

SIXTH MEETING OF MINISTERS OF JUSTICE
OR OF MINISTERS OR ATTORNEYS GENERAL
OF THE AMERICAS
April 24-26, 2006
Santo Domingo, Dominican Republic

OEA/Ser.K/XXXIV.6
REMJA-VI/doc.21/06 rev. 1
4 August 2006
Original: Spanish

CONCLUSIONS AND RECOMMENDATIONS

(Adopted at the fifth plenary session, held on April 26, 2006,
and reviewed by the Style Committee at its meetings
of July 19 and 21 and August 3, 2006)

EXPLANATORY NOTE OF THE STYLE COMMITTEE

These “Conclusions and Recommendations of REMJA-VI” were reviewed by the Style Committee at its meetings of July 19 and 21 and August 3, 2006.

The Style Committee highlights that, with respect to chapter X of these Conclusions and Recommendations, the Final Report of REMJA-VI (REMJA-VI/doc.24/06 rev. 1) contains an account of the considerations expressed on this topic at the third plenary session, and transcribes *verbatim* the interventions made with respect to the creation of a coordinating group composed of the current Chair of the REMJA, together with a representative of the country that was the previous Chair and a representative of the country that will host the next REMJA.

CONCLUSIONS AND RECOMMENDATIONS OF REMJA-VI

Having concluded its deliberations on the various items on its agenda, the Sixth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA-VI), convened under the auspices of the Organization of American States (OAS), adopted the following conclusions and recommendations for transmission, through the Permanent Council, to the General Assembly of the OAS at its thirty-sixth regular session.

I. DRAFT HEMISPHERIC PLAN OF ACTION AGAINST TRANSNATIONAL ORGANIZED CRIME

1. To express its satisfaction with the progress made in preparing the Draft Hemispheric Plan of Action against Transnational Organized Crime, and to urge states to continue making headway so that the negotiations can conclude as soon as possible.
2. Once the negotiation process concludes, to transmit the text agreed upon for the Draft Hemispheric Plan of Action against Transnational Organized Crime to the OAS General Assembly at its next regular session, pursuant to resolutions AG/RES. 2026 (XXXIV-O/04) and AG/RES. 2116 (XXXV-O/05), for adoption, and to move ahead with its implementation.
3. To keep the subject of hemispheric cooperation against transnational organized crime on the REMJA agenda and to report to REMJA-VII on the contents of the Plan of Action agreed to on this subject and on the specific actions undertaken under that Plan.
4. To take special care not to duplicate the efforts of other international bodies addressing this issue, especially at the United Nations. Accordingly, to encourage member states to take part in the next session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, pursuant to paragraphs “g” and “h” of Decision 2/2 of its second session.

II. PENITENTIARY AND PRISON POLICIES

1. To continue consolidating the exchange of information and cooperation among the authorities responsible for penitentiary and prison policies in the OAS member states. Likewise, to strengthen the exchange of information on the programs, methodologies, and training systems of the schools of criminological and penitentiary sciences in the member states, in order to facilitate the coordination of their activities and to plan joint training activities.
2. To convene, as soon as possible and prior to REMJA-VII, the Second Meeting of Officials Responsible for Penitentiary and Prison Policies of the OAS Member States.

