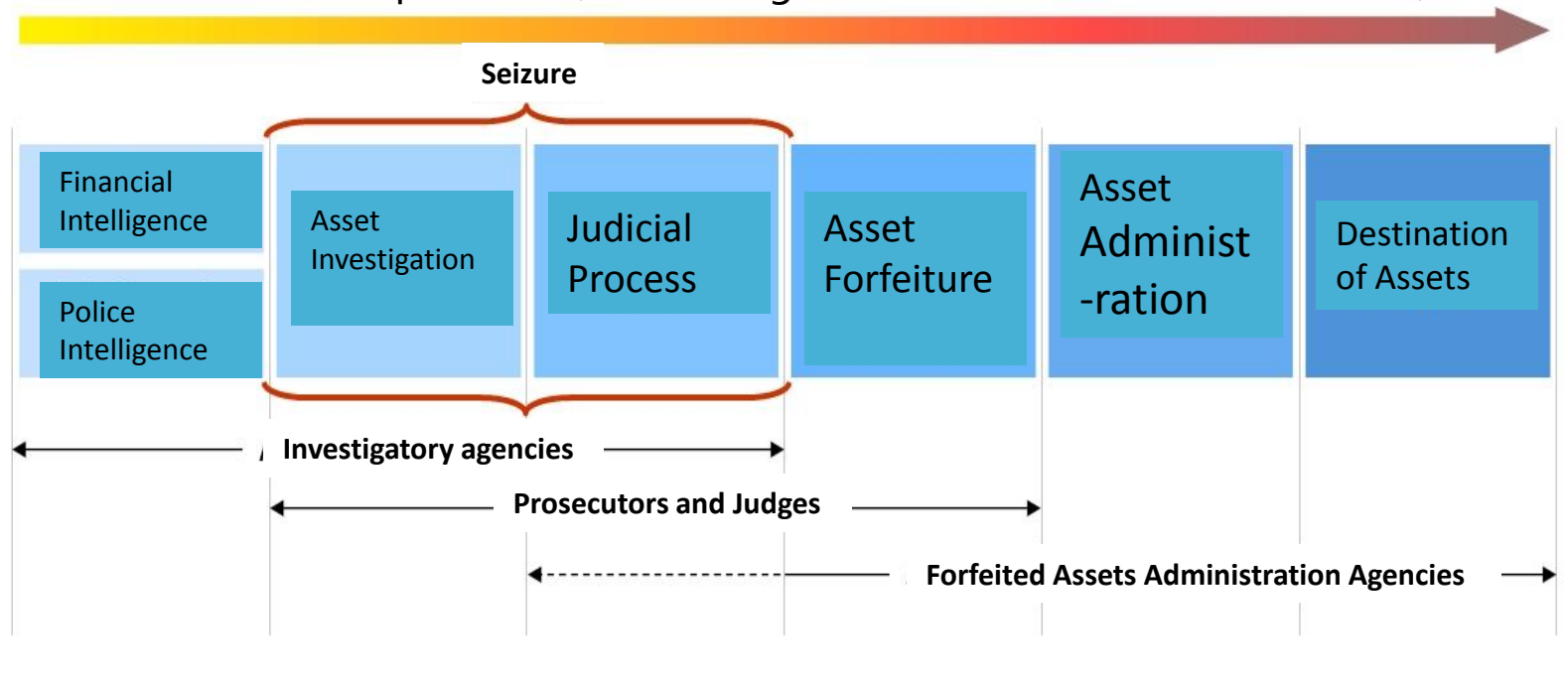
# Challenges of cooperation



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# The importance of international cooperation

International cooperation (mutual legal and administrative assistance)

