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**XLVII MEETING OF THE GROUP OF EXPERTS FOR THE  
CONTROL OF MONEY LAUNDERING  
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Bogota – Colombia**

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**FINAL REPORT**

## 1. BACKGROUND

The Group of Experts for the Control of Money Laundering (GELAVEX) was created in 1990 in accordance with Article 22 of the [Statute](#) of the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS) and, therefore, is established as one of the advisory bodies of the CICAD.

Currently, GELAVEX is made up of two Sub-Working Groups: the Sub-Working Group on Forfeiture and International Cooperation and the Sub-Working Group on Financial Intelligence Units (FIUs) and Law Enforcement Agencies (LEAs). The activities of these Sub-Working Groups are determined by: Strategic Plans that define lines of action; and Work Plans that define concrete activities, which are to be developed in accordance with the previously-defined lines of action.

The Draft Strategic Plan for the 2018-2020 ([DTCO/LAVEX/doc.7/17](#)) was approved during CICAD's Sixty-Second Regular Session ([CICAD/doc.2363/17](#)). Therefore, it serves as a guideline for the activities developed by the Group during the three-year period from 2018-2020.

In accordance with the 2018-2019 Work Plan approved by CICAD, the **Sub-Working Group on Forfeiture and International Cooperation** is dedicated to working on the following lines of action: a) developing a study on the self-sustainability of seized assets within the framework of the duties of offices specializing in asset management; and b) developing a study on the forfeiture of substitute assets and commingled assets, with the aim of identifying those countries with developed legislation in this area, or that need to incorporate these provisions in their legal frameworks.

**The Sub-Working Group on Financial Intelligence Units and Law Enforcement Agencies** focuses on: a) conducting a study on cases concerning money laundering linked to human trafficking and the illicit smuggling of migrants in the region; b) conducting a study on comparative legislation and technical guidelines of international organizations with regard to the probative value of intelligence reports in the region; and c) developing a best practices guide for expert reports in money laundering cases. Mexico, Panama, Paraguay, and Peru agreed to participate as co-contributors to the Sub-Working Group in order to develop the proposed studies. Also, any other delegates who wished to contribute to the development of these projects were invited to do so.

In this XLVII Meeting of the GELAVEX, the following 18 member States participated: Argentina, Bahamas, Bolivia, Brazil, Chile, Colombia, Costa Rica, United States, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, and Trinidad and Tobago.

Likewise, participating as Observers were: Spain; the Asset Recovery Inter-Agency Network for the Caribbean (ARIN-Carib); the Caribbean Financial Action Task Force (CFATF); and the United Nations Office on Drugs and Crime (UNODC).

## **2. MINUTES**

### **i. Opening session.**

- Opening and installation

- Margarita Cabello Blanco, Ministry of Justice and Law of Colombia.

- Ana Teresa Morales Olivera, Executive Director General, Financial Investigation Unit (FIU) of Bolivia and Chairperson of the Group of Experts for the Control of Money Laundering of the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS).

- Welcoming remarks from the national authorities of Colombia

- Diana Abaunza, Vice-minister of International Relations and Policies of the Ministry of National Defense.

- Jorge Castaño Gutiérrez, Financial Superintendent of Colombia.

- Andres Ávila, Vice President of Movable and Immovable Assets of the Special Assets Society.

- Luz Ángela Bahamón, Specialized Director against Money Laundering of the National Office of the Attorney General.

- Luz Andrea Piñeros, Deputy Director of Analysis and Strategy of the Financial Information and Analysis Unit.

- Transfer of the Group's Chairmanship

- Ana Teresa Morales Olivera, Executive General Director, Financial Investigation Unit (FIU) of Bolivia.

The Director thanked and congratulated Colombia for their advancements in the legitimization of illicit profits<sup>1</sup>, as well as for their Chairmanship of the GELAVEX, underscoring the invaluable support of the delegation of Colombia from since their Vice-Chairmanship. Also, she thanked those in charge of co-coordinating the sub-working groups and those who provide the

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<sup>1</sup> Bolivia's term for money laundering

information to assist in the common struggle of the countries in the region against injustice. Thereon, she handed over the Chairmanship of the Group to Vice-minister Juan Francisco Espinosa Palacios, offering the support of the delegation of Bolivia in the exercise of their new task.

- Juan Francisco Espinosa Palacios, Vice-minister of Criminal Policy and Restorative Justice Ministry of Justice and Law of Colombia.

The Vice-minister expressed to the national authorities and the delegations present that it was an honor for Colombia to assume the Chairmanship and, in particular, for the work done by Ana Teresa Morales Olivera. He expressed the Chair's intention of taking a similar step to the one taken by FATF, of transitioning from the evaluation of normative compliance to the evaluation of effectivity, focusing on generating results, progress and tangible products that have an effect on the disruptive fight against organized crime in the region.

He stated that the word that must accompany this plenary is “generosity” regarding knowledge, learning and reception, highlighting the disposition of the Chair for regional collaboration. Finally, he extended special thanks to the Financial Superintendence of Colombia, the Ministry of Defense of Colombia, the Special Asset Society, the UIAF, the District Attorney's Office of Colombia, the OAS, the GELAVEX and the DTOC.

- Approval of the calendar and agenda. The Group approved, with no changes, the draft calendar ([DDOT/LAVEX/doc.1/19](#)). The agenda was approved with no changes.
- In representation of Technical Secretariat, Nelson Mena, from the DTOC, presented the Report of Activities for the 2018-2019 period ([DDOT/LAVEX/doc.2/19](#)).

