

MEETING OF EXPERTS ON COOPERATION
WITH RESPECT TO THE DENIAL OF SAFE
HAVEN TO CORRUPT OFFICIALS AND THOSE
WHO CORRUPT THEM, THEIR EXTRADITION,
AND THE DENIAL OF ENTRY AND RECOVERY
OF THE PROCEEDS OF CORRUPTION AND THEIR
RETURN TO THEIR LEGITIMATE OWNERS

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FINAL REPORT

**MEETING OF EXPERTS ON COOPERATION WITH RESPECT TO THE DENIAL OF
SAFE HAVEN TO CORRUPT OFFICIALS AND THOSE WHO CORRUPT THEM,
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OWNERS**

I. BACKGROUND

The Meeting of Experts on Cooperation with Respect to the Denial of Safe Haven to Corrupt Officials and Those Who Corrupt Them, Their Extradition, and the Denial of Entry and Recovery of the Proceeds of Corruption and Their Return to Their Legitimate Owners, in implementation of the Plan of Action of Managua on Additional Concrete Measures to Increase Transparency and Combat Corruption within the Framework of the Inter-American Convention against Corruption (EPCICOR/doc.4/04 rev. 5 corr. 1, paragraph 9) and resolutions AG/RES. 2034 (XXXIV-O/04, operative paragraph 6.c) and CP/RES. 875 (1460/05), was held at the headquarters of the Organization, in Washington, D.C., United States of America, on March 28 and 29, 2005.

The background to the meeting was:

- The Inter-American Convention against Corruption, adopted at the OAS Specialized Conference, held in Caracas, Venezuela, in March 1996.

- The Declaration of Nuevo León, adopted at the Special Summit of the Americas, held in Monterrey, Mexico, in January 2004, at which the Heads of State and Government indicated that “[i]n the framework of applicable national and international law, we commit to deny safe haven to corrupt officials, to those who corrupt them, and their assets; and to cooperate in their extradition as well as in the recovery and return of the proceeds of corruption to their legitimate owners. We also commit to enhance regional mechanisms for mutual legal assistance in criminal matters and their implementation.”

- Conclusions and Recommendations of Concrete Measures to Strengthen MESICIC (SG/MESICIC/doc.103/04 rev. 6), adopted by the Conference of States Parties, in April 2004.

- Conclusions and Recommendations of REMJA-V (REMJA-V/doc.7/04 rev.4), held at OAS headquarters in April 2004, which said that “prior to REMJA-VI, each Member State, in conformity with its national laws and applicable international regulations, shall adopt domestic

legal measures that deny safe haven to corrupt officials, to those who corrupt them, and their assets and shall exchange information on the measures they have adopted.”

- The Declaration of Quito on Social Development and Democracy, and the Impact of Corruption [AG/DEC. 36 (XXXIV-O/04)], adopted by the OAS General Assembly at its thirty-fourth regular session, held in Quito, Ecuador, in June 2004, in which Ministers of Foreign Affairs and Heads of Delegation of the member states of the Organization of American States undertook “in the framework of applicable national and international law, to deny safe haven to corrupt officials, to those who corrupt them, and to the proceeds of corruption; and to cooperate in their extradition as well as in the recovery and return of those proceeds of corruption to their legitimate owners; and ... to enhance regional mechanisms for mutual legal assistance in criminal matters.”

- Resolutions AG/RES. 2022 (XXXIV-O/04), “Joint Efforts of the Americas in the Struggle against Corruption and Impunity”; and AG/RES. 2034 (XXXIV-O/04), “Follow-up on the Inter-American Convention against Corruption and its Program for Cooperation,” adopted by the OAS General Assembly at its thirty-fourth regular session, in Quito, Ecuador, in June 2004.

- The Declaration of Managua (EPCICOR/doc.5/04 rev.6) and the Plan of Action of Managua on Additional Concrete Measures to Increase Transparency and Combat Corruption within the Framework of the Inter-American Convention against Corruption (EPCICOR/doc.4/04 rev.5 corr.1), adopted at the Meeting of the States Parties to the Inter-American Convention against Corruption, held in Nicaragua, in July 2004, in which the States Parties to the Inter-American Convention against Corruption reiterate the commitment that “[i]n accordance with applicable national and international law, the States Parties shall deny safe haven to corrupt officials and to those who corrupt them, cooperate in their extradition, and deny the entry and attempt the recovery and return of the proceeds of corruption to their legitimate owners.”