3. To enhance, in the framework of the next meeting of those officials, the exchange of information and experiences as well as the strengthening of mutual cooperation on practical solutions for the problems of the states in the following areas, among others, agreed upon at the First Meeting (Recommendation 3): prison overcrowding; private sector participation in prison construction and maintenance, and private sector and NGO participation in provision of goods and services; inmate training, rehabilitation, and re-socialization programs; prison staff training and rules with an emphasis on transparency, the rule of law, and respect for human rights; crime in prisons; alternatives to imprisonment; and integration of penitentiary policies in criminal justice policies. In addition, pursuant to Recommendation 4 of the First Meeting, to consider and formulate recommendations for consolidating and perfecting the Internet-based information system in this field.
4. That, in the framework of the Second Meeting of Officials Responsible for Penitentiary and Prison Policies, member states begin considering, *inter alia*, the following topics:
 - a. Starting, with support from the Inter-American Commission on Human Rights through its Special Rapporteur on the Rights of Persons Deprived of Freedom, an analysis of actual conditions in penitentiaries and coordination regarding best practices and minimum prison standards;
 - b. The feasibility of preparing a hemispheric manual on penitentiary rights taking as a basis the United Nations Standard Minimum Rules for the Treatment of Prisoners;
 - c. Actions to promote the exercise by foreign inmates serving a sentence in a member state's penitentiary of the rights and benefits to which they are entitled under bilateral and multilateral treaties regarding the transfer of sentenced persons, especially the Inter-American Convention on Serving Criminal Sentences Abroad and the Council of Europe's Convention on the Transfer of Sentenced Persons, and to carry out a study of the best way to extend the practice of serving criminal sentences not involving imprisonment in the convicted person's country of origin or habitual residence;
 - d. The rights, duties, and care of persons subject to any form of detention or imprisonment, with a view to considering a possible inter-American declaration on the subject;
 - e. Evaluation of the role of judges responsible for monitoring the execution of sentences.
5. To take note of the presentation by the Special Rapporteur on the Rights of Persons Deprived of Freedom of the Inter-American Commission on Human Rights on best practices and penitentiary reform in the Hemisphere, with a view to its being considered by the aforementioned meeting.

6. Taking into account respective legal systems and constitutional structures, to request, to the extent possible, that the judicial authorities in criminal matters examine current practices with respect to pre-trial detention and imprisonment.

III. CYBERCRIME

1. To express its satisfaction with the outcomes of the Fourth Meeting of the Group of Governmental Experts on Cyber-Crime, held at OAS headquarters, on February 27 and 28, 2006, pursuant to the agreement reached in REMJA-V.
2. To adopt the recommendations made by the Group of Governmental Experts (OEA/Ser.K/XXXIV.6, REMJA-VI/doc.10/06) and request that its Chair report to the next REMJA on progress with respect to their implementation.
3. That, bearing in mind the recommendations adopted by the Group of Governmental Experts and by REMJA-V, and the progress made between that REMJA and this one, efforts continue to strengthen cooperation with the Council of Europe so that the OAS member states can give consideration to applying the principles of the Council of Europe's Convention on Cyber-Crime and to acceding thereto, and to adopting the legal and other measures required for its implementation. Similarly, that efforts continue to strengthen mechanisms for the exchange of information and cooperation with other international organizations and agencies in the area of cybercrime, such as the United Nations, the European Union, the Asia Pacific Economic Co-operation Forum, the Organisation for Economic Co-operation and Development (OECD), the G-8, the Commonwealth, and INTERPOL, in order for the OAS member states to take advantage of progress in those forums.
4. That member states establish specialized units to investigate cybercrime, and identify the authorities who will serve as the points of contact in this matter and expedite the exchange of information and obtaining of evidence. In addition, to foster cooperation in efforts to combat cybercrime among government authorities and Internet service providers and other private sector enterprises providing data transmission services.

IV. MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND EXTRADITION

1. To express its satisfaction with the outcomes of the Second Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, held in Brasilia, Brazil, from September 1 to 3, 2005, and the meetings of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition, held at OAS headquarters on May 5 and 6, 2005, and November 9 and 10, 2005, and in Port-of-Spain, Trinidad and Tobago, on April 5 and 6, 2006; and, to the extent specific conclusions and recommendations of the Second Meeting have not been overtaken by the acts of subsequent meetings of the Working Group on Mutual Assistance in Criminal Matters and Extradition, to recommend the adoption of the

Conclusions and Recommendations of the Second Meeting; and in that regard to specifically recommend:

- a. That the member states that have not yet done so take the measures necessary for the effective implementation of the recommendations adopted at the First Meeting of Central Authorities and Other Experts on Mutual Legal Assistance in Criminal Matters and Extradition, with the aim of fully implementing those recommendations before the Third Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition (Third Meeting), and that at that meeting member states report on the decisions that have been taken in this regard;
- b. To accept Canada's offer to continue to coordinate the work of the Working Group until the later of the next Meeting of Central Authorities, or such time as a new coordinator is named;
- c. That member states, coordinated by the delegation of Argentina, continue to discuss and conclude the preparation of model legislation on mutual assistance in criminal matters, including provisions regarding the use of videoconferencing in this context; and that member states participating in this initiative should review and agree on the proposal at the Third Meeting, for presentation and consideration at REMJA-VII;
- d. That the member states continue to advance in the work coordinated by the delegations of Brazil and Mexico with respect to the studies and guidelines aimed at strengthening hemispheric cooperation in the area of extradition; and that the Third Meeting receive a report and its Chair inform REMJA-VII on the progress of this project;
- e. That member states, coordinated by the delegation of Trinidad and Tobago, continue to discuss the proposal regarding the preparation of model legislation for the "backing of warrants" in the area of extradition; and that the Chair of the Third Meeting report to REMJA-VII on the progress of this project;
- f. That member states, coordinated by the delegation of Canada, continue to discuss and conclude the preparation of the Guide to Best Practices in Mutual Legal Assistance in Criminal Matters; that the proposal be considered at the Third Meeting; and that the Chair of the Third Meeting report to REMJA-VII on the progress of this project;
- g. That member states that have not yet done so submit to the technical secretariat, before the Third Meeting, the information on the legal terms commonly used in their countries in the area of mutual assistance in criminal matters and extradition; that the technical secretariat continue systematizing that information and disseminating it through the private Internet Web pages of the Hemispheric Information Exchange Network for Mutual Legal

Assistance in Criminal Matters and Extradition; and that REMJA-VII be informed of progress in this area;

- h. To express appreciation for and accept the offer made by the delegation of Colombia to host the Third Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition.
2. To continue consolidating and strengthening the Hemispheric Information Exchange Network for Mutual Legal Assistance in Criminal Matters and Extradition, in its public, private, and secure electronic communication system components and, in that connection, to:
 - a. Express its appreciation to Canada for taking the lead in efforts to make this Network a reality and for the support and financing provided for its establishment and operations;
 - b. Request the OAS General Secretariat, in coordination with the Working Group, to continue providing the services needed to continue completing and updating the Network's public and private information components and to continue providing technical assistance and training in connection with the secure electronic communication system;
 - c. Recommend that the OAS General Secretariat identify means to finance and maintain the Network and explore permanent additional sources of funding, and call on member states to consider making contributions, to ensure the continuity and enhancement of this important and useful initiative;
 - d. Encourage the Third Meeting to consider formulating recommendations for developing reciprocal cooperation between the Network and other information exchange networks, including "IberRED."

V. DEVELOPMENT AND STRENGTHENING OF JUSTICE SYSTEMS IN THE REGION

REMJA-VI expresses its satisfaction with the *Report on Judicial Systems in the Americas 2004-2005*, prepared and presented by the Justice Studies Center of the Americas (JSCA), and requests the Center to continue contributing to the processes of reform and strengthening of the criminal justice systems of the member states, through its activities of research, evaluation, dissemination, training, and technical support. In this regard REMJA-VI urges the Center to continue publishing the above-mentioned Report.

VI. JUSTICE STUDIES CENTER OF THE AMERICAS (JSCA)

1. To recognize the efforts and activities of the JSCA reflected in its Report of Activities and encourage the Center to continue its valuable work.

2. To recognize that the Funding Plan presented by the Center at the request of REMJA-V envisions a program of suggested voluntary contributions by member states.
3. To recommend that this proposed plan of voluntary contributions be presented to the General Assembly at its next regular session for consideration, taking into account that voluntary contributions by member states are indispensable to fund the Center's basic operating costs.
4. To request that the Center include in its work plan additional activities contemplated by the REMJA, to the extent that additional resources are provided for such activities.

VII. HEMISPHERIC COOPERATION AGAINST TRAFFICKING IN PERSONS

1. To express its satisfaction with the holding of the Meeting of National Authorities on Trafficking in Persons, on Isla Margarita, Bolivarian Republic of Venezuela, from March 14 to 17, 2006, pursuant to the recommendation of REMJA-V and the mandates of the OAS General Assembly, contained in resolutions AG/RES. 2019 (XXXIV-O/04), AG/RES. 2026 (XXXIV-O/04), and AG/RES. 2118 (XXXV-O/05). To express its appreciation to the Government of the Bolivarian Republic of Venezuela for hosting that meeting, and to acknowledge its Conclusions and Recommendations, as set forth in document OEA/Ser.K/XXXIV.6, REMJA-VI/doc.8/06. OAS organs, agencies, entities, and mechanisms executing the various recommendations should adopt an integrated and crosscutting approach to this matter, as with other manifestations of transnational organized crime.
2. To keep the subject of trafficking in persons on the REMJA agenda, and to request that REMJA-VII be informed of progress with respect to the Conclusions and Recommendations of the Meeting of National Authorities on Trafficking in Persons.
3. That those states that have not yet done so consider signing, ratifying, or acceding to, as the case may be, the international instruments related to combating trafficking in persons, especially the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and that, as a first step toward implementing it, they define the crime of trafficking in persons in their domestic legislation.