## ii. First Session

### **Sub-Working Group on Financial Intelligence Units and Law Enforcement Agencies (FIU/LEA).**

- Presentation: Perspective of Virtual Assets in Colombia (Colombia: Jorge Castaño, Financial Superintendent of Colombia) ([DDOT/LAVEX/doc.3/19](#)).

Comments from the delegations:

The delegation of the United States thanked the organizers for the excellent organization of the event and asked whether Colombia has any virtual currency kiosk in the country that allows the deposit or withdrawal of cash based on virtual currencies.

The Superintendent replied that cash is one of the greatest problems in Colombia, since payments are made intensively in cash, showing that 50% of the Colombian economy is informal.

He stated that both virtual assets and cash imply traceability problems, but to achieve the substitution of cash, public policy must be accompanied by an environment of more flexible and digital payments with the objective of accomplishing this strategy of making cheap, immediate and transparent payments.

Dr. Espinosa complemented his response, stating that the detection of the code of virtual currencies is even more difficult than detecting cash in the cross-border transport of currencies. Therefore, he believes that the view that technological advancements facilitate detection does not apply to the current context, as is the case of data mining. Likewise, he shared the opinion of the Superintendent regarding the need of the State to have tools that guarantee public safety.

- Presentation: Final report on the comparative study of legislation and technical guidelines from international organizations regarding the probative value of intelligence reports in the region (Bolivia and Chile) ([DDOT/LAVEX/doc.4/19](#)) and ([DDOT/LAVEX/doc.5/19](#)).

#### Discussion and proposals:

Isabel Quintana, from the FIU of Mexico, asked whether the results from the questionnaire on probative value that was distributed during the June meeting were included in the report presented. Tania Gajardo, Legal Advisor of the Specialized Unit for Money Laundering, Economic, Environmental and Organized Crime (ULDDECO- Spanish acronym), of the Chilean National Prosecutor's Office responded that the questionnaire was part of the previous study on the value of expert sources, since for the report in question they did not use any questionnaire, but rather, relied on information from open sources and observations provided by the countries, among which only the US, Trinidad and Tobago and Peru responded.

The delegation from Honduras proposed leaving the term "probative value" out of the guide's name, since in the countries which have probative freedom, there is insufficient information on the use of FIU reports in judicial proceedings and what value is granted by the court involved. Javier Humerez, Legal Analyst from the FIU of Bolivia, replied that, in fact, the name change had been considered, in favor of substituting the term "use". Ms. Gajardo added that only Peru gave precise information on the probative value granted, given that in the other countries, having probative freedom, a precise answer cannot be given to this focus, since there is no preconceived probative value to be granted to each piece of evidence. Thus, Ms. Gajardo concluded that the decision on changing the name would be left to the plenary.

The delegation of Guatemala stated that their legislation does in fact differ from the rest, because it is through the complaint that the probative means are attached. However, in its article 9 it is established that the entire proceeding will be subject to the Criminal Procedural Code, article 186 of which stipulates that the of probative value of the documents will be determined by the courts and the Public Ministry, under sound reasoning. Ms. Gajardo replied that, having analyzed the same article, they did not find any other article in which the FIUs directly provide the District Attorney's Office with probative means, which was the reason for the interest in Guatemala

example. To this, the delegation of Guatemala responded that article 2 bis incorporated states that by any probative means there can be probative freedom over the crime of money laundering even if the primary offence has not been found. They added that the STR report is transformed into a financial analysis to which an aggregated value is granted by the Special Verification Intendance in order to be able to confirm money laundering patterns and operations and be presented to the competent entity.

The delegation of Panama asked if the report had been sent beforehand, given that an approval procedure is needed, they would have appreciated that their central authorities could have gone over the document and concur with the observations from the delegations of Chile and Bolivia that are presented in the report. To this, the Technical Secretariat commented that they support the coordinators of the sub-working groups and that the document in question was recently presented to the Executive Secretariat and published on the event website earlier in the week. Therefore, the final report had not yet been published but its advancement was indeed shared at the June meeting in Washington D.C. so that delegations could provide their observations.

The delegation of the US pointed out that they were not surprised by the fact that in the majority of countries responded that there are absolute or significant prohibitions on the use of FIU reports as evidence in money laundering proceedings. They added that the answer to the question of how effective is the intelligence generated by FIUs in those countries and provided to the police responsible for evidence gathering in judicial proceedings, may be found in the Fourth Round of Evaluations of regional FATF, which recommended that the Group observe the countries that ranked high in the use of financial intelligence to obtain effective convictions. Ms. Gajardo stated that only Peru provides for the use of intelligence reports as evidence in court, while the rest only use them as guiding criteria, which the police do use in their investigations.

The US delegation appreciated the clarification but questioned the immediate usefulness of this report and asked which will be the next steps of the Group in this regard, since the US does not allow the use of these reports as evidence. They asked whether the sharing of information among FIUs may result in the use of a US report in court.

The delegation of the Dominican Republic indicated that its the Financial Analysis Unit (UAF), in its article 91, provides the information on possible offences to the Public Ministry, which uses this information in judicial proceedings. Likewise, they indicated that in the Dominican Republic, these reports have no probative value.

