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# Challenges during financial investigations and asset recovery from a regional perspective

Ana Álvarez  
Specialist



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# TOPICS

- ❖ The OAS and the ICC
- ❖ Difficulties for “asset recovery” (and financial investigations) at the regional level
- ❖ The role of the OAS to enhance asset recovery and cooperation in the region
- ❖ Final considerations



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# The OAS and the ICC



- The OAS was founded in 1948, for the purposes of regional solidarity and cooperation in the region (e.g. CFATF and GAFILAT are observers);
- Diversity among its 35 member states + 70 permanent observers (E.g. languages, legal systems, resources, types of confiscation, etc.);
- [Memorandum of understanding](#) on cooperation with the Office of the Prosecutor of the ICC (2011);
- Rome Statute: no fully implemented yet.



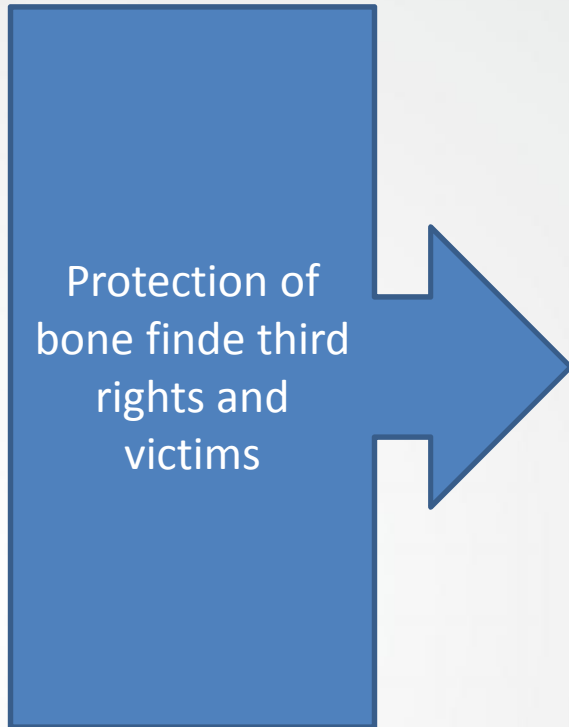
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What all of them  
have in common?



# International standards



Instruments



Objets

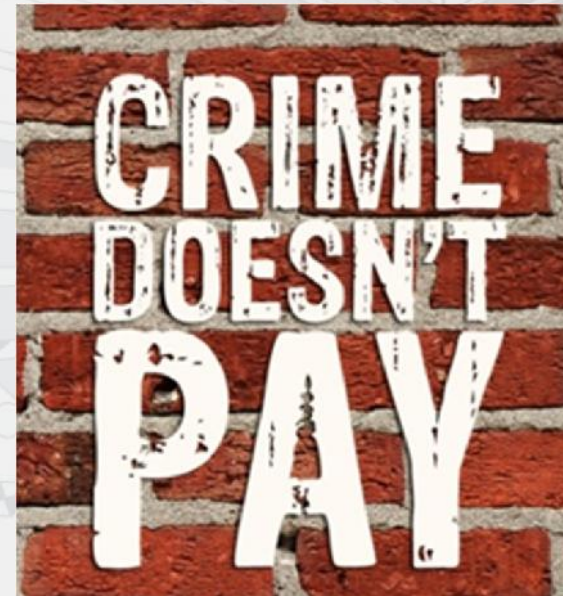


Produit



## Why asset forfeiture?

Even in the absence of bilateral treaty relationships that address forfeiture cooperation, prosecutors and courts are generally equipped from a treaty perspective to cooperate internationally for asset confiscation purposes