III. AGENDA AND SCHEDULE

1. Agenda

As instructed by the Permanent Council in resolution CP/RES. 875 (1460/05), attached hereto as Appendix A, the Committee on Juridical and Political Affairs decided the following agenda for the Meeting of Experts on Corruption with Respect to the Denial of Safe Haven to Corrupt Officials and Those Who Corrupt Them, Their Extradition, and the Denial of Entry and Recovery of the Proceeds of Corruption and Their Return to their Legitimate Owners:

1. Background, developments, and challenges at the hemispheric level

2. Other international developments:

2.1 General framework and recovery of proceeds

- The United Nations Convention against Corruption and developments in the area of extradition and recovery of proceeds
- Experience of the Office of the Ad Hoc Prosecutor of Peru in the recovery of proceeds of corruption
- Challenges, instruments, and concrete experiences in the recovery of proceeds of corruption

- Developments in the recovery of proceeds of corruption, in the framework of the Commission for Africa
 - Developments and outlook within the Commonwealth: Experience of the Working Group on Assets Repatriation
- 2.2 Denial of safe haven to and extradition of corrupt officials and those who corrupt them
- The process of cooperation in mutual legal assistance in criminal matters and extradition in the framework of the Meetings of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA)
 - Difficulties and challenges in strengthening cooperation in the denial of safe haven to corrupt officials and those who corrupt them
3. Inputs from civil society on the three thematic areas of the Meeting of Experts
4. Exchange of information and experience among OAS member states
- Cooperation with respect to the denial of entry and recovery of the proceeds of corruption and their return to their legitimate owners
 - Cooperation with respect to extradition of corrupt officials and those who corrupt them
 - Denial of safe haven to corrupt officials and to those who corrupt them
5. Recommendations of the Meeting

2. Schedule

The Committee on Juridical and Political Affairs prepared the draft agenda (REXCOR/doc.1/05) containing the agenda transcribed in the paragraph above, which was adopted by the Meeting of Experts at its first working session, held on March 28, 2005.

IV. REFERENCE DOCUMENTS

The aforementioned Meeting of Experts referred to the following reference documents:

1. The 1996 Inter-American Convention against Corruption
2. The 2003 United Nations Convention against Corruption, Convention of Mérida
3. Declaration of Nuevo León, adopted at the Special Summit of the Americas, January 2004
4. Conclusions and Recommendations of REMJA-V, April 2004
5. Declaration of Managua, adopted at the Meeting of States Parties to the Inter-American Convention against Corruption, held in July 2004.

6. Plan of Action of Managua on Additional Concrete Measures to Increase Transparency and Combat Corruption within the Framework of the Inter-American Convention against Corruption, adopted in July 2004.
7. Recommendation of the Meeting of Central Authorities and Other Experts on Mutual Legal Assistance in Criminal Matters, May 2003.

V. PROCEEDINGS

A. Inaugural session

On March 28, 2005, at 9:30 a.m., the Chair of the Committee on Juridical and Political Affairs of the Permanent Council, Ambassador Alberto Borea Odia, Permanent Representative of Peru to the OAS, declared open the above-mentioned Meeting of Experts.

On behalf of the OAS General Secretariat, the Director of the Department of Legal Affairs and Services, William M. Berenson, then cordially welcomed the participants. In his presentation, he referred to the Inter-American Convention against Corruption as the basis used in drafting the United Nations Convention against Corruption and to the importance of this meeting to continue the process of cooperation and information exchange among the states in the fight against corruption.

Subsequently, in his opening remarks, Ambassador Alberto Borea Odia noted, *inter alia*, that corruption is a selfish act that generates human inequality and that the Meeting was seeking to make headway in strengthening cooperation with a view to preventing impunity and effectively combating corruption.