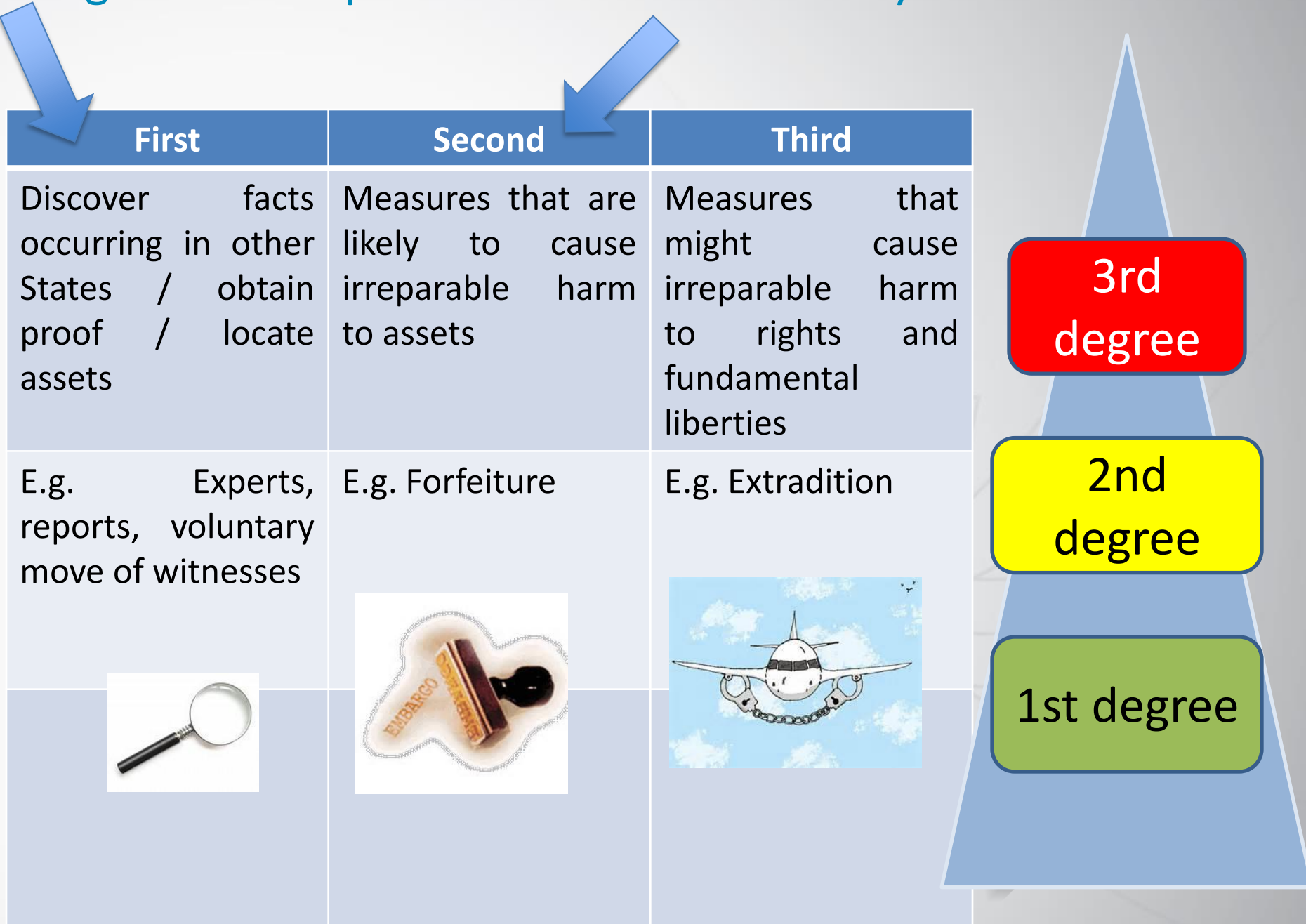


**Chart 1.** Periods and areas of intervention in seizure and forfeiture processes



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# Degrees of cooperation for asset recovery



# What do we mean by “international patterns”?

## 1) International Conventions:

• <b>United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances</b>	<b>Vienna, 1988</b>
• United Nations Convention against Transnational Organized Crime	Palermo, 2000
• United Nations Convention against Corruption	Mérida, 2003



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## 2) Recommendations and manuals from international agencies: structured plan



