



Secretariat for Multidimensional Security

**XLV MEETING OF THE GROUP OF EXPERTS
FOR THE CONTROL OF MONEY LAUNDERING**
October 4-5, 2018
Santa Cruz de la Sierra, Bolivia

**OEA/Ser.L/XIV. 4.45
DDOT/LAVEX/doc.11/18
October 4, 2018
Original: Spanish**

**PRESENTATION
DIAGNOSTIC STUDY ON EXPERT REPORTS
USED BY COUNTRIES IN CASES OF MONEY LAUNDERING**

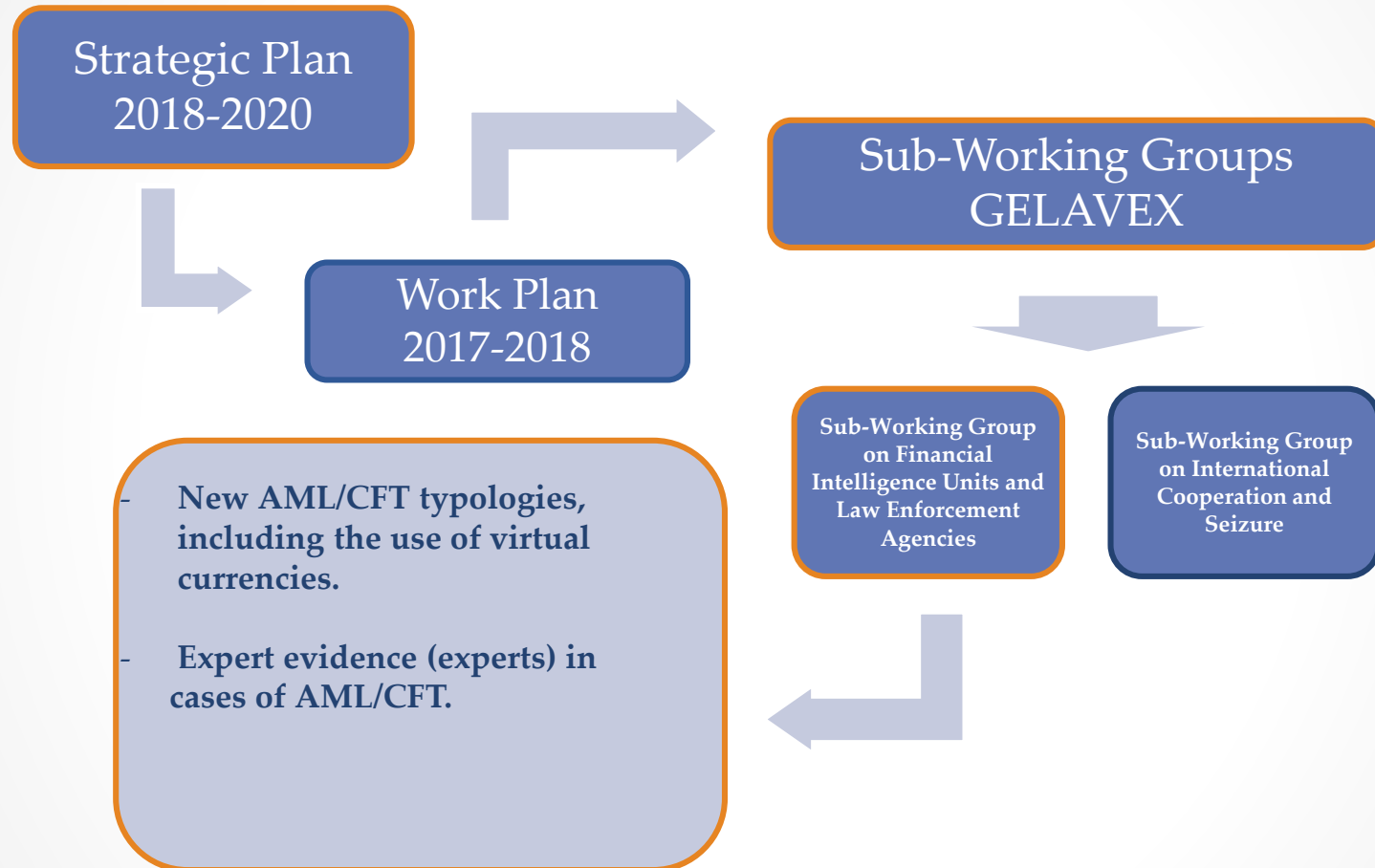
Sub-Working Group on Financial Intelligence Units and
Law Enforcement Agencies

PROGRAM



- I. Introduction
- II. Objective
- III. Proposed Methodology
- IV. Systematic Presentation of Obtained Results
- V. Situation Diagnosis
- VI. Conclusions and Recommendations

I. INTRODUCTION



II. OBJECTIVES

To take up and to deepen the diagnostic study on **Expert evidence**

To know what kind of **expert reports** are being used by countries in cases of Money Laundering.



To obtain inputs that allow proposing a guide of good practices on the preparation and usefulness of the expert report and what is technically appropriate.

