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**STUDY ON TRAINING NEEDS IN THE SUBJECT OF ADMINISTRATION OF SEIZED AND FORFEITED ASSETS
FROM DE OAS MEMBER STATES**

2017



Study on training need in the subject of administration of seized and forfeiture assets from the OAS member states

Forfeiture Working Sub-groups and International Cooperation with the support and accompaniment of the Decommissioned Assets Project in America Latina (BIDAL), since 2008 have been developing a set of regional impact documents, related to the administration of assets seized and forfeited through different working plans of the GELAVEZ, which have allowed the creation of some specialized agencies and de development of the same ones based on the experiences gathered in such studies, such as:

1. 2011, “Best Practices Document on Management of Seized and Forfeited Assets”.
2. 2012 “Legal Aspects in the Establishment and Development of Entities Specialized in the Administration of Seized and Forfeited Assets”.
3. 2013 “Self-evaluation Guide for the Forfeiture and Administration of Assets”.
4. 2014 “Guide for the Management of Seized Businesses”.
5. 2015 “Analysis of the applicability and effectiveness of modern judicial instruments in the transfer of seized and forfeited assets”.
6. 2016 “Study on the Challenges and Solutions Regarding the Management of Complex Asset”.

The gathered information on the indicated studies and the experience of the BIDAL Project in the creation and development of these specialized agencies in the region reflected the importance of strengthening at the academic level the human resources of the specialized institutions in the administration of seized and forfeited assets from the countries to achieve an efficient management of the same.

In this sense, the Dominican Republic has pointed out, as one of the weaknesses in the administration of seized companies, “...the lack of competent personnel, properly trained in the different areas that involves the multiplicity and variety of assets that are seized that consequently must be administrated for a long time by the office in charge of such duty.”¹

¹ Study on challenges and solutions in the administration of complex assets, GELAVEX, CICAD / OEA. Table of weaknesses and strengths in the administration of seized companies by country, response of the Dominican Republic.



Therefore, the Sub-Working Group on Forfeiture and International Cooperation, with the support of the Technical Secretariat and the BIDAL Project and in compliance with the 2016-2017 work plan, worked on the present ***“Study on training need in the subject of administration of seized and forfeiture assets from the OAS member states”***.

The objective of this study is to identify the training needs in the area of administration of seized and forfeited assets in OAS member states, in order to potentiate and strengthen the human resources capacity on the specialized agencies in the administration of seized and forfeited assets.

The specific objectives of the study are:

1. To know if officers of OAS Member States receive training in matters of administration and disposal of seized assets.
2. Identify the main issues in asset management on which countries require specialized training.
3. Outline the training needs that are identified.
4. Obtain an input from which courses, seminars, workshops and more specialized and formal forms of preparation and academic updating can be designed.
5. Identify existing training alternatives in the field.

With the purpose of developing the present study, a consultation on this matter was circulated among all delegations, with the specific question: **Regarding asset management, what are the specific subjects that requires specialized capacitation in your country?** The intention was to obtain a direct response from the officers that operates this subject in each country to identify the main issues related to asset administration in which the countries require specialized training. These would be merged with the limitations identified in the “Study on Challenges and Solutions in the Administration of Complex Assets” and with the information of the modules of the Diploma of the Service of Administration and Disposal of Assets in Mexico, in order to obtain an input of reference for future training programs. Additionally, it would present the alternative trainings available.

The increasing importance of the deprivation of assets held by the criminal organizations, the topic of assets recovery itself, has consequently led to an increase in the number of seized and forfeited assets recovered by



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the States. This implies important challenges related to the management, administration and conservation of these assets.

In order to address this situation, many countries have established their specialized agencies for asset administration or have designated institutions within their systems to execute task. In addition, they have adopted a specific legislation on the administration and management of seized and forfeited assets in the different legal systems of the member states. Consequently, they have developed affective and cost-effective actions for the administration of the assets in such a way that the personnel in charge of such duty must be prepared to do so. This has generated a need for States to approach each other in order to know the different practices adopted and specially the cases in which these institutions or the legislation are still being developed.