Election of the Chair

On the nomination of the delegation of the Bolivarian Republic of Venezuela, seconded by the delegation of the Argentine Republic, the Meeting elected by acclamation as its Chair Mr. Walter Miguel Hoflich Cueto, Expert representing Peru.

Election of the Vice Chair

Subsequently, on the nomination of the delegation of Mexico, seconded by the delegation of Paraguay, the Meeting elected by acclamation as its Vice Chair Ms. Gladis Young, Expert of Jamaica.

B. First working session

As indicated in the agenda adopted by the Meeting, the first working session then began.

1. Background, developments, and challenges at the hemispheric level

Mr. Jorge García-González, Office of Inter-American Law and Programs, Department of Legal Affairs and Services, OAS General Secretariat, gave an initial presentation on the background to the meeting; developments within the OAS framework and at the international level in connection with the meeting's thematic areas; the analysis of the replies of the states to the questionnaire developed as part of the preparations for this meeting; and preliminary

considerations on areas where progress needs to be made based on the background and analysis of the replies to the said questionnaire. The complete text of Mr. García-González' remarks is published at the following Internet address: [www. -----](#)

2. Other international developments

2.1. General framework and recovery of proceeds

- The United Nations Convention against Corruption and developments in the area of extradition and recovery of proceeds

Mr. Dimitri Vlassis, Senior Crime Prevention and Criminal Justice Officer, United Nations Office on Drugs and Crime, referred to the UN Convention and the main areas it covers, underscoring particularly those addressed by the Meeting of Experts. He also reported that 118 countries had signed and 18 ratified the UN Convention, although for entry into force, ratification by 30 countries was required. He underscored the need for its ratification and took the opportunity to urge that progress continue to be made in this connection. The complete text of Mr. Vlassis' remarks is published at the following Internet address: [www. -----](#)

- Experience of the Office of the Ad Hoc Prosecutor of Peru in the recovery of proceeds of corruption

Mr. Luis Vargas Valdivia, former Ad Hoc Prosecutor of Peru, gave a presentation on his experience at the helm of the Office of the Ad Hoc Prosecutor of Peru, noting the results achieved, main problems faced by his office, and challenges arising, based on the Office's experience, in enhancing and consolidating cooperation in the recovery of proceeds of corruption.

- Challenges, instruments, and concrete experiences in the recovery of proceeds of corruption

Mr. Stephen Baker, international expert in asset recovery and partner in BakerPlatt, a Specialist Professional Services Group, gave a presentation on the main challenges arising in the recovery of proceeds of corruption, instruments utilized to that end, and specific cases in which he had participated as an adviser or representative. The complete text of Mr. Baker's remarks is published at the following Internet address: [www. -----](#)

- Developments in the recovery of proceeds of corruption, in the framework of the Commission for Africa

Mr. Bill Gilmore, expert in international legal and judicial cooperation, Dean, School of Law, University of Edinburgh, Scotland, based his presentation on the British initiative of the Commission for Africa, with 17 members and whose main purpose is to generate ideas to achieve a more prosperous Africa. He noted that among the world's continents, Africa had the lowest per capita income, its countries appearing among the 10 most corrupt. He noted the importance and dissemination that the Commission was giving in the African countries to the United Nations Convention and that it was urging the states to ratify it. He referred to the recommendations made by the Commission for Africa on the topic of repatriation of proceeds of corruption. The complete text of Mr. Gilmore's remarks is published at the following Internet address: [www. -----](#)

- Developments and outlook within the Commonwealth: Experience of the Working Group on Assets Repatriation

Mrs. Veronic Wright, Legal Advisor, Commonwealth Secretariat, gave a presentation on developments in the framework of the above-mentioned international organization in connection with the recovery of proceeds of corruption, including the scope of the recommendations it was considering in this area. The complete text of Mrs. Wright's remarks is published at the following Internet address: [www. -----](#)

C. Second working session

On Monday, March 28, 2005, at 3.00 p.m., the Chair opened the second working session to consider the following agenda item:

2.2 Denial of safe haven to and extradition of corrupt officials and those who corrupt them

- The process of cooperation in mutual legal assistance in criminal matters and extradition in the framework of the Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA)