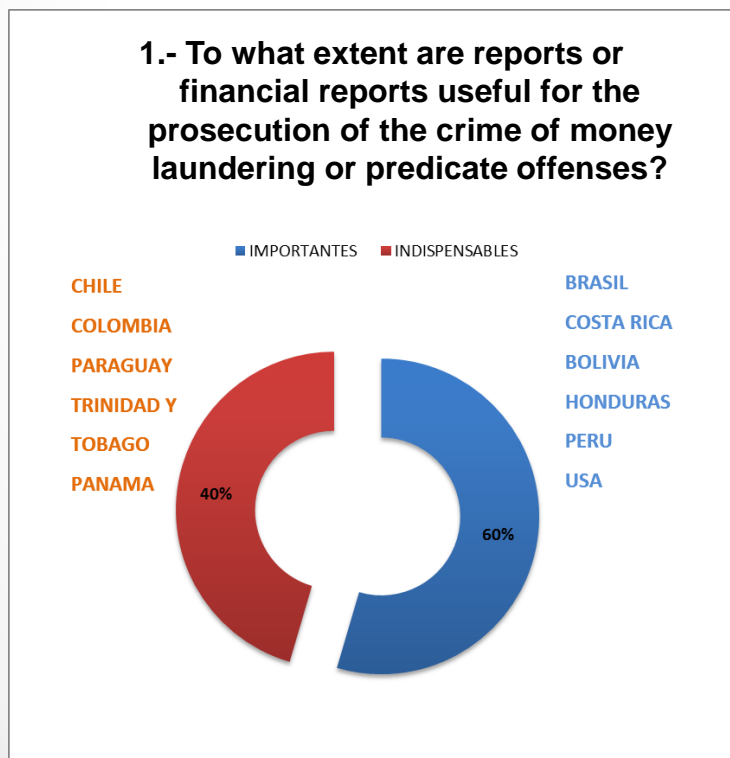
III. METHODOLOGY

Preparation of a questionnaire with 18 questions, put to consideration of a number of countries not smaller than 10 (as a representative sample of the region), with the purpose of being filled by technically qualified experts.



IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

Having been processed the responses of the aforementioned countries, it is important to clarify that the expert report or expert opinion is the one that can be issued by the Public Prosecutor, Police, FIU or other specialized agency, for which the following results were obtained:



Options:

- 1) IMPORTANT
- 2) INDISPENSABLE
- 3) NOT IMPORTANT

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

2.- To what extent are financial reports or financial expert reports useful to obtain convictions for the crime of money laundering?

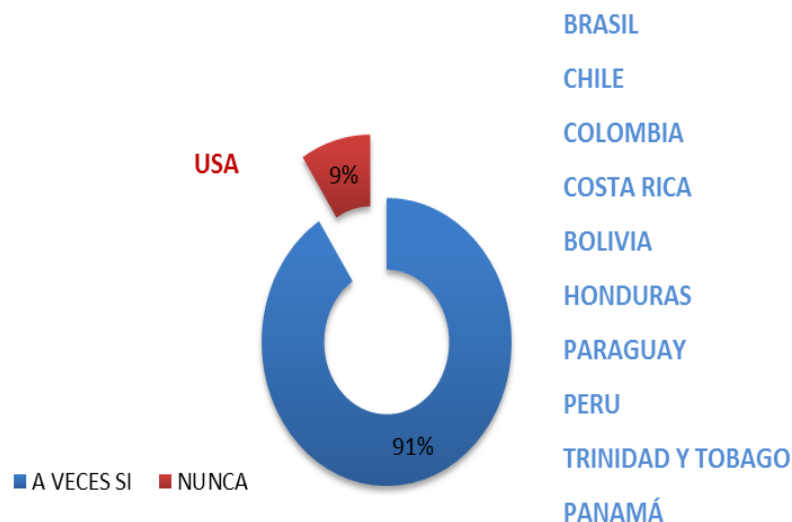
IMPORTANT	BRAZIL	5
	COSTA RICA	
	BOLIVIA	
	PARAGUAY	
	USA	
INDISPENSABLE	CHILE	6
	COLOMBIA	
	HONDURAS	
	PERU	
	TRINIDAD AND TOBAGO	
	PANAMA	

Options:

- 1) IMPORTANT
- 2) INDISPENSABLE
- 3) NOT IMPORTANT

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

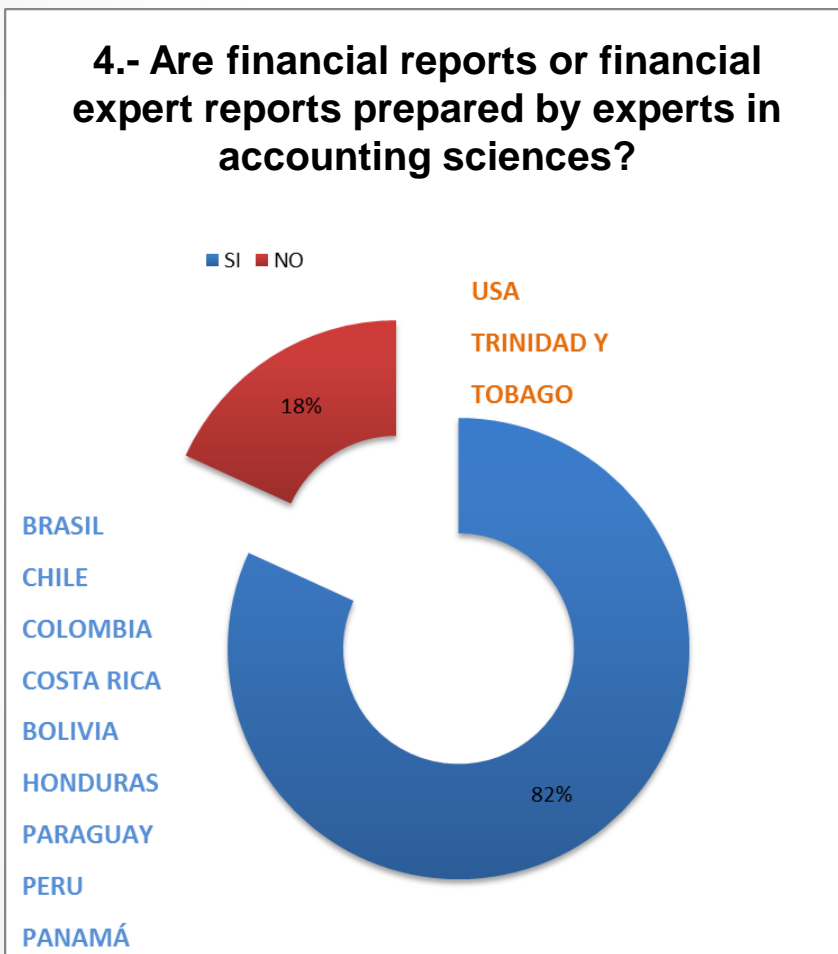
3.- According to your experience, do judicial bodies or courts of justice grant probative value to financial reports or financial expert reports?



Options:

- 1) SOMETIMES YES
- 2) SOMETIMES NO
- 3) NEVER

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS



Options:

1) YES

2) NO

IV. PRESENTACIÓN SISTEMÁTICA DE RESULTADOS OBTENIDOS

5.- Do financial reports or financial expert reports contain information that has been provided or delivered by the prosecutors in charge of the investigation?

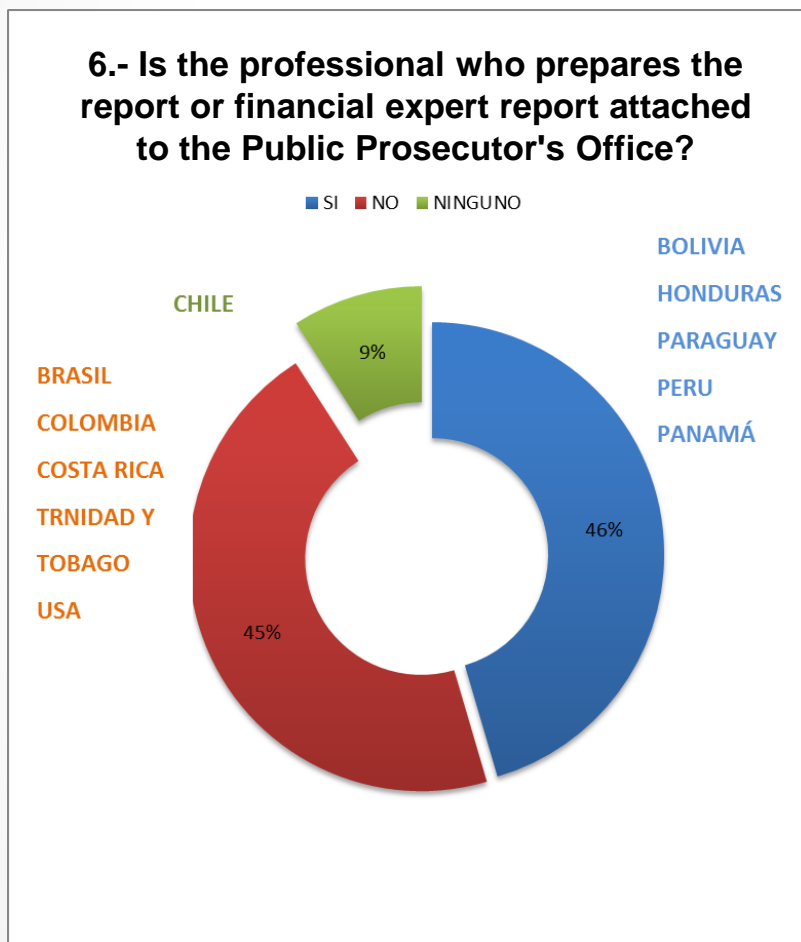
SI	BRAZIL	9
	CHILE	
	COSTA RICA	
	BOLIVIA	
	HONDURAS	
	PARAGUAY	
	PERU	
	TRINIDAD AND TOBAGO	
	PANAMA	
NO	COLOMBIA	2
	USA	

Options:

1) YES

2) NO

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS



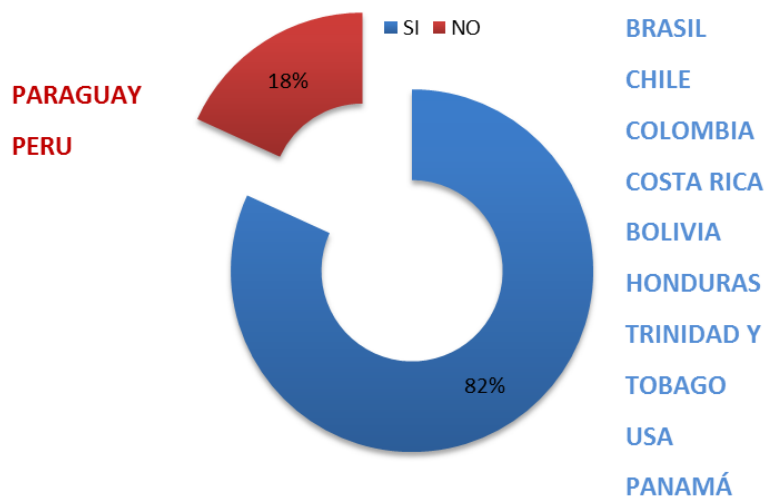
Options:

1) YES

2) NO

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

7.- Does the professional who prepares the report or financial expert report receive intelligence information from the FAU or FIU?



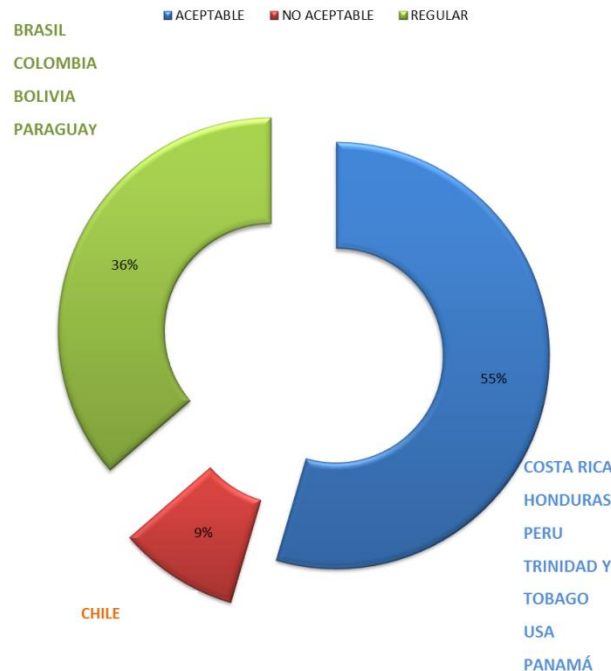
Options:

1) YES

2) NO

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

8.- To what extent does the financial report or financial expert report contain information that has been transferred by the FAU or FIU?



Options:

- 1) ACCEPTABLE
- 2) REGULAR
- 3) NOT ACCEPTABLE

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

9.- What are the aspects that are considered in the reports or expert opinions?

ACCOUNTING	PARAGUAY	2
	PERU	
FINANCIAL	BRAZIL	9
	CHILE	
	COLOMBIA	
	COSTA RICA	
	BOLIVIA	
	HONDURAS	
	TRINIDAD AND TOBAGO	
	USA	
	PANAMA	

Options:

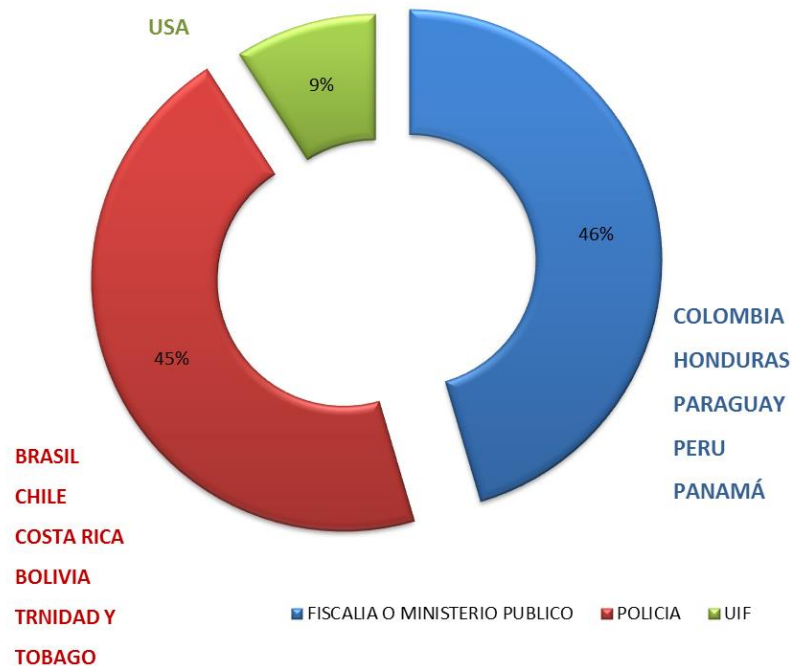
- 1) ACCOUNTING
- 2) FINANCIAL
- 3) FISCAL
- 4) OTHER

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

Options:

- 1) POLICE
- 2) PUBLIC PROSECUTOR'S OFFICE
- 3) FIU
- 4) OTHER

10.- Which agencies or institutions have the power to issue reports or expert opinions for the investigation of money laundering?



IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

11.- What are the requirements to be able to issue a report or expert opinion that has official validity in the integration of an investigation of money laundering? FIU?

2	BOLIVIA	The ones established in the criminal procedure norm.
	PERU	
1	PANAMA	The FIU report is not proof, but through expert experts.
8	BRAZIL	NONE
	CHILE	
	COLOMBIA	
	COSTA RICA	
	PARAGUAY	
	HONDURAS	
	TRINIDAD AND TOBAGO	
	USA	

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

12.- Are the authors of expert reports required to testify during the judicial process?		
1	BOLIVIA	Yes, it is necessary that the authors of the reports testify during the trial stage; since when we find ourselves in an accusatory system, the principles of contradiction, immediacy and publicity prevail.
2	PERU	If, as provided by the adjective code in Peru, experts are required to attend oral proceedings, to provide a better explanation of the verification that has been made regarding the object of the expertise, the grounds and conclusion that holds.
3	BRAZIL	SOMETIMES
4	CHILE	Yes, in the case of oral trials.
5	COLOMBIA	Yes. Should it be necessary, yes.
6	COSTA RICA	If they are required to testify in the oral and public trial, they are called as experts, not witnesses.
7	PARAGUAY	Not necessarily, but if he considers it pertinent, either party can offer the statement of an expert in the preliminary hearing to give his testimony in the oral and public trial, that if accepted by the judge, his appearance will be mandatory.
8	HONDURAS	That it be issued by an Official Expert or a Judicially Appointed Expert. That it have been requested by the Prosecutor in charge of preparing the opinion. That it ratify the opinion at the moment that it is evacuated in an oral and public trial. That be submitted to contradiction.
9	TRINIDAD AND TOBAGO	Yes.
10	USA	No, they are not required to testify in court since such reports are produced for investigative purposes only.
11	PANAMA	Only the auditors/experts, who made the expert report, are likely to be called to ratify the content of their reports. However, the analysts of the FAU are not called to testify and the report generated by the FAU by mandate of the Preventive Law AML/FT/FP does not recognize probative value and prohibits its inclusion in the investigative and judicial processes.

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

13.- Can written reports be submitted without the authors testifying?

NO	BRAZIL	5
	COLOMBIA	
	BOLIVIA	
	PERU	
	PANAMA	
YES	CHILE	6
	COSTA RICA	
	HONDURAS	
	PARAGUAY	
	TRINIDAD AND TOBAGO	
	USA	

Options:

1) YES

2) NO

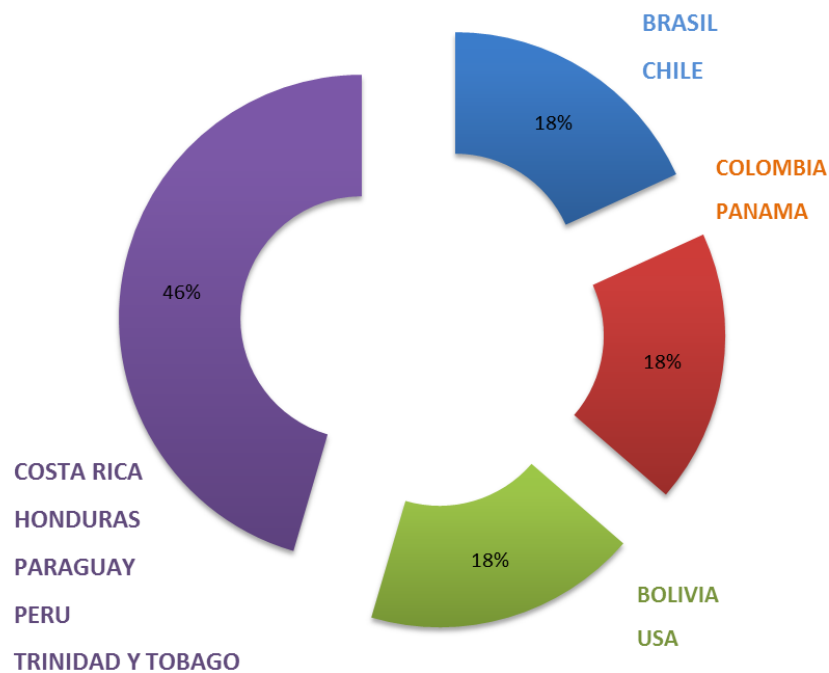
IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

Options:

- 1) YES
- 2) NO
- 3) PARTIALLY

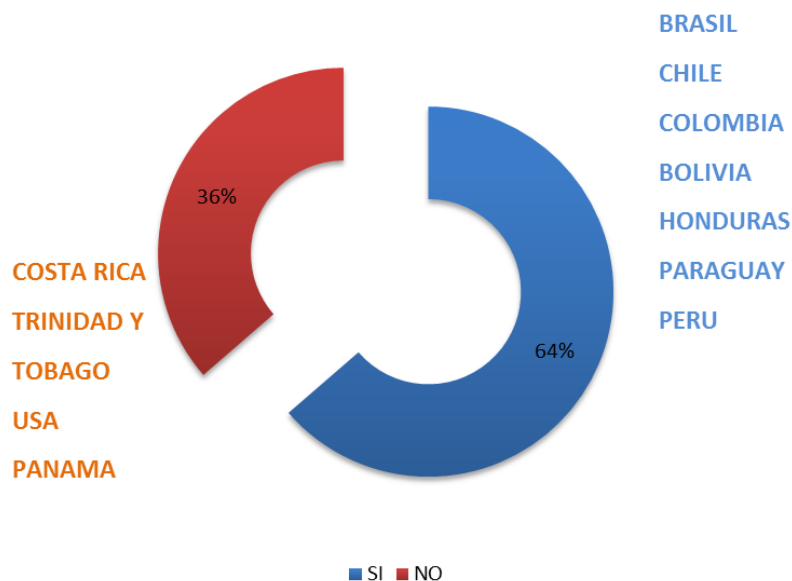
14.- Have judicial officers been trained in the probative value of these reports?

■ NINGUNO ■ SI ■ NO ■ PARCIALMENTE



IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

15.- In cases in which an expert report is required but the Agency does not have the competent persons to prepare said report; can this report be obtained from another public agency or private sector agency?



Options:

1) YES

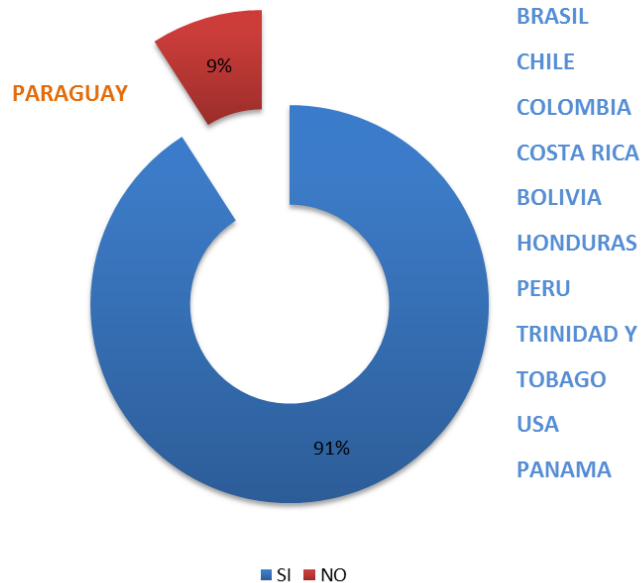
2) NO

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

16.- If yes, what is the process to request such assistance?		
1	BOLIVIA	In Bolivia, the criminal procedure establishes, in relation to the skills, that they will be in charge of the Institute of Forensic Investigations (IDIF). If this institution does not have an expert in the required area, it will be able to go to the Technical Police Institute or another Agency.
2	PERU	The entity must be required to proceed with its designation (they take an oath), then proceed to carry out the expert work. State agencies that develop scientific or technical work may be required to provide assistance free of charge. Expert work may also be entrusted to universities, research institutes or legal entities in general (Article 173 of the Code of Criminal Procedure of 2004)
3	BRAZIL	There is the possibility of requesting financial expert reports from other agencies, such as the Central Bank, the Securities and Exchange Commission and other financial system institutions.
4	CHILE	Request of the Prosecutor.
5	COLOMBIA	Giving Judicial Police Functions
6	COSTA RICA	NO ANSWER
7	PARAGUAY	Any of the parties can propose the expert of their preference and the points of expertise that they consider pertinent. There is no greater limitation regarding the expert, it is only required that he be an expert and have an enabling title, if the science, art or technique are regulated. Otherwise, a person of manifest suitability must be appointed. Once proposed, an oath or promise must be taken to perform their function correctly, accept the points of expertise and conclude their opinion within the established period.
8	HONDURAS	Obtain the curriculum vitae that accredits the capability; request the judicial authority to be appointed as Expert what is done in the hearing. Once appointed, he performs the expertise for subsequent presentation to the corresponding Court.
9	TRINIDAD AND TOBAGO	NO ANSWER
10	USA	NO ANSWER
11	PANAMA	NO ANSWER

IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

17.- Are specialists hired within the agencies with the specified skills and competences to be able to produce several expert reports?



