

MEETING OF MINISTERS OF JUSTICE OR
MINISTERS OR ATTORNEYS GENERAL
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Third Meeting of Central Authorities and Other Experts on
Mutual Assistance in Criminal Matters and Extradition
September 12-14, 2007
Bogotá, Colombia

**RECOMMENDATIONS OF THE
THIRD MEETING OF CENTRAL AUTHORITIES AND OTHER EXPERTS
ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND EXTRADITION**

The central authorities and other experts on mutual assistance in criminal matters and extradition of the OAS member states met in Bogotá, Colombia, on September 12-14, 2007, pursuant to the Conclusions and Recommendations of the Sixth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas - REMJA-VI (held in Santo Domingo, Dominican Republic, in April 2006, document REMJA VI/doc.21/06 rev. 1) and Resolutions AG/RES. 2266 (XXXVII-O/07) and CP/RES. 917 (1596/07), respectively, of the OAS General Assembly and Permanent Council.

This Third Meeting was held jointly with the United Nations Office on Drugs and Crime (UNODC), taking into account, in particular, that Office's mandates with respect to strengthening cooperation among central authorities on mutual assistance in criminal matters and extradition in the framework of the United Nations Convention against Transnational Organized Crime.

The Third Meeting, after underscoring and expressing its appreciation of the leadership and commitment shown by Canada as the outgoing Coordinating State of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition (the Working Group), resolved to elect, by acclamation, Colombia as the Coordinating State of the Working Group for the period October 1, 2007 to September 30, 2008, with Canada as Vice-Coordinating State; and Mexico as the Coordinating State of the Working Group for the period October 1, 2008 to September 30, 2009, with El Salvador as Vice-Coordinating State.

The Third Meeting acknowledged the existence of two legal systems, the civil and common law, and also acknowledged that the Working Group, in its deliberations, shall take these two systems into consideration.

Following their deliberations, the central authorities and other experts on mutual assistance in criminal matters and extradition of the OAS member states adopted the following recommendations, to be presented for consideration at the Seventh Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas - REMJA-VII.

I. TREATIES AND THEIR IMPLEMENTATION

That States that have not yet done so, take the necessary measures as soon as possible in order to:

- a. Sign and ratify, ratify, or accede to, as the case may be, the Inter-American Convention on Mutual Assistance in Criminal Matters and its Optional Protocol.
- b. Sign and ratify, ratify, or accede to, as the case may be, the United Nations Convention against Transnational Organized Crime and its additional protocols.
- c. Adopt legislation and other measures as required in the legal framework of each of the States to facilitate and ensure application of the treaties and to provide effective, efficient, and expeditious cooperation in the form of mutual assistance in criminal matters and extradition.

II. MUTUAL ASSISTANCE IN CRIMINAL MATTERS

In order to continue strengthening cooperation in mutual assistance in criminal matters, the Third Meeting recommends:

1. That the States that have not yet done so implement recommendations 2, 3, and 4 of the First Meeting, which refer to concrete measures related to the strengthening of central authorities and the effective performance of their functions; more expeditious procedures and reduction or elimination of the factors delaying the transmission and settlement of requests; and execution of the broadest possible range of assistance measures that may be required; all of which are designed to ensure that mutual assistance in criminal matters is effective, efficient, and expeditious, and a timely response—depending on the complexity of the case—in the short term. Likewise, that all States report to the Fourth Meeting on any specific measures they adopt between this meeting and the next, with regard to the three aforementioned thematic areas.

2. Conclude the consideration and support the contents of the proposal regarding the “Model Law on Mutual Assistance in Criminal Matters” (Legislative Guide) and in that regard recommend:

- a. That, in accordance with Recommendation IV.1.c of REMJA-VI, REMJA-VII be informed and that it is recommended that this proposal be taken up as a guide for development of national legislation in this field;
- b. That this document be posted on both the public and private components of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition (“the Network”) and via its secure electronic communication system, so that the authorities in the States can access it and also exchange, via the aforementioned Network, any comments or observations they might wish to share on the use they have made of it.
- c. That the central authorities furnish this document to all the officials in their respective States who participate in the processes of drafting and submitting requests for mutual assistance in criminal matters.
- d. That the delegation of Argentina be thanked for its leadership in the drafting and consideration of this document.

3. Conclude the consideration and support the contents of the proposals regarding guidelines to “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,” providing that the constitutional order of each State so allows; and in that regard recommends:

- a. That, in accordance with Recommendation IV.1.f of REMJA-VI, REMJA-VII be informed and that it is recommended that these documents be adopted as guidelines for States in the areas the documents refer to;
- b. That these documents be disseminated on both the public and private components of the Network and via its secure electronic communication system, so that the authorities in the States can access them when they need to and also include any comments or observations they might wish to share on the use they have made of them.
- c. That the central authorities furnish these documents, as needed, to all the officials in their respective States who participate in the processes of drafting and submitting requests for mutual assistance in criminal matter.
- d. Thanking the delegation of Canada, with regard to the best practices guidelines, and the delegation of Paraguay, in connection with the model questionnaire, for the leading role they played in the presentation and consideration of these documents.

4. That the member states that have not yet done so submit to the Technical Secretariat of REMJA, prior to REMJA VII, information on commonly used legal terms in the area of mutual assistance in criminal matters and extradition; that the Technical Secretariat continue to systematize them and post them on the private component of the Network; and that, pursuant to Recommendation IV.1.g of REMJA-VI, a report be submitted to REMJA-VII on progress in this area.

5. That the Coordinating State and Vice-Coordinating State of the Working Group, or a State Party make arrangements to carry out one or more workshops on mutual assistance in criminal matters and training in that field, in coordination with the OAS General Secretariat, through the Office of Legal Cooperation of the Department of International Legal Affairs.