The Chairmanship, in representation of Colombia, added the debate on how to optimize the FIUs but at the same time how to protect the analysts, given that when what is produced by the UIAF is taken before a Judge, it is common to summon the analyst of a certain report, exposing them publicly for an investigation they have conducted. Therefore, it is discussed whether it may be better not to summon the analyst and just use their information as orienting criteria, as is the case of Colombia, where the District Attorney's Office incorporates the information through

probative injunctions, with a process of legalization of evidence with prior authorization from the Judge. Similarly, he pointed out the importance of the presented report, given its later use by the rest of the Group.

As a reply to the delegation of the US, Ms. Gajardo stated that the intention of the report is to gather in one place information regarding the current legislative situation for those countries that find themselves in a process of legal modifications or may want to argue in their own judicial proceedings the consideration that these reports have in another country. Humerez added that he understands the concern of the US regarding the protection of shared information and that it should be Peru who informs on the possible uses given to the reports requested to other countries, but he recommended the elaboration of a best practices guide to harmonize this issue, taking into account the guidelines from international organizations. From the Technical Secretariat the informative character of the presented report was highlighted as well as its sole purpose of knowing its procedural reach, recognizing the usefulness pointed out by the sub-working group and specifying that a report presented before a Judge after its request as evidence is a new report developed by the FIU for the specific judicial proceeding. Finally, the Chairmanship established that, as agreed in Washington, they will proceed to eliminate the words “probative value” from the name of the report.

- Presentation: Final report on the study on trafficking in persons and migrants smuggling as precedent crime for money laundering in the region (Chile and Bolivia) ([DDOT/LAVEX/doc.9/19](#)) and ([DDOT/LAVEX/doc.10/19](#)).

#### Discussion and proposals:

The FIU of Mexico presented of a series of successful cases based on priorities established by them for the investigation of money laundering such as trafficking in persons, political corruption, front companies and fuel theft. In the case of fuel theft, legal persons dedicated to illegal fuel extraction were identified and, through a risk model implemented by the FIU, the quantity of movements of these companies could be detected as well as the money laundered by them that was being utilized for illegal activities. They identified a case of fuel theft related to organized crime in Guanajuato, where a criminal gang illegally extracted the fuel and with it, they created apparently legitimate transport companies but with originally illegal money. Another successful case was related with trafficking in persons, where the individual recruited women from Colombia or Venezuela, taking them to other countries, particularly the US, where they operated a website that offered sexual services. With the money obtained through this activity, they created other front companies. The FIU of Mexico offered to provide their presentation to the rest of the Group, offering to collaborate with other countries in similar cases.

- Presentation: Automatic and intelligent systems cross-border transportation of currencies and border control of goods (Colombia: Ministry of Justice and Law, National Directorate of Taxes and Customs and Anti-Narcotics Directorate – National Police)

([DDOT/LAVEX/doc.8.1/19](#)), ([DDOT/LAVEX/doc.8.2/19](#)) and ([DDOT/LAVEX/doc.8.3/19](#)).

Comments from the delegations:

The Honduran delegation pointed out the relevance of the presentation given the logistical difficulty Honduras faces in border control. The Directorate for the Combat against Drug-Trafficking (Dirección de Lucha contra el Narcotráfico) carries out usual detection efforts in airports and land customs points, but the Honduran delegation asked about the presented techniques regarding the generation of intelligence, since the information obtained from declarations does not contribute to an analysis of the subjects, and they considered greater international cooperation to be necessary. In response, one of the presenters expressed the need for system interoperability, where one must learn to gather information from different entities and governments and learn to use it. They also outlined the need for collaboration among entities and for international technical assistance without apprehension, with the objective of effectively obtaining intelligence.

The delegation of Trinidad and Tobago asked about the frequency with which the presenters have seen cases of subjects that had swallowed bills and what tools are used to detect this activity, given that it is not as common as swallowing cocaine. The presenter replied that it is a new method to detect a criminal structure, not a specific case, identifying who had paid for the trip, inspecting if they carried more money both hidden in the luggage and declared and systematically stopping every person when they had knowledge of the event and they carried out body scans.

- Presentation: Good Practices Guide for the use of experts' reports to prove the crime of money laundering (Bolivia) and approval of the guide by the delegations, as expert group in ML. ([DDOT/LAVEX/doc.6/19](#)) and ([DDOT/LAVEX/doc.7/19](#)).

The Group approved the document with no interventions.

- Presentation: Virtual Currency: A FIU Perspective (Financial Crimes Enforcement Network - FinCEN) ([DDOT/LAVEX/doc.11/19](#)).

There were no interventions.

- Presentation: Report on the current state of the project on open sources of information (FIU Peru). ([DDOT/LAVEX/doc.12/19](#)).

There were no interventions.

- Presentation: Final report on the study on self-sustainability of seized and forfeited assets, within the framework of the functions of the specialized offices of asset management:



successes, challenges and experiences (Costa Rica and Bolivia). ([DDOT/LAVEX/doc.17/19](#)) and ([DDOT/LAVEX/doc.18/19](#)).

The delegation of Honduras pointed out that there was a mistake in the Spanish version of the presentation, given that in the titles of the slides it was indicated the study on the forfeit of assets of equivalent value and mixed assets. They also commented on the difficulties regarding taxed assets, especially immovable assets, since if the administrating bodies that pay part of the lease and cover the mortgage guarantees in financial institutions, don't have the capacity to cover these responsibilities it would generate more debt and would allow the bank to carry out an embargo.

The delegation also asked how Costa Rica manages labor obligations and benefits payments of companies, especially when the administering entity has no money.