In this sense, the training of the officers of the specialized agencies for assets administration is fundamental. This training will allow the development of skills to manage the entire asset administration system that has been implemented in the country so that it can be improved. It is convenient that the officers know the relevant principle, rules, technical and legal instruments to be applied, improve their performance and achieve the highest professional or technical competitiveness for the benefit of the working institution.

Nevertheless, with the exception of the Regional Meeting for Training and Exchanges of Experiences for the specialized agencies in the administration of seized and forfeited assets in Guatemala, El Salvador and Honduras held in 2016 in Honduras, it appear that no workshops, seminars or courses have been designed directed to the officers of the specialized agencies for assets administration or the organization in charge of such function, in OAS member states.

Consequently, officers of these agencies do not receive training on specific issues on the administration, management and conservation of the seized and forfeited assets from organized crime, which they are in charge of. This duty is essential in the chain of the “forfeiture process” in order to ensure the preservation, maintenance and administration of the assets subjects of the related process.



It is also recognized that in some seminars on the legitimacy of capital, financing of terrorism and organized crime, the issue of asset management is considered as necessary, but is not developed as part of the training. This subject is indispensable for a comprehensive approach to the forfeiture proceedings. For this reason, it should be given the importance and attention required, and even take into account the profile of participants in most of the trainings, specifically the officers of the specialized agencies in asset management.

In addition, some forums of experts and specially the Group of Experts for the Control of Money Laundering (GELAVEX) of CICAD / OAS have addressed this issue in their meetings. In a special way for some years, GELAVEX has responsibly addressed this matter, including in the strategic plans and annual plans for the elaboration of documents related to the subject, as indicated.

Also, this hemispheric technical group was promoted and launched the Project for Seized and Forfeited Assets for Latin America (BIDAL), which aims to create, develop and improve the national assets management systems for seized and forfeited assets in CICAD / OAS member states. This optimal initiative has impacted on the countries in the region, especially those in which the project has been implemented.

However, even if these efforts are considered in the training for those officers of the specialized agencies for the administration of assets or the agencies in charge of this function, they only count on text books on these subjects. Or, in the worst case, this information is not even available for the operators of such systems. In both cases, a directed training is fundamental, promoting dialogue, teaching the know-how, the interpretation of the norms in order to adapt them, the experience sharing that goes beyond of having documents available for consultation, which are very important, but could be enhanced by the followed by a directed and constant training program with practical and updated technical or vocational extension courses.

Officers of these agencies and the endorsement of the Governments, there has been an exchange among the countries of the region in order to share their practices in the matter, laws, regulations, and procedures in which some on-site visit have been coordinated. In some cases, Country's specialized agency for asset administration receive an agent from a similar agency from other state. In these meetings between similar officers, training is a very enriching experience for the participants, but the cost of travel and the possibilities of receiving them are limited, resulting that it is not easy to finance these meetings at an economic level.



In addition to the above, Mexico has presented a specialized training alternative for the administration and disposal of assets, where the Administration of Assets Disposal Service (SAE) established a strategic alliance with the *Universidad Panamericana* for the development of a Diploma to train its personnel on the administration and the alienation of assets, which represents an effort to improve the performance of the officers in charge of such functions. In this sense, besides the Diploma in the Administration and Disposal of Assets, they also expanded the trainings available for these officers, which according to their duties also have the possibility of preparing themselves with a diploma in management skill and in management of specialized software by a Master's Degree in Public Administration or studying languages.