# Product 1: Situational assessment

☐ Introduction

☒ Period prior to forfeiture

☐ Forfeiture

☐ Period following forfeiture

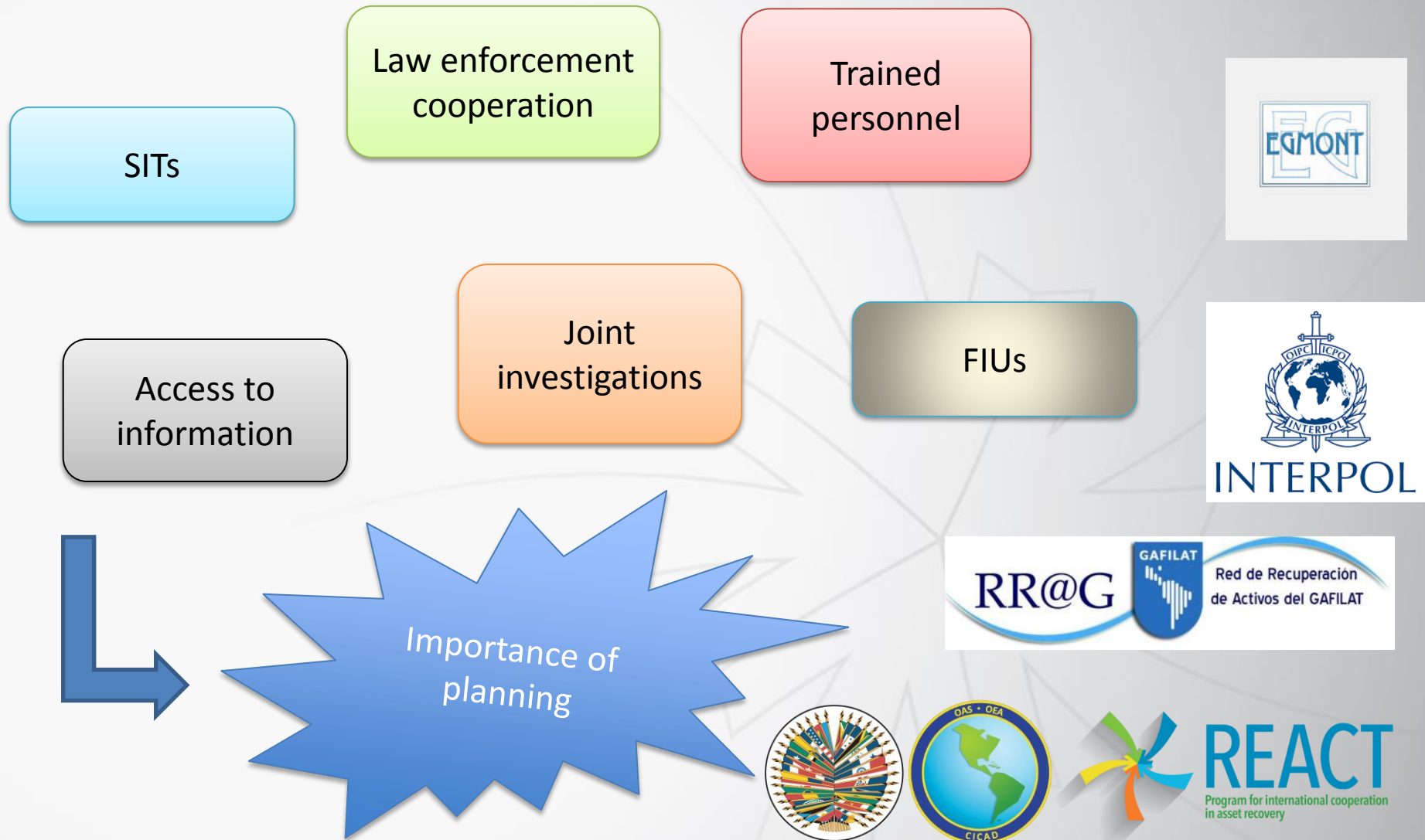
☐ Next steps



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# International cooperation in the identification, tracking and asset locating phase



# Provisional measures

Implementation  
requirements

Possibility of  
challenges/contesting

Precautionary maintenance  
measures



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# Product 1: Situational assessment

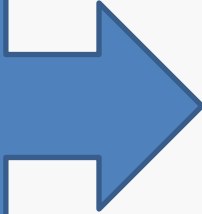
- ☐ Introduction
- ☐ Period prior to forfeiture
- ☒ Forfeiture
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- ☐ Next steps



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# Forfeiture: What to seize?

Protection of  
the rights of  
bona-fide third  
parties and  
victims



## Instruments



## Product



## Object



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# Forfeiture of the proceeds of crime

- Assets of any nature that are derived or obtained directly or indirectly from the commission of a crime;
- Last 20 years:
  - Central piece of the globally-accepted strategy to reduce illicit markets and protect legal economy;
  - Implemented by more than 130 States

CHALLENGE:  
What to do  
with the  
assets?

Evidence

Economic  
value



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# Forfeiture of the instruments of crime (*instrumentum sceleris*)

- *Physically* relates objects used to commit a crime with the harmful results they produce.
- Basis: The objects were used in a manner harmful to society and, therefore, the State should prevent it from occurring again



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# Forfeiture of the objects of crime (*objetum sceleris*)

- Assets that are the result of criminal conduct;
- Tend to be destructive *independent of the guilty or innocence of the assets' owner* or of the rights of third parties
- Operate *in rem*, that is, without regard to whomever possesses them



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# Forfeiture

Burden of proof

Fund for seized or money collected after the sale of assets of illicit origin

Facts/Statistics on forfeited assets

System of registering forfeited assets

Mutual Legal Assistance

Criminal forfeiture

Rights of bona-fide third parties

*In rem* forfeiture

Forfeiture by equivalent value



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# Period following forfeiture

Sharing of assets

Asset registry



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# Product 1: Situational assessment

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# Next steps

ACTIVITES		1	2	3	4	5	6	7	8	9	10	11	12
<b>1</b>	<b>Situation Assessment</b>												
1.2	Recovery of information												
1.3	Analysis and organization of information												
1.4	Editing of situation assessment												



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## Thank You!

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