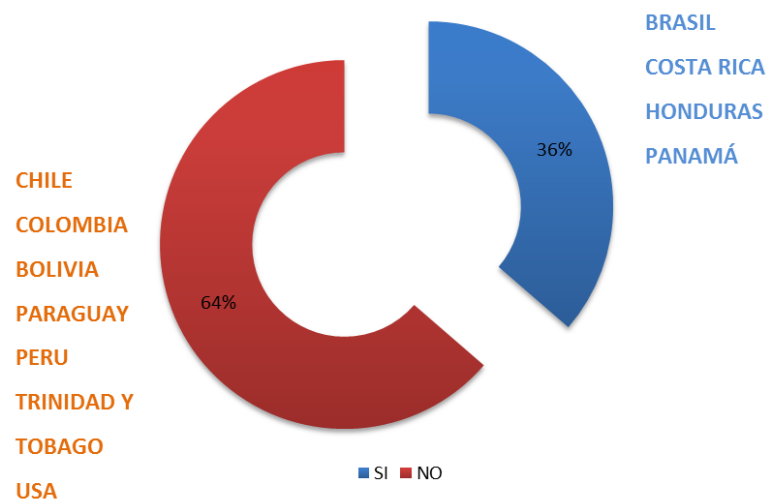
Options:

- 1) YES
- 2) NO

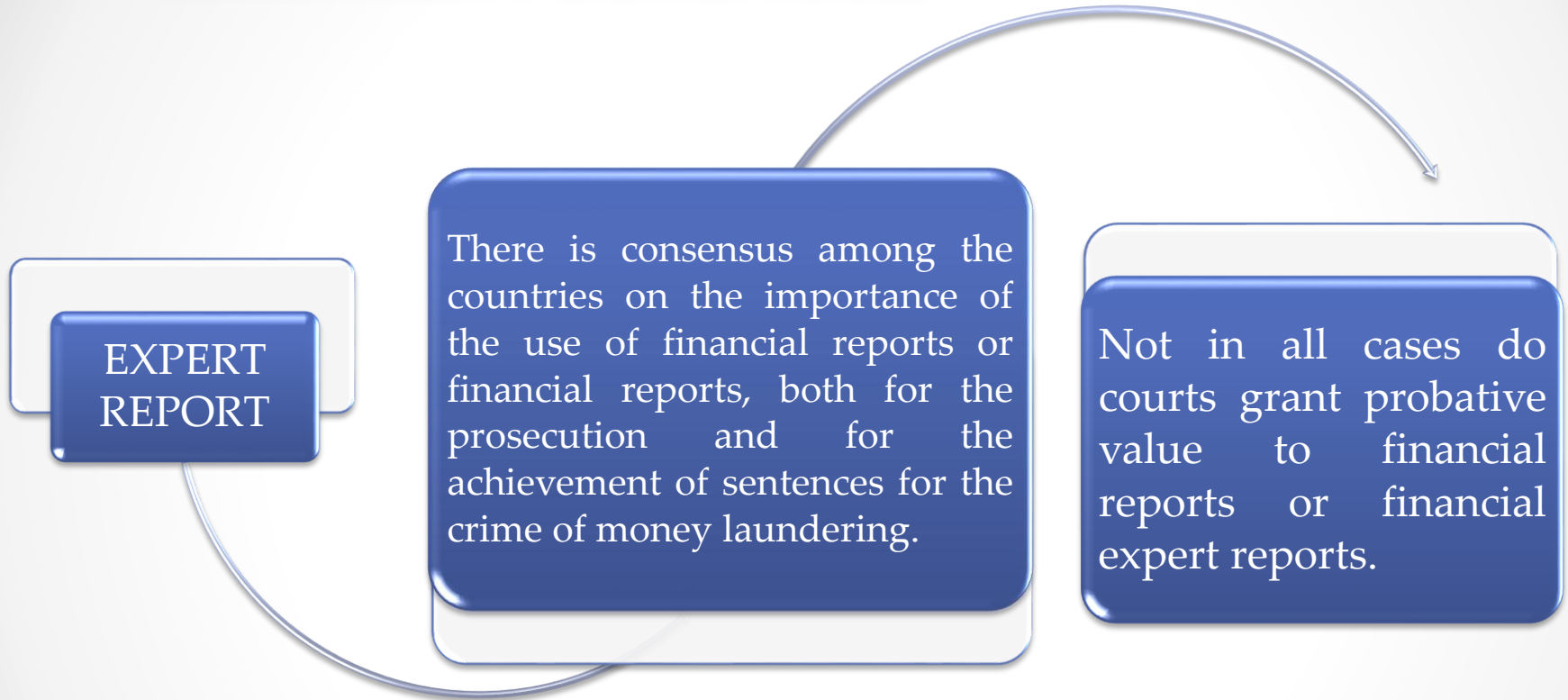
IV. SYSTEMATIC PRESENTATION OF OBTAINED RESULTS

Options:
1) YES
2) NO

18.- Can the intelligence reports disseminated by the Financial Intelligence Unit be used as probative value? If not, does the investigative agency now have to acquire intelligence on a probative basis?



