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Fifth Meeting of the Working Group on Mutual Assistance in Criminal Matters and Extradition
May 30 and 31, 2012
Asunción, Paraguay

**RECOMMENDATIONS
OF THE FIFTH MEETING OF THE WORKING GROUP ON MUTUAL ASSISTANCE IN
CRIMINAL MATTERS AND EXTRADITION OF THE REMJA**

The Working Group on Mutual Assistance in Criminal Matters and Extradition of the REMJA (the Working Group) held its Fifth Meeting in Asunción, Paraguay, on May 30 and 31, 2012, in accordance with the provisions of the “Document of Washington” (REMJA-VII/doc.6/08 rev. 1), the Conclusions and Recommendations of REMJA-VIII (REMJA-VIII/doc.4/10 rev. 1), and resolutions AG/RES. 2657 (XLI-O/11) and CP/RES. 997 (1832/11) of the OAS General Assembly and Permanent Council, respectively.

Prior to the meeting, at the facilities of the Training Center of the Office of the Attorney General of Paraguay, two training sessions were held for more than 40 national and foreign participants on the Secure Electronic Communication System of the Hemispheric Network for Legal Cooperation in Criminal Matters (Criminal Matters Network).

In keeping with the second paragraph of provision 18 of the Document of Washington, the meeting was chaired by the delegation of Paraguay. It was decided, as established in the last paragraph under said provision that the delegations of the states that come after the Chair, in alphabetical order in Spanish, will be the vice chairs *ex officio* and will replace the Chair in the event of any impediment thereto.

After completing its deliberations, the Working Group adopted the following recommendations to be submitted to the Ninth Meeting of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA-IX):

I. LEGAL COOPERATION IN CRIMINAL MATTERS

1. That member states that have not already done so, implement the recommendations agreed upon in previous meetings of the Working Group and REMJAs, regarding the adoption of specific measures to ensure that legal cooperation in criminal matters, particularly in the area of mutual assistance and extradition, is prompt, effective, and efficient.

2. That progress continue with the preparation of a document with legal guidelines to serve as a model for those states that so require to agree on the establishment of joint investigation teams, based on the proposed model agreement presented by the Technical Secretariat of the REMJA at this meeting pursuant to recommendation II, 4 d), of REMJA VIII. To that end, a working group led by the delegation of Chile and composed, in addition, of the delegations of Brazil, Guatemala, Jamaica, Peru, Suriname, and Uruguay, with the support of the Technical Secretariat of the REMJA, will

pursue the necessary consultations and submit a draft for consideration and approval at the Sixth Meeting.

3. To take note of the progress made in the preparation of the proposed “Protocol to the Inter-American Convention on Mutual Assistance in Criminal Matters Relative to the Use of New Communication Technologies and Hearings by Videoconference”, based on the draft presented at this meeting by the delegation of El Salvador and the Technical Secretariat of the REMJA (PENAL/doc.31/12 rev. 1), in keeping with recommendations II, 2 of the fourth meeting of the Working Group and II, 4 and III, 3, of REMJA VIII. In that connection, to establish an informal working group led by the delegation of El Salvador and composed, in addition, of the delegations of Brazil, Bolivia, Paraguay, and Uruguay, in order, with the support of the Technical Secretariat of the REMJA, to prepare a revised draft protocol to be submitted to the Working Group for consideration and approval in the framework of its next meeting.

4. That those states that have yet to do so furnish the Technical Secretariat of the REMJA with their responses to the preparatory questionnaire for this meeting in advance of REMJA IX, so that the Technical Secretariat may present, on that occasion, an up-to-date report on the findings of those responses in keeping with recommendation II, 10 of REMJA VIII.

5. To reiterate the usefulness of the “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”; the “Questionnaire on Legal Cooperation in Criminal Matters”; and the “Model Law on Mutual Assistance in Criminal Matters” as a set of guidelines at the disposal of states. In this regard, it is recommended that states consider encouraging the effective use of these documents in the matters to which they refer and to strengthen their disclosure and dissemination among their national authorities and other international organizations, in order to enable them to become acquainted with and access them should they so need.

6. In keeping with recommendation II, 4, c) of REMJA VIII, to continue to promote, in the framework of the meetings of the Working Group, sharing of information on current subregional developments with regard to arrest warrants and simplified extradition, bearing in mind these and other related international developments, such as the Central American Treaty on Arrest Warrants and Simplified Extradition Procedures in the framework of the Central American Integration System (SICA), the CARICOM Arrest Warrant Treaty, the MERCOSUR Arrest Order (MMC), and the European Arrest Warrant (EAW).