With regards to the data needed to complete the study, the sub-working group responded that they had not identified sufficient case-studies from other countries to be able to address these kinds of questions, since the examples are mainly from Costa Rica and Bolivia, both belonging to the sub-working group.

Therefore, they asked the Chair about the possibility of gathering more information that could be included as an update of the report that was approved during the day, given that Costa Rica has no experience in the matters requested by Honduras. The Chairmanship reminded that there would be more presentations throughout the event on this issue and the Technical Secretariat indicated that it is possible to include the updates suggested by Costa Rica after the approval for the report, also the Secretariat of the Group could disseminate the information to the competent authorities of each country in the Group once they have received it.

### iii. Second Session

#### **Sub-Working Group on Forfeiture and International Cooperation**

- Presentation: Final report on the study on mixed assets and assets of equivalent value (Costa Rica). ([DDOT/LAVEX/doc.15/19](#)) and ([DDOT/LAVEX/doc.16/19](#)).

The Group approved the document with no interventions.

- Panel: International Cooperation regarding conviction and non-conviction based forfeiture. Case of asset recovery cooperation between Colombia and US – Michael J. Burke – Department of Justice and Ana Catalina Noguera – Specialized Director for In Rem Forfeiture of the National Office of the Attorney General of Colombia. ([DDOT/LAVEX/doc.19/19](#)) and ([DDOT/LAVEX/doc.20/19](#)).

Comments from the delegations:

The Chair complemented the presentation outlining the process of how assets are hidden by criminals who, anticipating their probable incarceration, try to save money for their family or for their life after or during prison with sophisticated techniques of money laundering and straw men.

However, she pointed out that the use of other jurisdictions to hide assets complicates the prosecution of these criminals by the states, requiring the strengthening of international legal cooperation and highlighted the importance of agreements such as the one signed between the US and Colombia. She continued explaining that if the money used by criminals or their relatives to create a seemingly lawful business is the result of illegal activity, it is contaminated, and therefore these assets can be targeted and reverted to the State.

Trinidad and Tobago explained the legal foundation of external cooperation under their new law on civil assets, which allows the Attorney General to agree with any country the reciprocal execution and sharing of profits through an order that can be rejected by Parliament. The execution of the order will be done according to the law of the other country and the assistance provided may consist of securing, retaining or persevering property and always according to the legislation of that country. The delegation concluded by adding the need for judicial authorization to grant the request of the Attorney General.

The representative from the Regional Security System, which serves as Secretariat of ARIN-CARIC, responded to the question posed by the delegate from the US, Michael Burke, regarding the application of a foreign order, specifying that of the seven member states of the RSS, there are five jurisdictions that currently have legislation related to civil asset recovery. Once the petition has been received by the competent authority, it must be submitted to a judicial proceeding where the Attorney General or the Director of the Public Ministry must appear to represent the jurisdiction of origin to determine whether the order received was appropriate and to register the foreign order in the receiving jurisdiction in order to give it effect.

In relation to cooperation on the area of seizures mentioned by the Chair, Panama presented an example of its international cooperation with Colombia and the US in which a jewelry company was laundering money with the purchase of gold. It was an international seizure in which the three countries collaborated in the identification of this laundering process, although the applicability of these seizures still entails a great challenge, given the number of years it took to obtain results.

Mr. Burke agreed with the delegation, adding that it was due to the fact that until there was a final decision, the sharing could not take place. Furthermore, the United States thanked Panama for maintaining the assets under precautionary measures while the legal process was ongoing.

Colombia reiterated the importance of judicial cooperation agreements in matters of in rem forfeiture and asset confiscation, since the main motivation of transnational organized crime is economic. Thus, he argued that the region's best tool against these activities is pursuing the finances of these organizations.

- Presentation: Corruption and Politically Exposed Persons (PEP) Guides (Colombia: Ministry of Justice and Law) ([DDOT/LAVEX/doc.13/19](#)).

Comments from the delegations:

The Argentinian delegation considered the proposal to consider developing a data base of PEP to be optimal and highlighted the usefulness of sharing this information, especially given the difficulties of updating this information.

The delegation of Brazil also pointed out the challenges of PEP databases and the questioned whether access to the list should be public or restricted. They concluded by also underscoring the usefulness of the proposal. The Chair replied that it is yet a matter of debate and that one possibility is to partially restrict access.

The delegation of Chile asked if the database could be limited to civil servants or would it also include their whole family, given that otherwise the list would be too large and sharing that list would end up being too sensitive. To this proposal, the Chair replied that it may be the best alternative, as well as requiring a judicial request or an extrajudicial request through cooperation agreements.

The delegation of Colombia proposed the application of this project in stages, and to comply with international standards it should be possible to identify PEPs from international organizations, since for national PEPs, each country has their own autonomy to establish it. They specified an additional challenge of establishing how long a PEP should remain on the list after leaving the post for which they were categorized as such.

The delegation of Guatemala stated that the country categorizes PEPs on the basis of their post and not on the basis of the name of the actual person.

The delegation of Bolivia also highlighted the need and usefulness of this guide, since all the countries are now undergoing the process of creating the list. The FATF standard includes as PEP the current civil servant and that who have held the position in the past, so they asked how long

is advised to have someone as PEP, given that the population sees it as a negative list. They also recommended the distinction between a list of active PEPs, who currently hold the position, and a list of passive PEPs, that no longer carry out public functions. The Chair replied that the study will resolve these questions, but in their opinion it should be each State who decides how long someone should remain as a PEP in the list.