SITUATION DIAGNOSIS



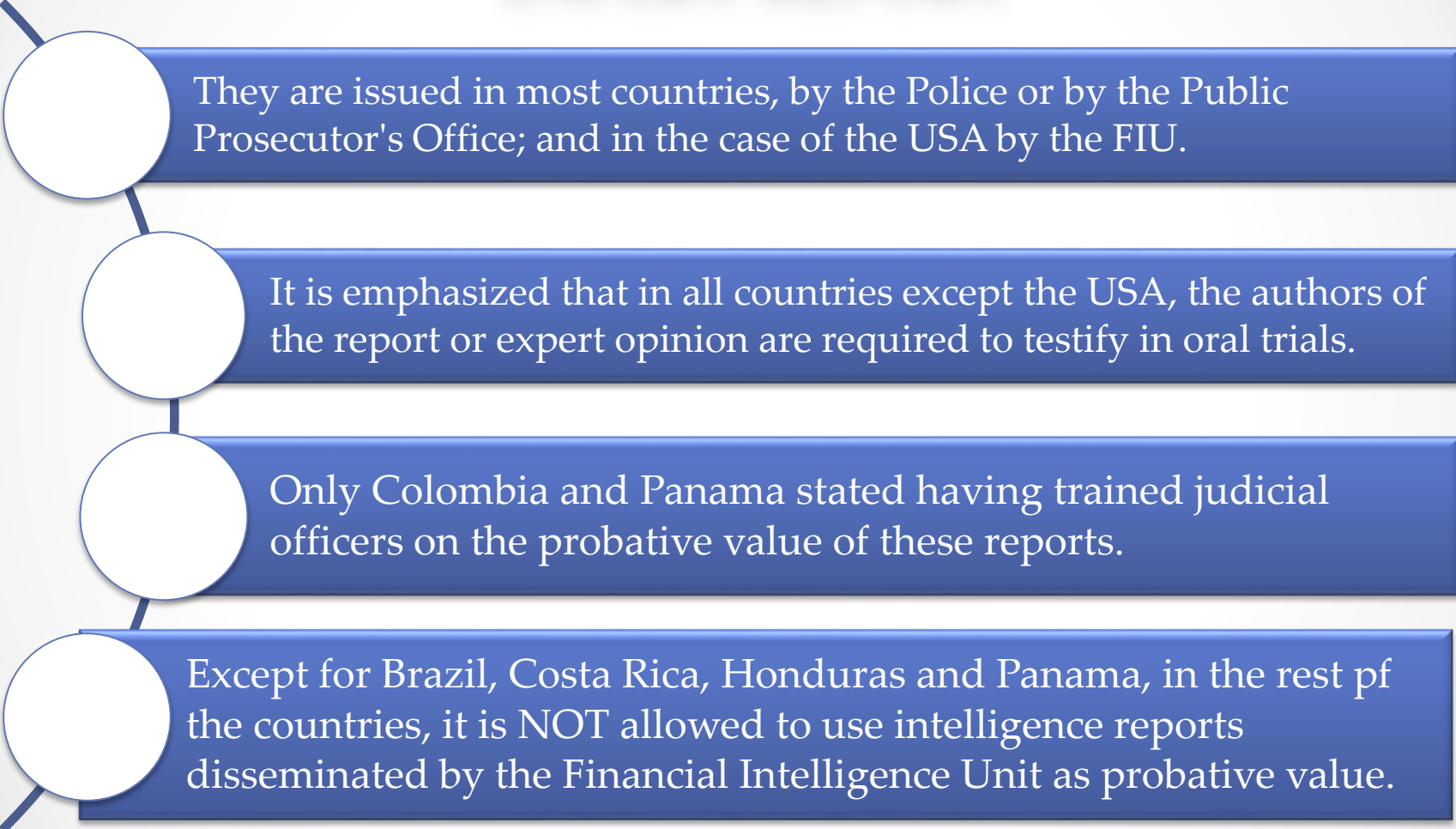
SITUATION DIAGNOSIS EXPERT REPORT

They are prepared by professional experts in accounting sciences.

They are not necessarily attached to the Public Ministry and usually receive intelligence information from the FAU or UIF.

Nine countries consulted agreed that the aspect considered in the expert reports is of a FINANCIAL nature, with the exception of Peru and Paraguay, which pointed to the ACCOUNTING aspect.

SITUATION DIAGNOSIS EXPERT REPORT



They are issued in most countries, by the Police or by the Public Prosecutor's Office; and in the case of the USA by the FIU.

It is emphasized that in all countries except the USA, the authors of the report or expert opinion are required to testify in oral trials.

Only Colombia and Panama stated having trained judicial officers on the probative value of these reports.

Except for Brazil, Costa Rica, Honduras and Panama, in the rest of the countries, it is NOT allowed to use intelligence reports disseminated by the Financial Intelligence Unit as probative value.

CONCLUSIONS AND RECOMMENDATIONS

1. The diagnostic study on Expert Evidence was resumed and deepened, collecting and systematizing information from 11 countries, the result of which determined that there are two types of expert reports: accounting and financial.

2. With respect to the intelligence reports of the FIU, 7 countries reported that their use as evidence is not allowed and 4 countries reported that they do have probative value.



CONCLUSIONES Y RECOMENDACIONES

3. Develop a Best Practice Guide on the use and introduction of expert financial and accounting reports in the criminal process.

4. Request the Technical Secretary of GELAVEX to take the necessary steps to carry out training sessions for judges and prosecutors.



Thank you.