

SEVENTH MEETING OF MINISTERS OF JUSTICE OR
OTHER MINISTERS OR ATTORNEYS GENERAL
OF THE AMERICAS

REMJA VII

OEA/Ser.K/XXXIV.7.1
REMJA-VII/doc.7/08 rev. 1
30 April 2008
Original: English

CONCLUSIONS AND RECOMMENDATIONS OF REMJA-VII*

* This "Conclusions and Recommendations" were approved by consensus during the plenary session held on April 30, 2008, in the framework of the Seventh Meeting of Ministers of Justice or other Ministers or Attorneys General of the Americas (REMJA-VII) held at OAS Headquarters in Washington, D.C., United States.

CONCLUSIONS AND RECOMMENDATIONS OF REMJA-VII

REMJA-VII reaffirms that the damage caused, and the threat posed to our citizens, our democracies, and the economic and social development of our states, by the different manifestations of crime in the hemisphere, make it necessary and urgent to continue to strengthen and enhance mutual legal and judicial cooperation at the hemispheric level, as well as to ensure that member states have the laws, procedures, and legal mechanisms in place to enable them to effectively combat transnational organized criminals, and to deny them safe haven, as well as the proceeds and instrumentalities of their illegal conduct. Likewise, REMJA-VII reaffirms that it will continue its every effort to bring about proper access to justice for the inhabitants of the Americas and thereby strengthen the security of the region's societies; therefore it undertakes to promote the exchange of national experiences and legal and judicial cooperation on civil, trade, family and child law issues.

Having concluded its deliberations on the various items on its agenda, the Seventh Meeting of Ministers of Justice or other Ministers or Attorneys General of the Americas (REMJA-VII), 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-eighth regular session:

I. HEMISPHERIC TRENDS AND LEGAL AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

Certain processes have taken shape within the REMJA that have proven to be very useful and effective in enhancing legal and judicial cooperation in criminal matters. Noteworthy among them are those related to support for justice reform through the establishment of the Justice Studies Center of the Americas (JSCA); the development of mechanisms for hands-on cooperation, through meetings, networks, and other means of sharing information, experiences, training, and technical cooperation among national officials competent in such areas as mutual assistance in criminal matters and extradition, cyber- crime, trafficking in persons, penitentiary and prison policies, and forensic investigation; the initiative to draw up and adopt a hemispheric plan of action against transnational organized crime; and the forging of many other agreements expressed in the recommendations of REMJA and its working groups and technical meetings, as well as the procedures established to follow up on their implementation; and the reinforcement of cooperation with other regional, sub-regional, and international organizations and bodies in the various areas addressed by the REMJA and its working groups and technical meetings.

REMJA-VII has had the opportunity to receive reports on the progress made since REMJA-VI on the aforementioned thematic areas, and to make specific recommendations on each of them, as expressed in the sections below.

However, REMJA-VII deems it important to make the following recommendations of a general nature in order to continue strengthening legal and judicial cooperation to address hemispheric trends in the criminal area, such as illicit drug trafficking, corruption, and other transnational crimes:

1. That the OAS member states that have not yet done so sign and ratify, ratify, or accede to, as appropriate, as quickly as possible:

- a. The Inter-American Convention against Corruption, and the Declaration on the Mechanism for Follow-up for its implementation (MESICIC) (“Document of Buenos Aires”);
 - b. The Inter-American Convention on Mutual Assistance in Criminal Matters, and its Optional Protocol;
 - c. The Inter-American Convention on Serving Criminal Sentences Abroad;
 - d. The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA);
 - e. The United Nations Convention against Transnational Organized Crime, and its protocols; and
 - f. The United Nations Convention against Corruption.
2. That the OAS member states that have not yet done so adopt the legislation and other measures required under each of their legal systems to facilitate and ensure implementation of the aforementioned conventions and to provide effective, efficient, and expeditious cooperation in the framework of those conventions, *inter alia*, in mutual assistance, extradition, and the confiscation and/or seizure of assets.
 3. That the OAS member states, as necessary, and in full observance of the principles of their legal systems, review domestic laws and enforcement mechanisms with a view towards modernizing the tools to combat current and emerging transnational organized crime challenges, including implementation of laws and other measures:
 - a. To ensure that those engaged in transnational organized crime be prosecuted by member states whose laws they violate;
 - b. To combat international trafficking in illegal narcotics, as well as precursor chemicals used to make synthetic drugs;
 - c. To strengthen import and export control laws in order to prevent illicit trafficking of firearms;
 - d. To strengthen the legal systems to prevent drug trafficking;
 - e. To facilitate, when their legal systems allow, and with full respect of civil rights and due process, the interception of wire, oral, and electronic communications and the sharing of that information with other member states for law enforcement purposes;
 - f. To consider, with full respect for state sovereignty, and in accordance with the principles of their domestic legal systems and the provisions of Article 19 of the United Nations Convention against Transnational Organized Crime, the possibility of entering into bilateral or multilateral agreements which set forth a legal framework for joint investigation teams, as well as the necessity for