Mr. Pierre-Gilles Bélanger, Senior Counsel, Department of Justice Canada, and Coordinator of the REMJA Working Group on Mutual Legal Assistance in Criminal Matters, gave a brief summary of the status of work thus far done in the REMJA framework and underscored in particular the recommendations of the First Meeting of Central Authorities and Other Experts on Mutual Legal Assistance in Criminal Matters, held in Ottawa, Canada, in 2003, and the network established and now in operation for information exchange in this area, with its public and private components and secure e-mail system. The complete text of Mr. Bélanger's remarks is published at the following Internet address: [www. -----](#)

- Difficulties and challenges in strengthening cooperation in the denial of safe haven to corrupt officials and those who corrupt them

Mrs. Kathleen Hamann, Attorney, anti-corruption and good governance expert, presented the main elements to be included in a policy to "deny safe haven to corrupt officials and those who corrupt them," the different modalities for moving forward in this connection, and the challenges to the states posed by such a policy. The complete text of Mrs. Hamann's remarks is published at the following Internet address: [www. -----](#)

3. Inputs from civil society

- Inputs from civil society on the three thematic areas of the Meeting of Experts

In his presentation, Mr. Miguel Ángel Peñailillo, Regional Coordinator, Conventions Program, Transparency International (TI) underscored the part played by civil society in the fight against corruption and made a series of recommendations from civil society to advance hemispheric cooperation with regard to the different thematic areas addressed by the meeting. The complete text of Mr. Peñailillo's remarks is published at the following Internet address: [www. -----](#)

4. Exchange of information and experience among OAS member states

The Chair of the Meeting opened the discussion among the experts present with a view to an exchange of information and experiences in the meeting's three thematic areas:

- Cooperation with respect to the denial of entry and recovery of the proceeds of corruption and their return to their legitimate owners
- Cooperation with respect to the extradition of corrupt officials and those who corrupt them
- Denial of safe haven to corrupt officials and those who corrupt them

Experts representing Nicaragua, Dominican Republic, Guatemala, Ecuador, and Peru took the floor in the above order to discuss different aspects of the topics addressed and present experiences or developments in connection therewith.

In addition, in light of the presentations given and the information and experiences exchanged, different experts took the floor to present suggestions pertaining to the Meeting's recommendations for consideration by the Technical Secretariat and inclusion in a preliminary draft to serve as the basis for consideration of the recommendations of the meeting the following day.

V. DECISIONS OF THE MEETING OF EXPERTS

Based on the draft prepared by the Technical Secretariat as instructed, at the third and fourth working sessions, the Meeting of Experts sitting in plenary considered the recommendations of the meeting and, upon completion of their deliberations, adopted document REXCOR/doc.2/05, rev. 1, "Recommendations of the Meeting of Experts on Cooperation with Respect to the Denial of Safe Haven to Corrupt Officials and Those Who Corrupt Them, Their Extradition, and the Denial of Entry and Recovery of the Proceeds of Corruption and Their Return to Their Legitimate Owners," which is transcribed below:

"I. BACKGROUND

The Meeting of Experts on cooperation with respect to the denial of safe haven to corrupt officials and those who corrupt them, their extradition, and the denial of entry and recovery of the proceeds of corruption and their return to their legitimate owners, in accordance with the Plan of Action of Managua on Additional Concrete Measures to Increase Transparency and Combat Corruption within the framework of the Inter-American Convention against Corruption (EPCICOR/doc.4/04 rev. 5 corr. 1, paragraph 9), and of Resolutions AG/RES. 2034 (XXXIV-O/04, operative paragraph 6.c) and CP/RES. 875 (1460/05), was held at the headquarters of the Organization, in Washington, D.C., on March 28 and 29, 2005.

Key events leading up to the meeting:

- The Inter-American Convention against Corruption, adopted at the OAS Specialized Conference, held in Caracas, Venezuela, in March 1996.
- The Declaration of Nuevo León, adopted at the Special Summit of the Americas, held in Monterrey, Mexico, in January 2004, at which the Heads of State and Government said that "[i]n

the framework of applicable national and international law, we commit to deny safe haven to corrupt officials, to those who corrupt them, and their assets; and to cooperate in their extradition as well as in the recovery and return of the proceeds of corruption to their legitimate owners. We also commit to enhance regional mechanisms for mutual legal assistance in criminal matters and their implementation.”