The delegation of Bahamas stated that they have no list, but financial and non-financial institutions conduct a risk analysis of the person in order to see how the products, delivery channels, country of origin and other actors affect the operation carried out by said person. The reason they did not have a list is to avoid that the financial institution or provider of services, as an obligated subject, does not autonomously carry out their own risk analysis of the person. They also had questions regarding the period for determining the end of the influence capacity of the PEP, since it is not the same for everyone but it depends on the specific situation of each PEP. The Chair responded proposing the possibility of grouping those jurisdictions that use a different system from the list, recognizing the different circumstances that each country faces.

The delegation of Costa Rica notified that they already have an information platform on national PEPs that the central bank is using and that GAFILAT has done an analysis of which countries that can or cannot share that information, as well as the scope and limitations they have. Therefore, Costa Rica suggested looking at what GAFILAT already has in order to avoid duplication of efforts, to which the Chair agreed.

The delegation of the Dominican Republic reiterated the comment from Costa Rica regarding the efforts of GAFILAT but also pointed out that in the Dominican Republic appearing in the list has been described by politicians as a sickness and it is compared to being called corrupt. Therefore, they considered that it was necessary to have a definition of what is a PEP and base its consideration on the risk.

The delegation of Paraguay appreciated the proposal because their country has very new regulations regarding PEPs and they do not have the list yet, which they would like shared among the countries given its valuable information. Likewise, they proposed the development of a guide for how to proceed in these cases.

The Chair referred to the importance of recognizing the complementarity of CFATF and GELAVEX, highlighting the need to generate information for the FIUs and to pool efforts. The Chair went on to describe the components of this study: the normative component related to the regulation

applied, the preventive component such as training to know what a PEP in that jurisdiction is, and the operational component of lists with the corresponding reservations.

The delegation of Mexico explained that in its FIU, the names of the persons are not public, only the positions they hold and the salaries they receive, so they asked how the proposed list would be done in this case, and whether a person that is not on the list would not be considered a PEP, commenting that the list would have to be constantly updated.

Panama agreed with the previous comment on the usefulness of the proposal, its development in stages and the need to standardize the criteria of each country, given the subjectivity of the profiles. They proposed to broaden the criteria for inclusion on a PEP list and use the list as a political tool of the region in times of destabilization of the democratic order. The Chair recognized the validity of their argument.

Nicaragua reiterated the complexity of updating thousands of names and positions that make up the list, and asked whether the list developed by CFATF and GELAVEX would be the same. The Chair recognized the need to avoid the duplication of efforts, but stated that that issue of operability would be addressed later on so as to try and not decelerate the necessary normative study of the region and the implementation of projects of joint improvement.

The Technical Secretariat explained that the implementation period of this ambitious project is of one year, but they are relying on work and information provided by GAFILAT. They also reiterated the need for collaboration between the Executive Secretariat of GAFILAT and the Technical Secretariat of GELAVEX to coordinate the sub-working groups conducting this study, as well as its capacity to make recommendation, always trying to generate products that complement them. They added that the Group goes further than Latin America, since it includes Caribbean countries, all members of the OAS, which requires the observation of the work of CFATF. Finally, they stated that it must be taken into account that the creation of the platform for the list will entail a cost which would need to be financed.

- Presentation: Change in the structure of the Financial Intelligence Unit (Brazil- National Secretariat for Drug Policies).

Comments from the delegations:

The Chair added that the location of the FIUs always is a matter of debate, since there are some in the judiciary, Attorney General's Office, Presidency, Ministry of Treasury and Ministry of

Justice. The Chair stated that the FIUs must be autonomous and have sufficient budget, and observed that the result has been a strengthening of the FIU of Brazil.

The delegation from the US asked whether Brazil had been evaluated in the fourth round by GAFILAT, because the presentation reflects an issue that will be an important factor on that evaluation. The presenter said that Brazil has not yet been evaluated by FATF or GAFILAT, as it will happen in November 2020.

- Presentation: Good practices in the administration of seized assets in Colombia. (Special Assets Society S.A.E) ([DDOT/LAVEX/doc.24/19](https://www.ddot.gov.co/LAVEX/doc.24/19)).

Comments from the delegations:

The US congratulated Colombia for the progress made in this area and asked if it is compulsory for the SAE, when it is about to seize an asset, to do a prior cost-benefit analysis to know if it will be economically successful. They also asked if there is any obligation for the district attorney that orders the seizure to consult the SAE or any other entity on the implications of seizing the asset and the cost it will imply for the State. The speaker answered that the Colombian regulation allows the anticipated seizure to be carried out without the need to consult the district attorney or the judge, given that the decision is restricted to the authorization of a committee constituted by the Ministry of Finance, the Ministry of Justice and the Presidency of the Republic, upon request of the SAE, as administrator of the assets, based on a technical and financial analysis of the cost of administration and the need of selling the asset. They added that the decisions regarding issues other than the administration of assets, correspond to the judge or district attorney and will not be challenged by the SAE, which implements the decision of judicial operators.

Costa Rica asked whether the SAE does a prior assessment of the economic interest of seized assets handed to them, or after as grounds to request the anticipated disposition. The speaker answered affirmatively since they cannot do an assessment of assets they have not yet received.

Costa Rica also asked about their process of legal indemnification of in rem forfeited assets. The speaker responded that, in accordance with Colombian law, specifically article 18 of the Law 793 of 2002, in force by the express provision of the Asset Recovery Law, the asset recovery sentence entails the transfer of ownership of the asset to the state and the forfeiture of all rights thereto, therefore it is considered automatically indemnified.