The Diploma consists in 120 working hours, and is theoretical – practical. In definitive form for the officers of this institution is an excellent option, not only in acquire knowledge and put it into practice, but to grow within its workplace. Considering that the diploma aims to make efficient the performance of the processes of the assets, companies and financial assets through a better knowledge of the subject

The Diploma consists of 120 hours, and is theoretical - practical. For the officers of such institutions, this is definitely an excellent option not only to acquire knowledge and put it into practice, but also to grow within its workplace. Considering that the diploma aims to make the processes for assets, companies and financial assets performances more efficient through a better understanding of such assets, the attributes of SAE, its legal nature, the operational processes, and that a module on the nature of that institution, this course is addressed to the SAE officers, which could be a limitation for officers from other countries to take this diploma. In addition, it can imply economic costs. Notwithstanding the above, this is not ruled out as an alternative training, and still with that limitation, some adaptations to the program could be made, including the possibility that the course is mostly online.

It is recognized that the learning and the training of human resources are major factors for the development process of these agencies and the relevant legislation, which will affect in the policy that each State that wishes to employ to combat organized crime, considering the impact of leaving criminal organizations with no money to finance crime. For this reason, in a definitive way, a training process aimed at officers of the



agencies that administrates seized and forfeited assets or the entities in charge of this function must be developed.

In this context, it is also necessary to consider the profile of the officers who will receive any type of training, in order to be inclusive and directed to whoever require it, recognizing the variety of task they perform, the professional areas, specialized techniques and experiences in the asset management. Note that these agencies have a human resource dedicated to different disciplines, including business managers, lawyers, accountants, assets inspectors, appraisers, warehouse managers, among others.

In order to accomplish with the objective of this Study, the countries² have provided us with information on the specific topics or subjects that they consider to require specialized training and in that sense it was possible to observe that the answers coincidentally match on the issues identified by the countries. This is the case of Costa Rica, Honduras and Mexico, who consider necessary the training related to legal aspects, such as: criminal proceedings, judicial and administrative eviction, agrarian processes, and registration, commercial law, and public (financial) law. This interest respond to the multiple situations the assets present when they are delivered for administration, regarding its legal situation or nature, and must be resolved to make their administration efficient.

Likewise, Costa Rica and Honduras point out the importance of officers in their specialized agencies for the administration and disposition seized and forfeited assets, to receive training in customer service, negotiation techniques and research for alternative solutions, in advance techniques or effective oral and written communication, which is envisioned by the specialized agencies in order to offer a good public service and in addition, to dispose of the assets using commercial mechanism that require the attention of the client and business strategies.

Costa Rica, Guatemala, Mexico, Honduras and Peru have indicated that they require training in the administration of complex assets, especially in functioning business or companies and specifically regarding the reception of this kind of assets. Mexico makes reference to the importance that during the administration

² The countries that have submitted their responses on what specific issues require specialized training in their country are: Costa Rica, Guatemala, Honduras, Monserrat, Mexico, Panama and Peru. The responses can be found complete in Annex No. 1 of this document.



process of those assets, fundamental rights must not be violated and avoid to incurring administrative and criminal liability. Honduras, on the other hand, exposed that because of the number of productive companies they administrated nowadays (approximately 20), must be trained in commercial and financial law, which will allow them to know the rules related to the commerce for the development of their duty, develop strategies for the administration of the assets and know how to invest to maintain the productivity of the financial assets.

In addition, recognizing the linkage of this issue with the need to create a special fund to solve the maintenance expenses, administration and operation of the assets of complex management and productive, Costa Rica has indicated the management of this fund as a topic to be explored. Mexico, on the other hand, has also indicated the importance of receiving training on the subject of bankruptcies of the companies in order to apply to those that are “breaking”. Guatemala is interested in updating its capacities on budget and money distribution.

The training needs also mentioned the issues related to the ways of disposal or alienation of the assets, specifically, leasing seized assets and the processes of sale or auction. In this sense, Guatemala exposed a present difficulty in the process of disposal of these assets due to their nature and the fact that in Guatemala people are not interested in the purchase of assets from criminal acts and therefore the processes have to be addressed to foreigner buyers.