- The Conclusions and Recommendations on Concrete Measures to Strengthen MESICIC (SG/MESICIC/doc.103/04 rev. 6), adopted by the Conference of States Parties, in April 2004.

- The Conclusions and Recommendations of the Fifth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA-V) (REMJA-V/doc.7/04 rev.4), held at OAS headquarters in April 2004, which said that “prior to REMJA-VI, each Member State, in conformity with its national laws and applicable international regulations, shall adopt domestic legal measures that deny safe haven to corrupt officials, to those who corrupt them, and their assets and shall exchange information on the measures they have adopted.”

- The Declaration of Quito on Social Development and Democracy, and the Impact of Corruption (AG/DEC. 36 (XXXIV-O/04)), adopted by the OAS General Assembly at its thirty-fourth regular session, in Quito, Ecuador, in June 2004, which undertook “in the framework of applicable national and international law, to deny safe haven to corrupt officials, to those who corrupt them, and the proceeds of corruption; and to cooperate in their extradition as well as in the recovery and return of those proceeds of corruption to their legitimate owners and enhance regional mechanisms for mutual legal assistance in criminal matters.”

- Resolutions AG/RES. 2022 (XXXIV-O/04), “Joint Efforts of the Americas in the Struggle against Corruption and Impunity”; and AG/RES. 2034 (XXXIV-O/04), “Follow-up on the Inter-American Convention against Corruption and its Program for Cooperation,” adopted by the OAS General Assembly at its thirty-fourth regular session, in Quito, Ecuador, in June 2004.

- The Declaration of Managua (EPCICOR/doc.5/04 rev.6) and the Plan of Action of Managua on Additional Concrete Measures to Increase Transparency and Combat Corruption within the framework of the Inter-American Convention against Corruption (EPCICOR/doc.4/04 rev.5 corr.1), adopted at the Meeting of the States Parties to the Inter-American Convention against Corruption, held in Nicaragua in July 2004, which reiterate the commitment that “[i]n accordance with applicable national and international law, the States Parties shall deny safe haven to corrupt officials and to those who corrupt them, cooperate in their extradition, and deny the entry and attempt the recovery and return of the proceeds of corruption to their legitimate owners.”

I. RECOMMENDATIONS

Bearing in mind the above-mentioned background information and the assigned mandate, upon concluding their discussions, the Experts decided to put forward the following recommendations designed to strengthen hemispheric cooperation with respect to the denial of safe haven to corrupt officials and those who corrupt them, their extradition, and the denial of entry and recovery of the proceeds of corruption and their return to their legitimate owners:

1. That the States that have not yet done so consider adopting the measures necessary to sign and ratify, ratify, or accede to, as appropriate:

- a. The 2003 United Nations Convention against Corruption (Mérida Convention);
 - b. The 1996 Inter-American Convention against Corruption;
 - c. The 1992 Inter-American Convention on Mutual Assistance in Criminal Matters;
 - d. The 1981 Inter-American Convention on Extradition.
2. That the States that have not yet done so take the necessary steps to adopt in their respective legal frameworks such laws and other provisions as may be necessary to facilitate and ensure implementation of the treaties to which they are party and international cooperation, *inter alia*, in the area of mutual legal assistance in criminal matters, extradition, and recovery of the proceeds of corruption.
3. That the States, in accordance with their domestic law, adopt the measures necessary to strengthen information exchange and increase the effectiveness of cooperation among the competent law-enforcement authorities, organs, and services, at both the national and the international level, in connection with acts of corruption.
4. That the States consider adopting “measures for direct recovery of property” and “mechanisms for recovery of property through international cooperation in confiscation,” taking into account, as appropriate, Articles 53 and 54 of the United Nations Convention against Corruption.
5. That the States take the necessary steps to have in place a comprehensive domestic regime in order to deter and detect all forms of money-laundering related to acts of corruption, as well as to strengthen international cooperation to combat this crime, including implementation of the 40 revised recommendations of the Financial Action Task Force on Money Laundering (FATF) and, as appropriate, the measures agreed to by the Caribbean Financial Action Task Force (CFATF) and the Financial Action Task Force of South America (GAFISUD). For the purposes of the foregoing, the experts also recommend that the States bear in mind the developments in the framework of the OAS/CICAD, including the Model Regulations adopted by CICAD in this area.
6. That, in accordance with Article III (8) of the Inter-American Convention against Corruption, the States create, maintain, or strengthen “systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with their Constitutions and the basic principles of their domestic legal systems.”
7. That efforts continue, in the framework of the activities of the Committee of Experts on the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC), and in accordance with the decisions adopted in its first evaluation round, to strengthen cooperation through the review of the implementation by States Parties of the provisions contained in that treaty, and that the States Parties implement the recommendations that have been or may be made to them by that committee.
8. That the States that have not yet done so adopt the necessary measures to implement as soon as possible the Recommendations of the First Meeting of Central Authorities and Other Experts on Mutual Legal Assistance in Criminal Matters (OEA/Ser. K/XXXIV.5 REMJA-