This enables the State to sell more comfortably and easily the assets upon which there is a decision of in rem forfeiture. They added that with the new legal framework they managed to extend that benefit to assets under anticipated disposition, since they do not yet have a ruling on them.

Honduras commented that in their country, although the seizure order is dictated by the district attorney, it must be ratified by judicial authorization and before the anticipated sale, the judge intervenes to register the order prohibiting the conclusion of contracts, disposition or embargo. Therefore, they asked whether the SAE consults the judicial authority before selling the asset in advance so the judge can revoke that measure.

The speaker explained that once the committee decides on the anticipated disposition, the SAE emits an administrative act that would be registered, with the faculty of lifting the judge's measure. He also indicated that the Superintendence of Notaries and Registry of Colombia has an autonomous registry code to register these decisions.

The delegation of Honduras also asked if the ruling of in rem forfeiture applies both over main rights and accessory rights, which was affirmed by the speaker. They also consulted on the experience of the SAE with the administration of companies, to which the presenter explained that the regulation on anticipated sale covers all kinds of assets, from those constituting the company itself to shareholder participation.

The SAE stated that the best mechanism to manage a company are anticipated sales, given the difficulty of their financial sustainability. The Chair complemented this last observation commenting that the State has difficulties managing assets, since the diverse nature of the assets is a challenge to any institution whether public or private, as well as due to the opposition exercised by the original owner.

The US asked if the SAE has the authority of rejecting the acceptance of an asset, which was confirmed by the speaker, since the SAE must comply with the decision of the judicial operator and doing otherwise may be a crime. To this answer, the US then asked whether the district attorney has the authority of deciding not to seize the asset that may entail economic losses, being able to consult the SAE as the specialized entity. The Chairmanship replied that the Attorney General does indeed refrain in some occasions from applying the in rem forfeiture on assets with very low value regarding the profit they might entail for the Fund for the Rehabilitation, Social Investment and Fight against Organized Crime (FRISCO), but they also accept certain assets

that cause losses and that, independent of their value, are subject to in rem forfeiture for security reasons.

The Juridical Vice-President of the SAE, complementing the Chair's answer, pointed out that the district attorney has the authority to choose what precautionary measure are imposed, and the regulation obliges them to impose a measure suspending the power of disposition, which is a completely legal measure that does not imply that the asset goes on to be administrated by the SAE. The SAE only manages an asset when the seizure or physical possession of the goods and properties is imposed.

The US asked if the speaker was referring to the possibility, as the US has, of not physically seizing the asset, but being able to place a note in the registry indicating that there is a governmental proceeding against it, which makes the asset basically unsellable. The speaker answered affirmatively.

Costa Rica added that in the case of their country, the decision on the seizure of an asset depends exclusively on the prosecuting attorney, who makes a determining assessment on whether the asset is an instrument or a proceed of the crime. After the decision-making process regarding the seizure, the administrators of the assets do not have any decision-making power, but they do have the possibility of carrying out a prior economic interest analysis of the asset to determine, along with the district attorney's office and the police, the applicability or not of handing the asset to the administrating body of that asset. If the asset recovery unit does not receive it for its management, the district attorney has the possibility of deciding on the destination of that asset applying another law on assets of low value or costly management and that have been rejected by the administrating body, with their destruction being a possibility. The delegation added the ex officio and immediate hearings are given to good faith third parties, when an asset does not have an economic value to the administrating body because the value of its debt is practically 80-90% of the asset's value.

- Panel: Legislative advancements in asset forfeiture:
  - Legislative advancements in asset forfeiture (Trinidad and Tobago). ([DDOT/LAVEX/doc.23/19](#))
  - Asset management in Brazil (Brazil). ([DDOT/LAVEX/doc.22/19](#))
  - Challenges of In Rem Forfeiture (Argentina) ([DDOT/LAVEX/doc.21/19](#)).

Comments from the delegations:



The US asked Trinidad and Tobago whether the new civil asset recovery refers exclusively to cash or any kind of asset, to which the presenter replied that it refers to the latter. US also asked whether those assets must be accessories or proceeds of the crime, to which Trinidad and Tobago replied affirmatively adding that they can be also terrorist property. Finally, the delegate from the US asked if any interested party can petition a judge to initiate the action, which the speaker confirmed adding that it is done through the Asset Recovery Order.

The delegation of the US asked Brazil if the proceeds of the crime will be destined to financing the Police. The presenter replied that the money collected goes to a fund designated to implementing drug-related policies, from prevention to control, and between 20-40% of that money is used to improve the structure of the Police. The US explained that in their country they try to avoid the image of “policing for profit” that the public might misinterpret, believing that they do not seize assets for their law enforcement tasks, but for self-profit. Therefore, the US wanted to caution Brazil to avoid that situation. Brazil recognized the same concern but defended giving a positive public image of this necessity.

Costa Rica asked if the money collected from anticipated disposition of assets can be used even if there has not been yet a ruling on the matter. Brazil replied that indeed this change was done, given that the delay until the end of the process was of approximately eight years, and now they can be used for public policies in advance. To this, Costa Rica asked about the returning of the monetized asset after acquittal, to which the speaker replied that the fund always has sufficient resources to return these amounts, even though only 5% of proceedings end in acquittal.

