



17th St. & Constitution Avenue N.W.
Washington, D.C. 20006
United States of America

Organization of American States

P. 202.458.3000
www.oas.org

Secretaría de Seguridad Multidimensional

**XLIV Meeting of the Group of Expert
For the Control of Money Laundering
September 25 -26, 2017
Asunción, Paraguay**

**OAS/Ser.L/XIV. 4.44
DTC/LAVEX/doc.11/17
September 22, 2017
Original: Spanish**

**PRELIMINARY REPORT ON ACTIVITIES OF THE
SUB WORKING GROUP ON FIU/LOA 2016-2017**

Report 2016-2017

The Sub Working Group On FIU/LOA 2016-2017, reports that the two works proposed in the work plan have been accomplished, namely:

- A. **Homologation on the concepts regarding risk analysis:** A work proposal was presented at the May 2016 meeting in Washington D.C., in which was suggested the FATF's proposal guidelines that may be unify the concepts regarding risk analysis. Delegations agreed in this work and provided their insights about the importance of homologation the concepts, since all will be evaluated or we were under, the FATF's context. Also, it is necessary to facilitate any future work in the area of risk analysis, in which we all manage the same concepts. The last report was presented at Punta Cana meeting, which was approved by all members of the Group. The work and the mandate were approved.
- B. **Study on special investigation techniques:** the answers were received from 15 delegations out of 33, to which the questionnaire on special investigative techniques was sent to them. With these responses was made a report in which can be identify the weakness of our systems, both legislative and practical, in the use of the techniques. Common challenges were established and the good practices were highlighted so we can learn in the future. The report was presented to the plenary and the work was approved, although it may be deepen in the future in some challenges presented in the report. In fact, it was proposed that Spain, for the next meeting, will refer to software interception in real-time messaging. This will be in charge of the technical secretariat on the next meeting

For this new period, the work group proposed working in the following topics, being approved by the plenary:

- a. Experts reports on money laundering
- b. Money laundering typologies, especially in the use of virtual currency

The subgroup's coordination proposed and approved the following topics for the 2016-2018 work plan:

- a. **Diagnostic study on expert reports used by countries in cases of money laundering.** The objective is to know the type of the expert's reports that are being used by the countries in these cases, whether financial, accounting, floe, etc. This is to get output on good practices and what is appropriate depending in what is necessary to prove. To accomplish this objective, it is proposed that a number of countries shouldn't be less than 10 in order to prepare a representative sample, designating a technically qualified expert. With these experts, videoconferences will be held to inform us about cases regarding cases with convictions in their countries, where expert's reports have been submitted. Each expert should report those cases and the type of report that was made. It is hoped to hold a round of videoconferences or obtain inputs by email from such experts until March 2017. Once the round of works with experts is over, it is proposed to prepare a progress report with the information that was raised, which should be presented to the assembly at the May 2017 meeting. Afterwards the diagnosis of the region can be made and also a sample of good practices. To execute this work, it is recommended to create a group of at least 4 delegations, with specific tasks related with the topic being addressed

- b. **Study on new typologies in money laundering, especially in the use of virtual currency.** The proposal is based on the advancement of the technologies and to commit the crime of money laundering, in this sense it is recommended to work specifically the area of virtual currencies. For this it is proposed that countries that have had experiences with this typology, can deliver the information to the working group. The group would prepare a short questionnaire, in which the countries can tell their experiences in laundering and virtual currency. Once endorsed by the technical secretariat, it would be circulated to the countries by December 2017 of the present year, in order to be answered no later than April 2017. The group, for its part, will prepare work material that establishes what virtual currencies are, the types, most frequent uses and threats they represent in the prevention of money laundering and the funding of terrorism. The progress of the answers received and the report will be given to the delegations in the meeting at May 2017. Afterwards the information collected and the material prepared by the group will be analyzed to finally make the study compromised. In order to comply with this line it is proposed to create a working team with at least 4 delegations that, together with the coordination of the subgroup and de Executive Secretariat, can prepare the questionnaire. The report and a proposal to analyze all the information and prepare the study

Preliminary results August 2017:

- As regards the work of expert reports, the surveys were prepared by the Subgroup and sent by the Technical Secretariat to the 10 countries that agreed to answer them, through their experts.