V/doc.4), held in Ottawa, Canada, in 2003, in the framework of the Meetings of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA).

9. That the OAS REMJA group on mutual legal assistance in criminal matters consider, in accordance with resolution AG/RES. 2040 (XXXIV-O/04), at the second meeting of experts on mutual legal assistance in criminal matters, to be held in Brasilia, Brazil, *inter alia*, the formulation of concrete recommendations to strengthen hemispheric cooperation in the area of mutual legal assistance in criminal matters and extradition in connection with acts of corruption, in order to ensure the effectiveness, efficiency, and promptness of said cooperation, to which end they should take into account the responses given by the States to the questionnaire prepared for this meeting and the review of those answers prepared by the General Secretariat of the OAS.

10. That efforts continue for consolidation of the “Hemispheric Information Exchange Network for Mutual Legal Assistance in Criminal Matters,” created in the framework of the REMJA; that the States participate actively in the public and private components and in the secure electronic mail system of the network; and that this instrument be used as effectively as possible to strengthen hemispheric cooperation in the area of mutual legal assistance and extradition in connection with acts of corruption.

That said Network be considered a means of facilitating information exchange among competent authorities on developments related to the thematic areas addressed at this meeting.

Likewise, that responses to the questionnaire prepared prior to this meeting be posted on the restricted page of the aforementioned network, together with the corresponding clarifications, corrections, and updates and a review of those answers prepared by the OAS General Secretariat, except when states have expressly requested that their responses not be posted.

It is also proposed that the Hemispheric Network contain a directory of central authorities in the fight against corruption.

Lastly, it is recommended that a specific area for corruption be established in the secure electronic mail system to facilitate the exchange of information and the transmission of requests for mutual legal assistance in that field, in those cases where states may have central authorities different from those for mutual legal assistance in criminal matters.

11. That efforts continue in order to strengthen information exchange and cooperation between mechanisms created in the OAS and those implemented in the framework of other international organizations or forums in the area of recovery and return of the proceeds of corruption to their legitimate owners, mutual legal assistance in criminal matters, and extradition, and that, to that end, that the OAS General Secretariat, through the Department of Legal Affairs and Services, take steps for the joint implementation of training and technical assistance programs for competent authorities in the OAS member states.”

The meeting also decided to attach to this report as an appendix those written proposals presented by the different delegations which, in view of the time, could not be considered. The said proposals are contained in Appendix D.

VI. APPENDICES

- Appendix A: Permanent Council resolution CP/RES. 875 (1460/05), adopted at its meeting of January 11, 2005
- Appendix B: Agenda (REXCOR/doc.1/05 rev.1)
- Appendix C: List of Participants (REXCOR/doc.3/05 rev.3)
- Appendix D: Proposals of Amendments and/or Suggestions Presented by the Delegations on the Draft Recommendations of the Meeting of Experts (REXCOR/doc.4/05)
- Appendix E: Recomendaciones del la Delegación del la República Bolivariana de Venezuela, Realizadas en la Reunión de Expertos (REXCOR/doc.5/05)
- Appendix F: Lista de Documentos Registrados por la Secretaría (REXCOR/doc.7/05)

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