VIII. HEMISPHERIC COOPERATION ON FORENSIC RESEARCH

1. To call on the OAS General Secretariat to coordinate training, skills-building, and cooperation in the area of forensic research, as duly requested by member states. Among other topics in this area, member states could focus on:

- a. Managing issues, practices, and needs related to forensic research;
- b. Establishing inter-institutional cooperation mechanisms in the area of forensic sciences, including exchange among member states of forensic evidence and acquired technical skills;
- c. Training and skills-building in various fields of forensic science, including forensic chemistry, forensic information technology, forensic analysis, and forensic medicine;
- d. Convening, as soon as possible and before REMJA-VII, a meeting of forensic specialists to assess the state of forensic science advances in the Hemisphere with the aim of promoting, among other issues, information sharing and practical cooperation in this field and the possible preparation of a database on industries specializing in the sale of forensic laboratory equipment, in order to take advantage of the most affordable purchasing options.

IX. HEMISPHERIC LEGAL COOPERATION ON CIVIL, TRADE, AND FAMILY LAW ISSUES: THE ROLE OF CENTRAL AUTHORITIES

1. To consider promoting the exchange of national experiences and legal and judicial cooperation in the framework of the inter-American system, for those member states that are parties to the various inter-American conventions on civil, trade, and family law issues.
2. To recommend to member states that they designate central authorities under the various conventions of the inter-American system that so require and to which they are a party.
3. To request the OAS General Secretariat to collect and post that information on the OAS Internet Website.

X. THE REMJA PROCESS

REMJA-VI recommends continuing progress toward strengthening the hemispheric cooperation processes developed in the REMJA framework and to that end agrees on the following:

1. Between successive REMJAs, the Chair of the most recent REMJA would continue to act in that capacity until the selection of his/her successor at the subsequent REMJA. The REMJAs should be held every two years.
2. The Chair of the REMJA will convene, together with the country that served as the previous Chair, a technical meeting open to all member states, with the support of the OAS General Secretariat, which will prepare a comprehensive draft document on the

REMJA process and submit it to REMJA-VII for consideration. This draft proposal should address, *inter alia*, the following matters:

- a. The organization and modus operandi of the REMJA and the mechanisms and procedures for establishing its agenda and following up on its recommendations;
 - b. Relationships between the REMJA and the various groups that it has established, may establish, or may terminate, as appropriate. For each group the Regulations shall address, among other things, its respective sphere of competence;
 - c. Coordination and/or cooperation relationships with the pertinent organs, agencies, entities, and mechanisms of the OAS;
 - d. Coordination and/or cooperation relationships with other related cooperation processes, such as those between judicial authorities at the subregional level, or in the framework of other international organizations;
 - e. Relationship between the REMJA and the Justice Studies Center of the Americas (JSCA);
 - f. Technical secretariat and administrative support for the REMJA provided by the OAS General Secretariat.
3. To accept the delegation of Canada's offer to convene a special meeting of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition to consider how to order the work of REMJA related to the strengthening of mutual legal assistance and extradition in the Americas, recognizing as a source for the discussion, the recommendations of the Second Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, and to report thereon to the technical meeting referred to in paragraph 2, or to REMJA-VII, whichever takes place earlier.
 4. Subject to existing and extra-budgetary resources, that the technical and administrative support for the meetings referred to in paragraphs 2 and 3 be provided by the OAS General Secretariat.

XI. ACKNOWLEDGEMENTS

To thank the authorities of the Dominican Republic for the outstanding efforts and efficient work of the Chair of the plenary and of the Chair of the drafting working group, Ambassador Roberto Álvarez. Both tasks were diligently performed by the host country and were fundamental to the success of this meeting.