Until today's date we have received 8 responses, which are summarized in the following table:

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
1	At what level of importance the financial reports or financial expertise are useful for the prosecution of the money laundering crime and other determining crimes?	Important	Indispensable	Indispensable	Important	Indispensable	Important	Indispensable	Important
2	At what level of importance the financial reports or financial expertise are useful for making convictions of money laundering?	Important	Indispensable	Indispensable	Important	Indispensable	Indispensable	Important	Important
3	According to your experience, the courts or tribunals, give probative value to financial reports or financial expertise?	Sometimes yes	Sometimes yes	Sometimes yes	Never	Sometimes yes	Sometimes yes	Sometimes yes	Never

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
4	Are financial reports or financial reports prepared by experts in accounting sciences?	Yes	No	Yes	No	Yes	Yes	Yes	Yes
5	Do financial informs or financial expertise contain information that has been given or delivered by prosecutors in charge of the investigation?	Yes	Yes	Yes	Yes	No	Yes	Yes	No
6	Is the expert preparing the financial inform or the financial expertise it is attached to de Public Prosecutor's Office?	No	No	Sometimes yes	No	No	Yes	Yes	No

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
7	The expert who elaborates the financial inform or financial expertise receive information from the intelligence FAU or FIU?	Yes	Yes	Yes	Yes	Yes	No ¹	No	Yes
8	At what level does the financial inform financial expertise contains information that has been transferred by the FAU or FIU?	Acceptable	Acceptable	Not acceptable	Acceptable	Regular	Acceptable	Regular	Acceptable
9	What are the aspects considered in the reports or expert opinions?	Financial	Financial	Financial	Financial	Financial	Accounting ²	Accounting	Financial

¹ Peru: Doesn't receive it directly but it serves as an input to prepare its expert opinion.

² Peru: Also consider the financial aspects

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
10	Which agencies or organisms have the faculty to issue or inform the informs or expert opinions for the money laundering investigation	Police	Police	Police	FIU	Public Prosecutor's Office	Public Prosecutor's Office ³	Public Prosecutor's Office ***	FIU ⁴
11	What are the requirements to be able to issue a report or expert opinion that has official validity in the integration of an investigation on asset laundering?						It has to follow the process established in the Adjective Code in the case of Criminal Procedure of 2004 is regulated in article 172 et seq. Its true probative value is given at the oral trial, when the experts	There is no special requirement for the reports, when governing the principle of probation, their valuation will depend on the consideration that the court conducts them. The expert opinions should	

³ Peru: It is necessary to point out that the police can also do expert reports in Peru

⁴ Bolivia: The Financial Intelligence reports prepared by the FUI which contains indications of the Money Laundering commission are sent to the Public Ministry to initiate a process; 2. In cases in which the report originates a request from the Public Ministry it will be send to the fiscal who request it in order to incorporate it at the research book and elaborate an element that can contribute to the investigation

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
							attend to the hearing and proceed to support it.	be made in accordance with the rules stipulated in the criminal procedural core (Arts. 214 to 225 of the C.P.) regarding the expert designation, setting of points of expertise, notifications of the parts and compliance with deadlines.	

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
12	It is required that authors from the expert reports testify during the judicial process?	Yes, it is required to testify in the oral and public trial, they are cited as experts not witnesses.	Yes	Yes, in oral trial	No, they're not required to testify in court since such reports are produced for investigative purposes only.	Yes, its necessary.	Yes, as provided by the adjective code in Peru, the expertise are require to attend to the oral trial and provide a better explanation on the verification that has been made regarding the subject matter of the expert's fundaments and conclusion	Not necessarily, but if it is considered as pertinent, either of the parts can offer the testimony of an expert at the preliminary hearing to provide its testimony in the oral and public trial, and in case of being accepted by the judge, the appearance will be mandatory	The Financial Intelligence Reports are prepared by FIU Servers, who cannot be called as witnesses during the process.
13	Can written reports be submitted without the authors testifying?	Yes	Yes	Just if no is OJ	Yes	No	No	Yes	Yes
14	Have judicial officials been trained in the	Partially	Partially	No	No	Yes	Partially	Partially	Partially

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
	probative value of these reports?								
15	In cases where an expert report is require but the Agency doesn't have the competent persons to prepare the report, can this report be obtained from another public or private sector agency?	No	No	Yes	No	Yes	Yes	Yes	Yes
16	If so, what is the process for requesting such assistance?			Note		Giving functions to the Judicial Police	It is necessary to request to the entity, in order to be proceeded by its designation (they take oath), then proceed to perform the expert work. State agencies can be requested to develop	Either part may propose the expert of its choice and the points of expertise that considered appropriate. There is no greater limitation regarding the expertise, as far the expert is a professional	