national legislations to progressively consider this new mechanism for mutual assistance between States.

- g. To promote effective financial investigations aimed at forfeiture of proceeds and instrumentalities of transnational organized crime, including, where it is consistent with its national legal structure, a non-conviction based forfeiture;
 - h. To consider, when its domestic legal system allows and in accordance with international commitments that have been undertaken, the enforcement of foreign orders for freezing, seizure and confiscation, taking into account matters related to asset management prior to confiscation, and the efficient liquidation, proper maintenance and return of forfeited assets;
 - i. To utilize all possible advancements in forensic technology in the fight against transnational organized crime.
 - j. To ensure the effective protection of victims and witnesses, within the framework of criminal procedures, while at the same time promoting that their relocation become viable, through expedited cooperation mechanisms, in accordance with the principles of their domestic legal systems, and consistent with the provisions of articles 24 and 25 of the UN Convention against Transnational Organized Crime; and to urge the OAS member states that have not yet done so, to adopt the legislation and other measures required to that end, within each of their legal frameworks. For this reason, to request that the Secretariat of Legal Affairs of the OAS General Secretariat, prepare a study which would include proposals to facilitate cooperation between interested states in the area of protection of victims and witnesses, and submit it for consideration at the next meeting of the Working Group on Mutual Assistance in Criminal Matters and Extradition. Additionally, this study will also be presented to the Technical Group on Transnational Organized Crime.
4. That the OAS member states that have not yet done so take the necessary measures to establish, and ensure the operations of, the central authorities for reciprocal cooperation in mutual assistance in criminal matters, extradition, and the confiscation and/or seizure of assets, and to ensure that they have the human, material, and financial resources needed to perform their functions effectively, efficiently, and expeditiously.
5. That the OAS member states that have not yet done so take the necessary measures to facilitate, under their constitutional systems, channels of direct communication and ongoing contact among the central authorities responsible for reciprocal cooperation in mutual assistance in criminal matters, extradition, and the confiscation and/or seizure of assets, and to step up procedures and reduce or eliminate factors that contribute to delays in the transmission of and response to requests for cooperation in mutual assistance in criminal matters, extradition, and the confiscation and/or seizure of assets.

6. That the OAS member states take the necessary measures to strengthen the effectiveness of national and international agreements by increasing and developing new economic and human resources to assist in their implementation.
7. That, given the crosscutting nature of cooperation in mutual assistance in criminal matters, extradition, and the confiscation and/or seizure of assets, the REMJA come together as a forum for hemispheric cooperation in these areas, and that the OAS entities, organs, agencies, groups, or mechanisms, in the framework of their respective spheres of competence, take appropriate measures to facilitate and strengthen their cooperation with the REMJA in said areas and to avoid duplication of efforts.
8. That, likewise, efforts continue to strengthen information sharing and cooperation between the REMJA and measures taken in other sub-regional, regional, or international organizations, forums, mechanisms, or bodies, in mutual assistance in criminal matters, extradition, and the confiscation and/or seizure of assets.