The issue assets alienation has currently gained relevance, since the intention of specialized agency for the administrations of seized and forfeited assets is not to deposits such objects and the storage generates high costs for the State and does not contribute to the conservation of assets, but to its depreciation. For this reason, the sale of these assets is a practice that has been implemented by most States, and they have also regulated the advance sale of these assets. For this, special procedures, different ways of making sells, and even the use of electronic devices to perform the processes have been created. In this sense, Peru has required training to develop online auctions and Guatemala has presented the development of successful marketing techniques.



Also, it is important to highlight that prior to the definition of these processes of disposition and alienation, the planning or projection of what end should the assets under custody have is fundamental. It depends on the assets' nature and the possibilities that the current normative framework in each state establish. In that sense, Panama has indicated the need to be trained in the subject of projects and planning.

Countries have also shown interest in the subject of monetary evaluations of the assets, especially for Peru and Guatemala, which is fundamental for the management of the inventory and for the development of the processes of disposal of assets. The development of inventory software has been requested by Panama.

However, the exercise of merging and complementing the information found in Annex 1 of this document, which correspond to the countries responses, together with the findings found in the "Study on Challenges and Solutions on Administration Complex Assets", which are summarized in Annex 2 of the present documents, and the content of the modules of the SAE Diploma resulted in the summarization of the following topics as a reference, for when training process for officers of the specialized agencies for the administration of seized and forfeited assets of member states start.

This information is outlined as follow:

Introduction

- International context for asset administration and alienation
- Experiences and Best Practices

Specialized Agency

- Creation of the specialized agency, its legal nature and organizational structure
- Representation and faculties of the agency
- Financing of the organization's activities and ways of employing such money.
- Creation of the management fund and rules to execute this money in actions of maintenance, administration, disposal and other operative expenses.



Seized and forfeited assets on specialized agency administration

Types of assets: movable and immovable property, business, business in progress or productive assets and financial assets

Reception and Administration of the assets

Prior coordination between judicial authorities and specialized agencies in order to deliver and receive the seized assets

Best practices in the reception / delivery of seized assets. Reception of financial assets

Reception of functioning businesses

Case studies

Registration of assets received for administration

Evaluation of the assets

Disposition of assets

Definition of criteria for disposal of assets

Sale, advanced sale, special processes

Donation

Allocation or loan

Destruction

Custody

Conservation for the purposes of the agency

Specialized third parties. Hiring and monitoring mechanisms.

Companies/business and financial assets

Conceptual framework: General principles of business administration

Management of functioning business. Operational continuity of the company

Labor Processes

Special hiring regime

Management Strategies



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Business Liquidation

Legal framework

Process of dissolution and liquidation of companies

Accountability

Financial Assets

Administration and Recovery of Financial Assets

Recovery of Credits and Release of Guarantees

Commercialization of assets

Marketing strategies and market intelligence

Processes available for selling assets. Use of electronic tools for sales processes

Rules of participation

Evaluation and sales prices

After-sales service: attention to buyers and delivery of asset to them

Return

Return of assets

Return of functioning companies or businesses.

Accountability

Administrative complaints

Restitution

Information Technology System

Systems for the registration, monitoring and location of assets under administration

Asset Inventory Control Systems.

As indicated above, the previous topics proposal constitute an input for the update and training of officers of the specialized agencies for the administration of seized and forfeited assets or the agencies that are in



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charge of these functions in the Member States. In this sense, future seminar, courses, workshops, on-site visits and certification on this matter count with this document that outlines the main training needs.

Likewise, the training need indicated by different countries promotes the development or promotion of a specialized training project in this area, the development of a virtual training forum for officers of specialized agencies for the administration of seized and forfeited assets, allowing the academic recognition of the officers of the different seized and forfeited asset management agencies from the OAS member states. It also facilitates the exchange of experiences and the application of best practices that allow the correct reception, administration, sale and disposal of assets from crime.