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
							<p>scientific or technical work, those who render their aid free of charge.</p> <p>Expert work may also be entrusted to universities, research institutes or legal entities in general (article 173 of the Criminal Code Procedure 2004)</p> <p>(artículo 173 del Código Procesal Penal de 2004)</p>	<p>and that has an enabling title, as long as the science, art or technique is regulated. Otherwise a person of manifest suitability should be appointed. Once proposed, he or she must take oath or be committed to perform its function correctly, accept the points of expertise and conclude its dictum within the established period.</p>	

#	QUESTION	COSTA RICA	TRINIDAD AND TOBAGO	CHILE	USA	COLOMBIA	PERÚ	PARAGUAY	BOLIVIA
17	Are specialist hired inside the agencies with the skills and competencies specified to produce multiple expert reports?	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
18	Can intelligence reports issued by the Financial Intelligence Unit be used as probative value? If not, does the research agency have to acquire the intelligence on a probationary basis?	Yes	No	No	No	No	No ⁵	No	No

⁵ Peru: Note: What is used as a substantive element for research and the penal process is the report issued by the FUI, provided it is assumed by the prosecutor (Legislative Decree No. 1249, a position also contained in the Legislative Decree No. 1106 which amended Law No. 27693 – Law creating the FIU). Revealing that the FIU communicates to the Public Prosecutor's Office through financial intelligence reports, those operations that, after the respective analysis and investigation are presumed to be linked to money laundering activities, previous crimes and the financing of terrorism, in order to proceed according to the law.

- Regarding to the work on new typologies and virtual currency, a survey was prepared by the Subgroup, and it was sent By the Technical Secretariat. It has received 5 responses from the following countries: Costa Rica, Dominican Republic Paraguay, Chile and Trinidad and Tobago.

The answers can be synthesized in the following explanatory chart:

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
1	Does your country have allowed and regulated this payment system through virtual currencies?	NO ⁶	NO ⁷	NO	NO ⁸	Question is unclear

⁶ **N°1 COSTA RICA:** The issue of virtual currencies should be studied from the perspective of a payment platform to achieve an integral dimension of the phenomenon that could, in the near future, constitute an exchange mechanism, the second is that these types of platforms seek to attract investors or clients that could compete with the entities that emit monetary policies to generate a migration of capital towards those mechanisms. Third, this platforms should not be allowed as long they operate in opacity or informality, their control structure is unknown, they are not supervised and regulated by the states and the origin and destination of the funds that are traded in them is unknown, which will be totally against the policies and the controls established by FATF international standards. It must be defined who is going to set the policies on the value of the virtual currency, who is going to respond to the reserves, who is going to guaranteed the traceability and the AML regulation policies.

⁷ **N°1 REP. DOMINICANA:** For the Dominican Republic, virtual assets are not considered as foreign currencies under the exchange rate regime, since they are not issued and are not under the control of any other foreign central bank, reason in which they do not receive guarantees or security offered by the exchange control intermediation nor the free convertibility enshrined in Articles 28 and 29 of the Dominican Monetary Financial Law.

⁸ **N°1 CHILE:** The pay system, through virtual currencies, is no regulated by the Central Bank, or the FAU or other State service.

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
2	In your country are there any natural or legal persons condemned or that are being investigated (not under secrecy) for the use of virtual currency in the commission of crimes based on money laundering?	NO ⁹	NO ¹⁰	NO	NO	NO ¹¹
3	In your country have been made strategies developed by the Intelligence Units for the realization of studies regarding the virtual currency? (describe the strategies)	NO	YES In the National Risk Strategy of the Dom. Rep., it is planned to made a study on these by the Central Bank of the Dominican Republic	YES SEPRELAD is analyzing Suspicious Operations Reports and other information in order to identify typologies and trends in the use of Bitcoin in Paraguay,	YES Strategies have been developed to know the operation of virtual currencies	NO

⁹ **Nº2 COSTA RICA:** The Liberty Reserve Case, with the use if virtual currencies denominated “LR” it is a payment platform that used to operate in the opacity without registration or supervision. In addition, the collection has been detected by extortionist when they disseminate a computer virus.