- Presentation: Tools for the non-conviction based forfeiture.
  - Evidence in in rem forfeiture (Colombia: Nation’s Office of the Attorney General). ([DDOT/LAVEX/doc.26/19](#)).
  - UIF’s financial intelligence in in rem forfeiture action, criminal seizure of assets and recovery of asset overseas (Colombia: Unit Information and Financial Analysis). ([DDOT/LAVEX/doc.27/19](#)).

Comments from the delegations:

Honduras commented that in their country, when the in rem forfeiture law was approved, a special district attorney’s office was created for this purpose, which the delegate considers a mistake. They also said that to obtain a search warrant or an arrest warrant a suspicion is

sufficient for that indictment, but for subsequent hearings it must be based on probability, which implies a degree of certainty of a conviction, and it is here where the in rem forfeiture is found.

Therefore, it implies greater difficulties to gather the evidence required for this level of conviction, and for that reason she considers this separation of matters in the prosecutor's office a mistake, and reminded that it also implies greater care in the task of training. The presenter answered that in Colombia the money laundering and forfeiture unit was also divided, without entailing that the probative elements from one cannot serve to reach a conviction in a proceeding of the other.

Bolivia asked if, understanding that in the financial analysis reports provided to the Public Ministry there is an estate analysis of real properties, vehicles and others of this category, they identify the owners of the assets for in rem forfeiture proceedings and money laundering proceedings or do they also identify the holders, third parties or straw men of the final beneficiary. Luz Andrea Piñeros, of the FIU of Colombia replied that through analysis of complex networks they review until the second level of the network, which allows the identification of relatives and possible knowledge of the final beneficiary, a task which pertains to the prosecutor's office, and for whom the reports serve as guidance.

- Presentation: Draft Work Plan 2019 - 2020 by the Chair and Sub-Working Groups. (Chair and Sub-Working Groups Coordinators).

The Chair of GELAVEX, in coordination with the Co-coordinators of the Su-Working Groups, presented the following draft Work Plan;

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

1. Study on the typologies of Money Laundering as a result of Contraband. Guatemala, Chile and Bolivia will work jointly.
2. Study on the regulation on Politically Exposed Persons (PEP) in the region, with special reference to the Caribbean sub-region. Chile and Colombia will work jointly.

Sub-Working Group on Forfeiture and International Cooperation:

1. Study on the applicability of precautionary measures on assets forfeited overseas. Costa Rica and Colombia will work jointly.
2. Conceptualization and design of a network of administrators of seized and forfeited assets. Costa Rica and Colombia will work jointly.

- **Conclusion and Recommendations from the Group of Experts**

1. To receive, with great pleasure, the Activities Report of the 2018-2019 period, presented by the Department against Transnational Organized Crime ([DDOT/LAVEX/doc.2/19](#)).
2. To congratulate the distinguished delegation of Colombia for the presentation: Perspective of Virtual Assets in Colombia, presented by the Financial Superintendent of Colombia, **Jorge Castaño Gutiérrez**. ([DDOT/LAVEX/doc.3/19](#)).
3. To approve the final report on the study of comparative legislation and technical guidelines from international organizations regarding the probative value of intelligence reports in the region (Bolivia and Chile) (DDOT) ([DDOT/LAVEX/doc.4/19](#)), presented by the distinguished delegates of Bolivia and Chile, **Javier Humerez Carranza and Tania Gajardo**, respectively.
4. To approve the final report on the study on trafficking in persons and migrants smuggling as a precedent crime for money laundering in the region, presented by the distinguished delegate of Chile, **Tania Gajardo**. ([DDOT/LAVEX/doc.9/19](#)).
5. To congratulate the distinguished delegation of Colombia for the presentation on Automatic and intelligent systems for the cross-border transportation of currencies and border control of goods, presented by: **Juan Francisco Espinosa Palacios**, Vice-minister of Criminal Policy and Restorative Justice ([DDOT/LAVEX/doc.8.1/19](#)); **José Andrés Romero Tarazona**, Director General of the Directorate of Taxes and Customs of Colombia ([DDOT/LAVEX/doc.8.3/19](#)); and **Mayor Nicolás Guillermo Suarez Plata**, Chief of the Investigative Group on Money Laundering. ([DDOT/LAVEX/doc.8.2/19](#)).
6. To recommend to the Commission the adoption, as reference document, of the “Guide of good practices in the use of experts’ reports to prove the crime of money laundering”. ([DDOT/LAVEX/doc.6/19](#)), presented by the distinguished delegates of Bolivia, **Javier Humerez Carranza and Alejandra Campos**.
7. To congratulate the distinguished delegation of US for the presentation: “Virtual Currency: A FIU Perspective” ([DDOT/LAVEX/doc.11/19](#)), presented by **Sean Evans**, *Intelligence Analyst, CEH, Financial Crimes Enforcement Network– FinCEN, Department of the Treasury of United States of America*.