6. That, as agreed at the Special Meeting of the OAS/REMJA Working Group on Mutual Assistance in Criminal Matters and Extradition, held in Montreal, Canada, in March 2007, the member states, in coordination with the delegation of Peru, convey their opinions and suggestions regarding the draft optional protocol on confidentiality of the information for points of contact on mutual assistance in criminal matters and extradition, along with their responses to the survey on legislation applicable to the handling of the information that a requested authority receives from the requesting authority in the context of mutual assistance in criminal matters and extradition; that this work be reported at an upcoming meeting; and that the information obtained in the survey be incorporated in the Network.

7. That, bearing in mind the efforts being undertaken in the REMJA context to achieve effective implementation of the United Nations Convention on Transnational Organized Crime, and by virtue of Article 24 of that instrument, REMJA-VII consider the subject of protection of victims and witnesses and make any recommendations it deems pertinent.

8. That, in order to improve international cooperation for confiscation purposes in the region, States provide the Technical Secretariat of REMJA with their domestic laws and regulations on the subject and with the facilities needed to effectively ensure that such assistance materializes, with a view to the drafting of a hemispheric plan.

III. EXTRADITION

In order to strengthen hemispheric cooperation on extradition, the Third Meeting recommends:

1. That the States that have not yet done so implement Recommendations II.1.2 and 3 of the Second Meeting, which contemplate the adoption of measures to facilitate and ensure the implementation of treaties; the strengthening of the central authorities and the effective performance of their functions; and the elimination of bureaucratic formalities, so that cooperation with respect to extradition is effective, efficient, and expeditious. Also that the States report to the Fourth Meeting on the progress they make in this area.

2. That the work being coordinated by the delegations of Brazil and Mexico continue to move ahead with respect to the studies and guidelines for strengthening hemispheric cooperation in the area of extradition and in this regard:

- a. Express satisfaction with Mexico's chairmanship of the subgroup on extradition and recommend that continued consideration be given to the proposed plan of action prepared by the delegation of Mexico, so that it can be presented, subject to prior agreement by the OAS member states, during REMJA VII.
- b. Thank the delegation of the Bolivarian Republic of Venezuela for offering to host the third extradition workshop during the second half of 2008.
- c. Recognizing the importance of the idea of a simplified procedure within OAS member states, include this topic at the next workshop on extradition to be held in the Bolivarian Republic of Venezuela.
- d. Disseminate the conclusions and results of the extradition workshops in the private component of the Network and in its secure electronic communications system, in such a way that the authorities in the States can access them when they need to; and also include any comments or observations they might wish to share through this channel on experiences and suggestions in relation to them.
- e. Report on the progress on this topic to the Fourth Meeting of Central Authorities.

3. Expressing its satisfaction with the progress achieved in the CARICOM framework of a simple procedure for arrest warrants between judicial authorities of CARICOM states, and noting the impending signing of the CARICOM Arrest Warrant Treaty, urge OAS member states to continue and to strengthen the exchange of information and experience on arrest warrants considered at that Third Meeting; and inviting the delegation of Trinidad and Tobago to report to the Fourth Meeting on any developments there might be regarding this important initiative.

IV. HEMISPHERIC INFORMATION EXCHANGE NETWORK FOR MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND EXTRADITION.

With respect to this matter, the Third Meeting recommends:

1. Continuing to support the strengthening of the Network and, in that connection, it:
 - a. Expresses its recognition of the progress made by the OAS General Secretariat and its ongoing effort 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 to 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 Internet 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 on-line training, to said authorities.
 - d. Recommends that REMJA VII consider how the Network can be maintained and adequately funded over the long term.
 - e. Expresses its satisfaction and appreciation of the leadership and cooperation provided by the delegation of Canada for strengthening and consolidating the Network.
 - f. Suggests considering production of an electronic newsletter to be disseminated by the OAS General Secretariat via the Network.
 - g. Recommends expanding the membership of the secure electronic communication system and considering the possibility of inviting non-OAS member states to participate.

2. Expressing 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 aforementioned Network and “IberRED” can be achieved.

3. Encouraging states to use the “UNODC tool for formulating requests for mutual legal assistance” and that reciprocal links be established between the components of the Network and the UNODC web page, which contains the information and the program corresponding to the above-mentioned tool.

V. COOPERATION WITH THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

In this regard, the Third Meeting recommends:

1. Expressing its gratitude for the support to the Meeting provided by the United Nations Office on Drugs and Crime (UNODC) and by experts from States and agencies, especially INTERPOL, represented on the steering committee established in connection with the legal cooperation envisaged in the United Nations Convention against Transnational Organized Crime, and recommends that the OAS General Secretariat and the UNODC continue to strengthen their joint work by facilitating these kinds of encounters and fostering the exchange of information and cooperation among States in relation to developments in both these spheres regarding international legal cooperation.

2. That States make full use of the facilities provided by INTERPOL and IberRed, in particular their communications systems, channels, network and infrastructure to strengthen international cooperation in the area of extradition.

3. Continuing to organize roundtable discussions like those held during this Third Meeting to debate issues related to mutual assistance in criminal matters and extradition.

VI. SITE OF THE FOURTH MEETING

Appreciate and accept the offer to host the Fourth Meeting of Central Authorities and Other Experts on Mutual Assistance in Criminal Matters and Extradition, made by the delegation of El Salvador.

VII. ACKNOWLEDGMENTS

The Third Meeting thanks the Colombian authorities for their hospitality and congratulates them for their commendable efforts and work as the hosts of this meeting. It also wishes to thank the OAS General Secretariat for all the support provided and the work done for the success of this meeting.