¹⁰ **Nº2 REP. DOMINICANA:** There is not a crime when using these virtual asses in the Dominican Republic, although it could be used for their commission, we don’t have data that support the existence in these conditions .

¹¹ **Nº2 TRINIDAD & TOBAGO:** Not that we are aware of

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
				in order to link them with Obligated Subjects, Supervisors and other organs of prevention, detection and repression of Punishable Acts of ML / FT, and previous offenses.		
4	Have you trained on this topic? If the answer is affirmative it is requested to share the material with the other members. If you know open resources regarding training materials, contribute	Yes It have been made talks in which the topic is taken in a general way under the risk consideration.	Yes he British Camera of Commerce of the Dominican Republic (BRITCHAM), National School of the Judiciary, National School of Public Ministry, both supported by the National Center for State Courts.	NO	NO	NO

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
5	Technological tools have been identified, links or portals for the use of the virtual currency? Describe them	YES ¹²	YES ¹³	YES ¹⁴	YES ¹⁵	NO
6	¿How many types of known virtual currencies are	One or more than one ¹⁶	One or more than one ¹⁷	One or more than one ¹⁸	One or more than one ¹⁹	This information is unavailable

¹² **N°5 COSTA RICA:** Link obtained from: <https://www.bitcoex.com/about/bitcoex?locale=en> , also: <https://www.bitfinex.com/legal/term> , and links linked to criptomoneda and criptodivisas will be the following : file:///F:/267-2017%20ligado%20al%20349-2016/Cryptex_website.pdf. There are limits on knowing the servers physical location, which could be in any jurisdiction since the operation is online. Mostly this type of suspicious companies just operate online.

¹³ **N°5 REPUBLICA DOMINICANA:** There are several portals, that basically contain advertising to sell products, and the instructions on how to use it, as well as the promotion of training activities and events on how to invest in virtual currencies. Existen varios portales, básicamente contienen anuncios para vender los productos, e instrucciones de cómo utilizarlo, así como la promoción de actividades formativas y eventos sobre cómo invertir en monedas virtuales.

¹⁴ **N° 5 PARAGUAY:** <http://www.bitcoin-py.com/> (is a web site called Bitcoin Paraguay, in which it is established the type currency: <http://www.bitcoin-py.com/> (is a web site called Bitcoin Paraguay, which established the exchange rate currency in relation to the guaraní and the American dollar. Also several information regarding the currency abroad, news, acquisition and its utilization and the ATMs Bitcoin) <https://iqoption.com/lp/ultimate-trading/en//> (it is a page where they offer and [quote virtual currencies, among them, the best known in Paraguay, the Bitcoin](#)

¹⁵ **N° 5 CHILE:** <https://www.surbtc.com/chile>
<https://tradebtc.cl/>
<https://www.cryptomkt.com/es/chile>

¹⁶ **N°6 COSTA RICA:** LR related to the Liberty Case Reserve. Also, societies have been identified, that could be making or offering Bitcoin related extortions.

¹⁷ **N°6 REPUBLICA DOMINICANA:** BitCoin, Litecoin, Ethereum.

¹⁸ **N°6 PARAGUAY:** There are more Bitcoin data however there are open pages that offer virtual currencies, but have not received information on reports on the other currencies.

¹⁹ **N°6 CHILE:** Bitcoin (BTC) and Ethereum (ETH) the main ones.

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
	circulating in your country?					
7	Are there minimum legal norms in your country to regulate and control the virtual currency users in the process of changes to other legal currencies?	<p>YES</p> <p>The Superintendence of the Financial Entities has issued general regulation based on risks, and the fundamental premise of this EBR that the subject must know the origin and the destination's fund otherwise it should not maintain commercial relations with this type of customers,</p>	<p>NO</p> <p>The Superintendence of the Financial Entities has issued general regulation based on risks, and the fundamental premise of this EBR that the subject must know the origin and the destination's fund otherwise it should not maintain commercial relations with this type of customers,</p>	NO	NO	NO
8	In which sectors of the economy (standards) there is	Real state, buisness activities,technological services and	There are no studies that allow us to support a	La Victoria Motors S.A. (cars sells), USA compras express (courrier services from Miami to	There are no studies that allow us to support a answer in that sense	This information is unavailable

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
	more use of virtual currency.	international communications.	answer in that sense	Paraguay), Ward Store (Watch sale).		
9	Are there available virtual currencies ATMs in your country? If yes, please specify how many and add a brief description	NO	YES ATMs have been identified in the country, but we do not have a study that allows us to specify this information.	YES During 2014, an ATM was installed in a vegetarian food restaurant called BE OKAY. However the local was closed. There is no address until now. https://criptonoticias.com/colecciones/cajeros-automaticos-bitcoin-latinoamerica-espana/	NO	NO ²⁰

²⁰ **N°9 TRINIDAD & TOBAGO:** Not that we are aware of.