7. To continue with the consideration of the drafting of an efficient and expeditious inter-American legal instrument on extradition, which would include the progress and new developments at the bilateral and subregional level, with a view to strengthening cooperation in this area. In that connection, to establish a working group led by the delegation of Argentina and composed, in addition, of the delegations of Brazil, Chile, Guatemala, Jamaica, Panama, Paraguay, and Uruguay, in order, with the support of the Technical Secretariat of the REMJA, to prepare a proposal to be submitted to the Working Group for consideration in the framework of its next meeting.

8. To continue to promote the development of training programs in areas related to legal cooperation in criminal matters, encouraging the exchange of information on the subject, *inter alia*, through workshops, the Criminal Matters Network and the “Legal Cooperation Bulletin” published and distributed by the Technical Secretariat of REMJA, as well as facilitating the participation of governmental authorities and experts in those training programs.

9. To continue, in accordance with recommendation V, 4 of REMJA VIII, to facilitate and promote legal cooperation and exchange of information and experience in victim and witness protection and assistance in the framework of the meetings of this working group.

10. That, with thirty days prior to the celebration of the REMJA IX, those states that have yet to do so provide to the Technical Secretariat of the REMJA their legislations and other measures with respect to victim and witness protection.

11. That, based on information supplied by the states, the Technical Secretariat of the REMJA:

a) Continue to compile, in a systemized fashion, legislation and other measures for victim and witness protection and assistance in the OAS member states, and make this information available to them through the public component of the Criminal Matters Network.

b) Continue to update a directory of authorities directly responsible for victim and witness protection and assistance programs in OAS member states.

12. To recommend to REMJA IX, bearing in mind the new mandates that the REMJA have been assigning to the Working Group as regards following up on their recommendations on topics connected not only with mutual assistance and extradition, but others that also entail strengthening and promotion of hemispheric legal cooperation in criminal matters, that it adopt such decisions as may be necessary, including amendments to the Document of Washington, for this working group, keeping as its focal point the legal cooperation on mutual assistance in criminal matters and extradition, to be renamed the “Working Group on Legal Cooperation in Criminal Matters”, so as to have greater clarity with respect to the scope of its competencies.

13. To continue to consolidate and strengthen coordination, information exchange, and cooperation between the Working Group and the OAS organs, agencies, entities, and mechanisms in areas of common interest, as well as to avoid duplication of efforts in connection with those areas.

II. HEMISPHERIC NETWORK FOR LEGAL COOPERATION IN CRIMINAL MATTERS (“CRIMINAL MATTERS NETWORK”)

1. To recognize the progress and continuous efforts of the OAS General Secretariat in maintaining, updating, and expanding the Criminal Matters Network, reflected, *inter alia*, by the fact that, as of the date of this meeting, memoranda of understanding have been signed with 44 institutions in 31 member states; 114 employees of these institutions are users of the Secure Electronic Communication System; and users of this system have been trained in the training session held prior to this meeting.

2. To continue to take advantage of communications technology to develop and use new tools to facilitate legal cooperation within the framework of the Criminal Matters Network. In this regard, to express its satisfaction with the development of a pilot phase of the tool for the use of secure videoconferences with the participation of the delegations of Argentina, Brazil, Colombia, Chile, Paraguay, and Peru, and to support its use as an useful, effective, efficient, and secure optional component of the Criminal Matters Network for the exchange of information among authorities responsible for international legal cooperation in criminal matters.

3. To accept with satisfaction the offer of the OAS General Secretariat to continue providing services for maintenance, updating, support, and technical assistance to the Criminal Matters Network and to move forward, in line with available resources, with the development of the first phase of modernization of the Network's public and private components, as well as the update of its Secure Electronic Communication System software. Furthermore, to request the OAS General Secretariat to report to REMJA IX and to the Working Group at its next meeting on progress in these areas.

4. To urge member states, bearing in mind the usefulness and benefits offered by the Criminal Matters Network, to consider making voluntary contributions for the development of the second phase of modernization of the public and private components of said Network as well as for updating its Secure Electronic Communication System.

5. To underscore the value of the "Legal Cooperation Bulletin" and to request the Technical Secretariat of the REMJA to continue the effort and to encourage states to contribute information to the bulletin.

6. To broaden the thematic scope of the Criminal Matters Network to include all topics relating to legal cooperation in criminal matters that the REMJA assign to the Working Group and that, therefore, it be renamed the "Hemispheric Network for Legal Cooperation in Criminal Matters."

7. That REMJA IX consider mechanisms that would enable the Criminal Matters Network to have permanently available to it over the long term the necessary resources for its update, maintenance, and expansion

III. ACKNOWLEDGEMENTS

To thank Paraguay for its hospitality and to congratulate it for its outstanding efforts in hosting this meeting.