II. HEMISPHERIC PLAN OF ACTION AGAINST TRANSNATIONAL ORGANIZED CRIME

1. To express its satisfaction with the progress made in this area in the framework of the OAS, based on agreements that took shape within the REMJA context, reflected, *inter alia*, in the adoption of the Hemispheric Plan of Action against Transnational Organized Crime [resolution CP/RES. 908 (2567/06)] and in the First Meeting of the Technical Group on Transnational Organized Crime, held pursuant to section III of that Plan, in Mexico City, on July 26 and 27, 2007, as well as in the formulation of the conclusions and recommendations of said meeting (document GT/DOT-1/doc.6/07 rev. 1). To express its gratitude to the Government of Mexico for having sponsored this meeting, welcoming the conclusions and recommendations of this first event.
2. To urge the members of the Technical Group on Transnational Organized Crime to meet at least twice yearly.
3. To instruct the Technical Group, with support from the General Secretariat, to present and approve its work plan at its second meeting, so that the plan may be adopted by the Permanent Council, so as to ensure the full implementation of the Hemispheric Plan of Action against Transnational Organized Crime and of the Palermo Convention and the protocols thereto.
4. That, pursuant to section I.1 of the Hemispheric Plan of Action against Transnational Organized Crime, this item remain on the REMJA agenda and that REMJA-VIII be informed of the specific activities carried out under the Plan.

III. CYBERCRIME

1. To express its satisfaction with the outcomes of the Fifth Meeting of the Group of Governmental Experts on Cyber-Crime, held at OAS headquarters, on November 19 and 20, 2007, pursuant to the agreement reached in REMJA-VI.

2. To adopt the recommendations made by the Group of Governmental Experts at its Fifth Meeting (CIBER-V/doc.3/07 rev. 1) 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 the previous REMJA meetings, the states consider applying the principles of the Council of Europe's Convention on Cyber-Crime, acceding thereto, and adopting the legal and other measures required for its implementation. Similarly, to this end, that technical cooperation activities continue to be held under the auspices of the OAS General Secretariat, through the Secretariat for Legal Affairs, and the Council of Europe.

Similarly, that efforts be continued to strengthen the exchange of information and cooperation with other international organizations and agencies in the area of cybercrime, so that the OAS member states may take advantage of progress in those forums.

4. That the Secretariats of the Inter-American Committee against Terrorism (CICTE) and the Inter-American Telecommunication Commission (CITEL) and the Working Group on Cyber-Crime, continue developing the permanent coordination and cooperation actions to ensure the implementation of the Comprehensive Inter-American Cybersecurity Strategy adopted through OAS General Assembly resolution AG/RES. 2004 (XXXIV-O/04).
5. That the Working Group on Cyber-Crime meet before REMJA-VIII, to consider, among other topics, the progress made in implementing the recommendations adopted at its Fifth Meeting, and that it report to REMJA-VIII on the outcomes achieved in this regard.

IV. MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND EXTRADITION

1. To express appreciation for the work undertaken by the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition, coordinated by Canada between 2001 and 2007, in promoting the mandates of the REMJA and to support the dissemination on the Hemispheric Information Exchange Network of documents generated by its activities.
2. To express its satisfaction with the Third Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, held pursuant to the conclusions and recommendations of REMJA-VI, in Bogotá, Colombia, on September 12, 13, and 14, 2007.
3. To note with satisfaction the holding in Trinidad and Tobago, on March 5, 6, and 7, 2008, of a meeting of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition, with the assistance of Colombia as Coordinator and Canada as Vice-Coordinator, for the furtherance of recommendation 5 of the Third Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, and to support the dissemination on the

Hemispheric Information Exchange Network of documents generated from that meeting.