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
10	Have investigation of crimes involving virtual currency been presented? If yes, please explain the difficulties that have been arisen in your development.	YES ²¹	NO	NO	NO	NO

²¹ **N°10 COSTA RICA:** There have been cases on research linked to virtual currencies, the best known is the Liberty Reserve case. The difficulties that have arisen lie mainly on the lack of regulation and control over this types of people/companies that are dedicated to offer the bitcoin service, as well as the different users and the difficulty to detect this type of operation, since its main strength is anonymity, which makes it even more difficult to detect the use as a financial tool that operates on the web which make the detection difficult.

#	QUESTION	COSTA RICA	DOMINICAN REPUBLIC	PARAGUAY	CHILE	TRINIDAD AND TOBAGO
11	If your previous answer was affirmative, as a result of the investigations the confiscation of sums of virtual money in virtual currencies? Briefly explain the situation.	NO ²²	NO	NO	NO	NO
12	Is there any regulation or procedure for the seizure, confiscation and administration of virtual currencies? Is your answer is yes, please explain.	NO The virtual currency is dematerialized	NO	NO	NO	NO

²² **N°11 COSTA RICA:** The virtual currency is dematerialized, being virtual does not allow the seizure of such, but currency accounts could be confiscated in real circulation associated with financial institutions. As a subject that operates on the informality, it cannot be identified as tangible or material reserve fund. In Liberty Reserve case no seizures were generated, but in physical money and goods was, approximately US \$20 million and luxury goods such as cars and several technological equipment, real state.

Preliminary conclusion:

Regarding the experts reports, there is a consensus among the countries on the relevance of their use, for the prosecution and to get convictions for the crime of money laundering. However, only in some cases the courts have given probative value to financial reports or financial expertise.

The aspects considered in the reports are generally financial and are issued, depending on each country, either the police, FIU or by the Prosecutor's Office or Public Prosecutor, without a marked trend in one direction or another. The vast majority of the reports are prepared by accounting sciences experts and contain the information provided by the prosecutors in charge of the investigation. This experts are not necessarily attached to the Public Ministry and usually receive intelligence information from the FAU or FUY. In this sense, the majority of the counties point out, in case of not having the competent people to prepare the report, it is possible to obtain it from other public or private sector agency, but they differ from the process of making such request. It is require that the authors testify an oral proceedings, except for those countries where the report has been prepared by the FIU or FAU officials. On the other hand, only one country has indicated to trained judicial officials regarding the probative values of these reports, so a susceptible area of improvement is detected.

Finally, it should be noted that in any country it's allowed to use the intelligence reports issued by the Intelligence Unit as a probative value.

In relation to the work of new typologies and virtual currency, it can be appreciated that there's no regulation regarding its use as a payment system nor the existence of any minimum standards to regulate and control users in the process of virtual currency or other type of legal currency despite that all the countries have been identify technological tools, links or portals for the use of virtual currencies and have detected more than one type of virtual currency circulating in their respective countries. Some States have also identified ATMs whit virtual currencies, but there's no studies to make this information accurate.

In the field of training, less than half of the countries have indicated to have conducted training on the subject of matter, but they would be preparing strategies developed by the Intelligence Units to report the virtual currencies. Also there's no studies on the sectors of the economy (items) in which have a major virtual currency use, but it has been detected its use on activities for technological services and international communications, *couriers* services, the purchase of vehicles and real state

Finally, on the investigation field, in any country are any natural or judicial persons (who are not under secrecy) condemned for the use of virtual currencies in the commission of crimes based on money laundering or proper money laundering, nor has been any investigation of crimes which they have been used; except in Costa Rica's case. Therefore, there are no experiences in the confiscation of sums of virtual sums of money and there is no regulation for the seizure, forfeiture or its administration.