ANNEX No. 1

| COUNTRY | TOPCIS |
|------------|--|
| COSTA RICA | Training related to: a) Criminal proceedings; b) the process of judicial and administrative eviction; c) agricultural processes; d) registration matter; etc. Training related to "Negotiation techniques and search for alternative solutions"; "Advanced techniques on effective oral and written communication"; "Development of the capacity for analysis and synthesis", etc. In the area of complex asset management, training is required in the management of running businesses and / or companies, as well as in the management of the administrative fund. |
| GUATEMALA | <ol style="list-style-type: none">1. Management and control of business administration2. Training on movable assets and livestock3. Training on maintenance and conservation of assets4. Budget management and money distribution5. Issues of sales and auctions of assets forfeited in Guatemala for foreign persons (because Guatemalans are not interested in the purchase of assets derived from criminal acts)6. Assets monetary evaluation |
| HONDURAS | <ol style="list-style-type: none">1. The administration and custody of insured assets2. Customer Service: as an Administrative Unit of the Public Service, in general, is a priority that the users get a good impression, not only of the attention but of everything that is done daily.3. Mercantile Law: When managing approximately twenty active companies, it is necessary to know all the mercantile mechanisms.4. Registration Right: To have knowledge and truthfully confirm the information provided by the Competent Authority.5. Financial Law: When dealing with different financial assets, the Office for the Administration of Seized Assets (OABI) is responsible for developing strategies for the management of the assets, knowing how to invest to maintain the productivity of financial assets. |
| MONSERRAT | Vehicles |
| MEXICO | <p>The administration of the insured Economic Units and under bankruptcy is an issue in which it is necessary to reinforce the training. Finally, it is important to note that the SAE has designed a diploma to train its personnel on the administration and disposal of assets, so it represents an effort to make the public official of the agency better perform their functions.</p> <p>In the area of the Office of the Attorney General of the Republic on the matter of</p> |



| | |
|--------|---|
| | proper administration of assets when it comes to complex secured assets, specialized training is required in order not to violate fundamental rights and avoid administrative and criminal liability. |
| PANAMA | <ul style="list-style-type: none">. Planning. Projects. Technology for new inventory software. Teamwork. Specialized staff |
| PERU | <ul style="list-style-type: none">* Civil or in rem forfeiture* About the process of reception, registration and management of complex assets: Legal entities, industrial companies in operation, intangible assets - trademarks and patents -, shares that are listed on the Stock Exchange.* On the development of online auctions, lease of seized assets and destination of the rent.* Interoperability and information management between related entities: Judicial Branch, Public Ministry, Registration Agencies and PRONABI.* Updates for a proper valuation and elaboration of technical sheets of assets received, depending on the typology of the assets received. |



ANNEX No. 2

Identification of training needs on the Study of Challenges and Solutions for the Administration of Complex Assets

- Constitution of the specialized agency: determination of their nature, financing, organizational structure, legal regulations.
- Financing of the agency for administration and maintenance of assets.
- Forms of execution of the money for the development of the organization's ordinary activity and for the maintenance, administration and disposal of seized and forfeited assets.
- Previous coordination between the judicial authorities and the specialized agency in the management of the assets in order to deliver and receive the assets that are seized.
- Information sharing between the judiciary authorities and the specialized agency previous to the assets seizure.
- Procedures for taking assets custody. The proper identification and characteristics of the asset.
- Reception and administration of functioning business.
- Financial management of functioning business. Difficulties in establishing the real financial status of the company without illicit capital. Situation of uninsured or frozen bank accounts of the company. Accounting information.
- Maintain the operational continuity of the company.
- Attention on labor, administrative and / or commercial processes, when not having sufficient antecedents.
- Determination of priority management decisions according to the nature of the assets.
- Treatment on productive assets.
- Business and administrative management.
- Recruitment of specialized third parties to support the administration process, management and disposal of assets and supervision mechanisms.
- Special hiring procedures.