4. To approve the recommendations adopted at the Third Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, published in document PENAL/doc.26/07 rev.1 and, in that connection, to request that its Chair report to the next REMJA on progress with respect to their implementation.
5. To actively consider the use of the guidelines for “Best Practices with respect to the Collection of Statements, Documents, and Physical Evidence”; “Best Practices with respect to Mutual Legal Assistance in Connection with the Investigation, Freezing, Seizure, and Confiscation of Assets that are either the Proceeds of or Instrument for Crimes”; and the “Questionnaire on Legal Cooperation in Criminal Matters” (document PENAL/doc.19/07 rev. 1) to orient States in the areas the documents refer to.
6. To actively consider the use of the “Model Law on Mutual Assistance in Criminal Matters” (document PENAL/doc.20/07 rev. 1) as a guide for development of national legislation in this field.
7. To express appreciation for and accept the offer made by the delegation of El Salvador to host the next meeting of the Working Group on Mutual Assistance in Criminal Matters and Extradition, which will take place in 2009.
8. To continue the development of studies and guidelines destined to strengthen hemispheric cooperation in the area of extradition; and that the Chair of the next meeting of the Working Group on Mutual Assistance in Criminal Matters and Extradition report to REMJA VIII on the progress of this project.
9. To continue the discussions on the current project on the preparation of model legislation for the “backing of warrants” in the area of extradition; and that the Chair of the next meeting of the Working Group on Mutual Assistance in Criminal Matters and Extradition report to REMJA-VIII on the progress of this project.
10. To continue supporting the strengthening of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition (the Network) and, in that connection, it:
 - a. Expresses its recognition of the progress made by the OAS General Secretariat to elicit additional financing for the Network and its consolidation, maintenance, and extension to all OAS member states.
 - b. Requests states to respond, through their respective central authorities on mutual assistance in criminal matters and extradition, to the requests by the OAS General Secretariat that they complete or update the information on them disseminated in the public and private components of the Network. It also recommends that the OAS General Secretariat continue maintaining those components as an integral part of the OAS Website.

- c. Supports use of the secure electronic communication system as a useful, effective, and efficient tool for direct exchanges of information among the authorities responsible for mutual assistance in criminal matters and extradition and requests the OAS General Secretariat to continue providing, within the resources at its disposal, technical support and assistance services, in addition to online training, to said authorities.
- d. Expresses its gratitude to Spain for the financing it has provided for the operations and strengthening of the Network and for the exchange of information it has fostered with a view to exploring whether practical forms of reciprocal cooperation between the Network and IberRED can be achieved.
- e. Expresses its appreciation to Canada for its technical and financial support in relation to the establishment of the Network and subsequent support until 2006.
- f. To invite OAS member states and OAS permanent observers to consider making voluntary contributions to finance the Network.

V. PENITENTIARY AND PRISON POLICIES

- 1. To express appreciation for and accept the offer made by the delegation of Chile to host the Second Meeting of the Working Group on Penitentiary and Prison Policies, which will take place on August 27, 28 and 29, 2008 in the city of Valdivia.
- 2. To recommend that said meeting give in-depth consideration to the exchange of information and experiences and the strengthening of mutual cooperation on practical solutions for the problems of states in, among other areas, those referred to in recommendation II.3 of REMJA-VI, and as regards systems for awarding penitentiary infrastructure concessions, as one of the possible solutions to overcrowding in penitentiary facilities. Likewise, to begin to consider, among other topics, those mentioned in recommendation II.4 of REMJA-VI.
- 3. To request that REMJA-VIII be informed of the outcomes of the Second Meeting of the Working Group on Penitentiary and Prison Policies.
- 4. To express its gratitude to the Inter-American Commission on Human Rights (IACHR), and its Special Rapporteur for Persons Deprived of Liberty, for having prepared and presented the document "Declaration of Principles on the Protection of Persons Deprived of Freedom in the Americas" and request that the IACHR present this document at the next meeting of the Working Group on Penitentiary and Prison Policies

VI. HEMISPHERIC COOPERATION ON FORENSIC RESEARCH

- 1. To take note of the report presented by the delegation of the Dominican Republic on preparations for the meeting of specialists on forensic sciences, to be held in the second half of 2008 to consider the items referred to in recommendation VIII.d of REMJA-VI.

2. To request that REMJA-VIII be informed of the results of the meeting of specialists on forensic sciences and other action taken at that meeting.