8. To recommend to the Commission the adoption, as reference document, of the “Practical Guide for the application of Special Investigation Techniques in Transnational Organized Crime cases” of the OAS, as this Group of Experts recommended in the XLVI Meeting of the Sub-Working Groups, celebrated in Washington D.C. this past June ([DDOT/LAVEX/doc.W21/19](#)).
9. To express appreciation for the Presentation: Progress Report on the project “Open Sources of Information”, given on behalf of the distinguished delegation of Peru, by the delegate **Alejandro Díaz Romero**, *Coordinator of the Financial Intelligence Unit of Peru*. ([DDOT/LAVEX/doc.12/19](#)).
10. To approve the “The study on the confiscation of mixed assets and assets of equivalent value”, presented by the distinguished delegate of Costa Rica, Marcela Carbajal, attorney of the Asset Recovery Unit of the Costa Rican Institute on Drugs-ICD. ([DDOT/LAVEX/doc.15/19](#)).
11. To approve the “study on self-sustainability of seized and forfeited assets, within the framework of the functions of the specialized offices of asset management (cases of success, challenges and experiences”, presented by the distinguished representative of Costa Rica, Marcela Carbajal, attorney of the Asset Recovery Unit of the Costa Rican Institute on Drugs-ICD. ([DDOT/LAVEX/doc.17/19](#)).
12. To congratulate the distinguished delegations of the US and Colombia for the presentation “International Cooperation regarding conviction and non-conviction based forfeiture: Case of asset recovery cooperation between Colombia and US”, presented by: **Michael J. Burke**, *del Department of Justice of the United States of America* ([DDOT/LAVEX/doc.19/19](#)); and **Ana Catalina Noguera**, *Specialized Director For In Rem Forfeiture of the Office of the Attorney General of Colombia* ([DDOT/LAVEX/doc.20/19](#)).
13. To express appreciation for the Presentation by the distinguished delegation of Brazil on the change of the structure of their Financial Intelligence Unit, presented by **Bernardo Antonio Machado Mota**, *General Coordinator of Institutional Articulation Financial Intelligence Unit of Brazil*.
14. To congratulate the distinguished delegates of Trinidad and Tobago, Brazil and Argentina, for their interventions in the panel “Legislative advancements in asset forfeiture”: **Joan Honore Paul**, *Deputy Director of Public Prosecutions and Wendell H. Lucas*, *Director – Financial Investigations Branch Trinidad and Tobago* ([DDOT/LAVEX/doc.23/19](#)); **Igor**

**Montezuma Sales Farias**, Director of Asset Management of the National Secretariat of Policies on Drugs – SENAD of Brazil ([DDOT/LAVEX/doc.22/19](#)); and **Aurora Micucci**, National Coordination for the Fight against Money Laundering and Financing of Terrorism, Ministry of Justice and Human Rights of Argentina ([DDOT/LAVEX/doc.21/19](#)).

15. To congratulate the distinguished delegation of Colombia for their presentation on “Corruption and Guides on Politically Exposed People –PEP-”; presented by Doctor **Juan Francisco Espinosa Palacios**, Vice-minister of Criminal Policy and Restorative Justice ([DDOT/LAVEX/doc.13/19](#)).
16. To congratulate the distinguished authorities of the delegation of Colombia for their presentations in the panel “Tools for the non-conviction based forfeiture”: a) Evidence in in rem forfeiture, by **Santiago Vásquez**, Consultant of the Directorate of the National Specialized Prosecutor’s Office for Asset Forfeiture of the Office of the Attorney General of Colombia ([DDOT/LAVEX/doc.26/19](#)); and b) “FIUs financial intelligence in in rem forfeiture action, criminal seizure of assets and recovery of asset overseas”, by **Luz Andrea Piñeros**, Deputy Director of Analysis and Strategy of the Unit Financial Information and Analysis of Colombia ([DDOT/LAVEX/doc.27/19](#)).
17. To express appreciation for the presentation given, on behalf of the distinguished delegation of Colombia, by **María Virginia Torres de Cristancho**, President Special Assets Society S.A.E of Colombia ([DDOT/LAVEX/doc.24/19](#)).
18. To recommend to the CICAD the approval of the Work Plan for the 2019-2020 period, as previously proposed.

- **Other issues**

- Recommendation from the GELAVEX for the election of the Chair and Vice-Chair for the 2020-2021 period

The distinguished Delegation of Panama announced to the GELAVEX that, due to the transition process of the government recently elected in July 2019, they **must decline the postulation to the Chairmanship of this Group of Experts** that was generously proposed in this meeting, appreciating and offering their apologies to each of the distinguished delegations present. At the same time, they requested to take into consideration the candidacy of Paraguay to assume the Chairmanship of the GELAVEX for the 2020-2021 period.

The GELAVEX took note of the reasons presented by the distinguished Delegation of Panama and, considering them reasonable and meritorious, proposed to the CICAD the nominations of Paraguay and México to occupy the Chairmanship and Vice-Chairmanship, respectively, for the 2020-2021 period.

Mexico expressed that they accept *ad referendum* the nomination for the Vice-Chairmanship, and the Chair instructed the delegate to notify, opportunely and officially, the Technical Secretariat and the Executive Secretariat of CICAD, of their interest in maintaining their candidacy before the Commission in their next Ordinary Period of Sessions.

The Chair instructed the delegations of Panama and Paraguay to submit this decision to their respective representatives to the CICAD, so this recommendation from the GELAVEX may be taken into consideration by the Commission, who in their next Ordinary Period of Sessions will proceed to the formal election of the Chairmanship and Vice-Chairmanship *pro tempore* of the GELAVEX.

– Next meeting

The Group agreed, preliminarily and depending on the availability of financial resources, that the next meeting of the Sub-Working Groups of GELAVEX will take place during the month of May 2020 in Washington, D.C. The Technical Secretariat will confirm such information opportunely.

• Acknowledgments

The group expressed its congratulations and appreciation to the Chair, Colombia, for the excellent conduct of the plenary, with support from the distinguished Delegation of Panama, who holds the Vice-Chairmanship, and the Technical Secretariat, the Department against Transnational Organized Crime (DIOC).