VII. HEMISPHERIC COOPERATION AGAINST TRAFFICKING IN PERSONS

1. To take note of the report on the progress made with respect to the Conclusions and Recommendations of the First Meeting of National Authorities on Trafficking in Persons, held on the Island of Margarita, the Bolivarian Republic of Venezuela, on March 14, 15, 16 and 17, 2006, pursuant to recommendation VII.2 of REMJA-VI and operative paragraph 3.d of OAS General Assembly resolution AG/RES. 2348 (XXXVII-O/07).
2. To support the convocation of the Second Meeting of National Authorities on Trafficking in Persons, pursuant to operative paragraph 5 of OAS General Assembly resolution AG/RES. 2348 (XXXVII-O/07).
3. To reaffirm the subject of hemispheric cooperation against trafficking in persons as a standing item on the REMJA agenda, and to request that REMJA-VIII be informed of progress with respect to this matter and, in particular, with respect to the results of the Second Meeting of National Authorities on Trafficking in Persons, and of the meeting of the Technical Group on Transnational Organized Crime.
4. That those states that have not yet done so consider signing, ratifying, or acceding to, as the case may be, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, of the United Nations Convention against Transnational Organized Crime, and that they define human trafficking as a crime under their domestic law.

VIII. DEVELOPMENT AND STRENGTHENING OF JUSTICE SYSTEMS IN THE REGION

To express its satisfaction with the Report on Judicial Systems in the Americas 2006-2007, prepared and presented by the Justice Studies Center of the Americas (JSCA), and to request 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-VII urges the JSCA to continue publishing the above-mentioned Report.

IX. JUSTICE STUDIES CENTER OF THE AMERICAS (JSCA)

1. To congratulate the JSCA on its work in the Americas since REMJA-VI, especially in evaluating the criminal justice reform process and its leadership in forming a regional working group to promote improvements in civil justice, decisively supporting its promotion of innovative measures calling for reform in this area. It also values the proposals delivered to strengthen the REMJA process.
2. To reiterate its appeal to member states to consider making voluntary contributions to the Justice Studies Center of the Americas (JSCA) to cover its basic costs.

3. To invite the Permanent Observer States and other donors, as set out in article 74 of the General Standards to govern the operations of the General Secretariat and other applicable rules and regulations to make voluntary contributions to the JSCA.

X. HEMISPHERIC LEGAL COOPERATION IN THE AREA OF FAMILY AND CHILD LAW

1. Strengthen the exchange of national experiences and legal and judicial cooperation within the framework of the inter-American system, for those Member States that are a part of the various inter-American conventions, and particularly those conventions on family and child law, in areas such as adoption, return of minors, or child support.
2. To recommend to Member States that they designate central authorities under the various conventions in the inter-American system that so require and to which they are party.
3. To request the OAS General Secretariat, in coordination with the Inter-American Children's Institute (IIN), the compilation and dissemination of that information on the OAS Website, as well as the provision of support for these activities.
4. To recommend that OAS member states consider ratifying or acceding to, as the case may be, the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, adopted in November 2007.

XI. THE REMJA PROCESS

1. To express its satisfaction with the holding of the technical meeting, pursuant to recommendation X.2 of REMJA-VI, celebrated at OAS headquarters on March 14, 2008, where significant progress was made on the discussion of the Draft Document on the REMJA Process ("Document of Washington") (REMJA/RT/EPD/doc.2/08 rev. 1), taking into account the recommendation of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition at their meeting celebrated in Montreal, Canada, in March 2007.
2. To adopt the Document on the REMJA Process ("Document of Washington") (REMJA-VII/doc.6/08 rev.1), with the observations made during the informal consultations held on April 28 and 29, 2008, and to request the OAS General Secretariat to distribute the final version of the document and publish it, as stipulated therein.
3. To thank the delegation of the Dominican Republic, which chaired REMJA-VI; the delegation of Mexico, which chaired REMJA-V; and the delegation of the United States, which hosted this meeting, REMJA-VII, for coordinating the convocation of the technical meeting and the drafting and negotiation of the above-mentioned Document on the REMJA Process ("Document of Washington").
4. Similarly, to express appreciation to the delegation of Canada for convening the special meeting of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters, held in Montreal, Canada, on March 26 and 27, 2007, the report of which was presented to and considered by the technical meeting on the REMJA

process, pursuant to recommendation X.3 of the Conclusions and Recommendations of REMJA-VI.

XII. VENUE OF REMJA-VIII

To express appreciation for and accept the offer made by the delegation of Brazil to host REMJA-VIII, which will take place in 2010.