# Difficulties for asset recovery at the regional level

Differences regarding prosecution and conviction standards

Differences regarding requests for cooperation

Deficiencies during asset investigations

Delays in communications and executions

Lack of efficient asset management systems

Legal terminology differs from country to country

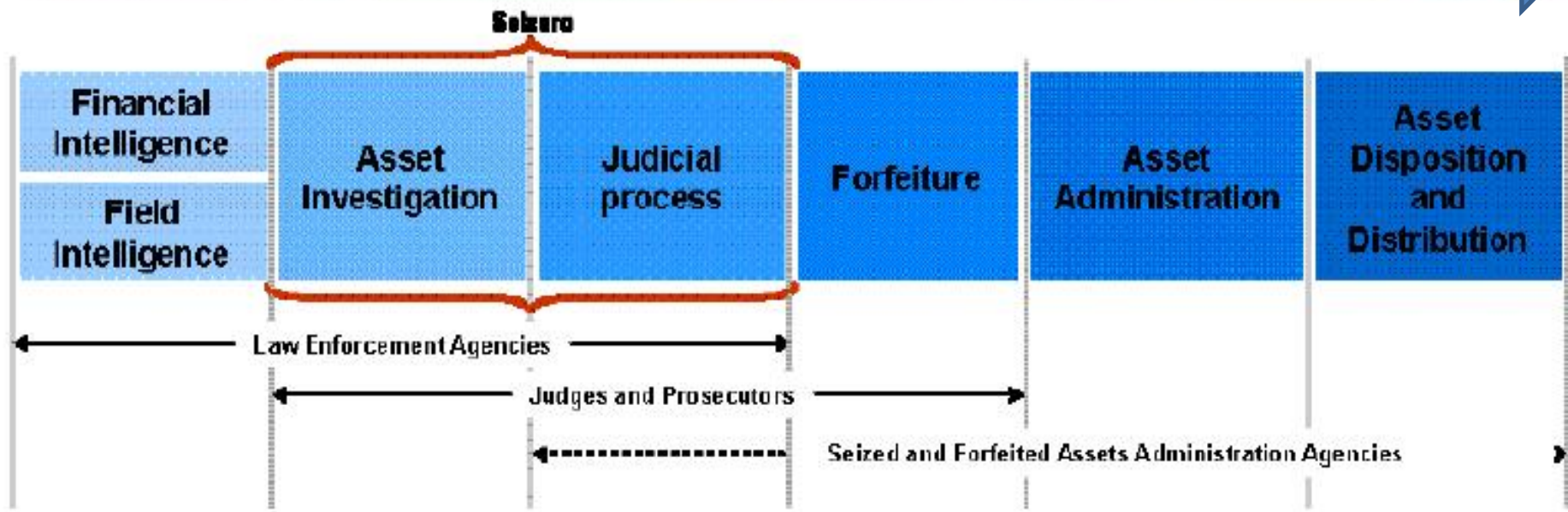
Problems identifying the central authority

Lack of cooperation and information sharing at the national and regional levels

Rejection of mutual legal assistance requests



## FORMAL AND INFORMAL COOPERATION



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# Financial investigations: main challenges

- Lack of adherence to and enforcement of AML/CFT regime (e.g. parallel investigations, banking secrecy);
- Use and protection of FIU information;
- Open sources of information as a tool for the development of financial investigations;
- National cooperation among LEAs and FIUs (lack of trust and coordination);
- Regional cooperation (e.g. join task forces, MOUs);
- Deficient resources;
- Investigative techniques.



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Pre-seizure planning is essential to anticipate resource expenditures and make informed decisions about what property is being targeted for seizure, how and when it will be seized, and most importantly **whether or not the property should be seized in the first place.**



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# What should be seized?

## Alimentos, bebidas, medicamentos e outros produtos perecíveis

Tipo	Quantidade	Valor(R\$)	Núm. Processo
-	1	5,00	00000013420138030013
sacola com farinha			
-	1	20,00	00000019720138220015
01 CAIXA DE CERVEJA CONTENDO 10 GARRAFAS INTACTAS E 3 VIOLADAS			
-	1	0,00	00000022320098240159
Um litro de wodka marca natasha, aberta e pela metade			
-	1	0,00	00000026120104047116
01 pcte cigarros com 4 carteiras, em 14/06/2010 foram entregues ao proprietário.			
-	4	0,00	00000039720114047120
unidades de embalagem plástica contendo aproximadamente 01 kg (cada um) de pó branco, sem nenhuma identificação, proveniente de Riveira - Uruguai			
-	1	1,50	00000047620108170280
01 (UMA) LATA DE CERVEJA SKOL, 473 ML			
-	1	15,00	00000076419998190020
01 LITRO DE UÍSQUE OLD EIGHT - LAUDO 1.482/99.			
-	1	280,00	00000076419998190020
138 MAÇÕES DE CIGARROS DE DIVERSAS MARCAS.			
-	1	0,00	00
Um fardo de cerveja, marca Brahma, contendo 12 latas de 350 ml cada			
-	5	109,00	00
4 CAIXAS COM 24 LATAS DE CERVEJA SKOL E 1 CAIXA COM 13 LATAS			



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# Data collection (data base/registry)

- Improve the efficiency of agencies, by increasing their **knowledge of assets currently under their control**;
- Aid national investigations and trials, by providing updated and clear information regarding assets **currently and previously associated with criminal individuals and groups**;



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- Better integrate the activities of law enforcement tasked with investigating financial crime with the agencies responsible for the administration of seized and forfeited assets by creating **common data collection standards**;
- Facilitate international cooperation, by **expediting the exchange of information regarding seized and forfeited assets**;
- Expedite **disposal of assets**, by efficiently and quickly providing information on assets that are eligible for disposal;



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# Pre-consignation (anticipated) sale

- ✓ assets are not suitable for storage;
- ✓ perishable (e.g. agricultural goods, livestock);
- ✓ would lose value quickly (e.g. aircrafts, vessels, cars) ;
- ✓ they (and they storage) pose a public risk (e.g. flammable goods);
- ✓ their management is overly complex or costly;
- ✓ the asset has been abandoned;
- ✓ after a predetermined time that the asset has been under seizure;
- ✓ the sale would be in the objective “interest” of the suspect (he/she agrees)



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# Why asset management?

- The objective of asset management is to maintain the value of the asset
  - Separation of duties
  - Transparency
  - Efficiency

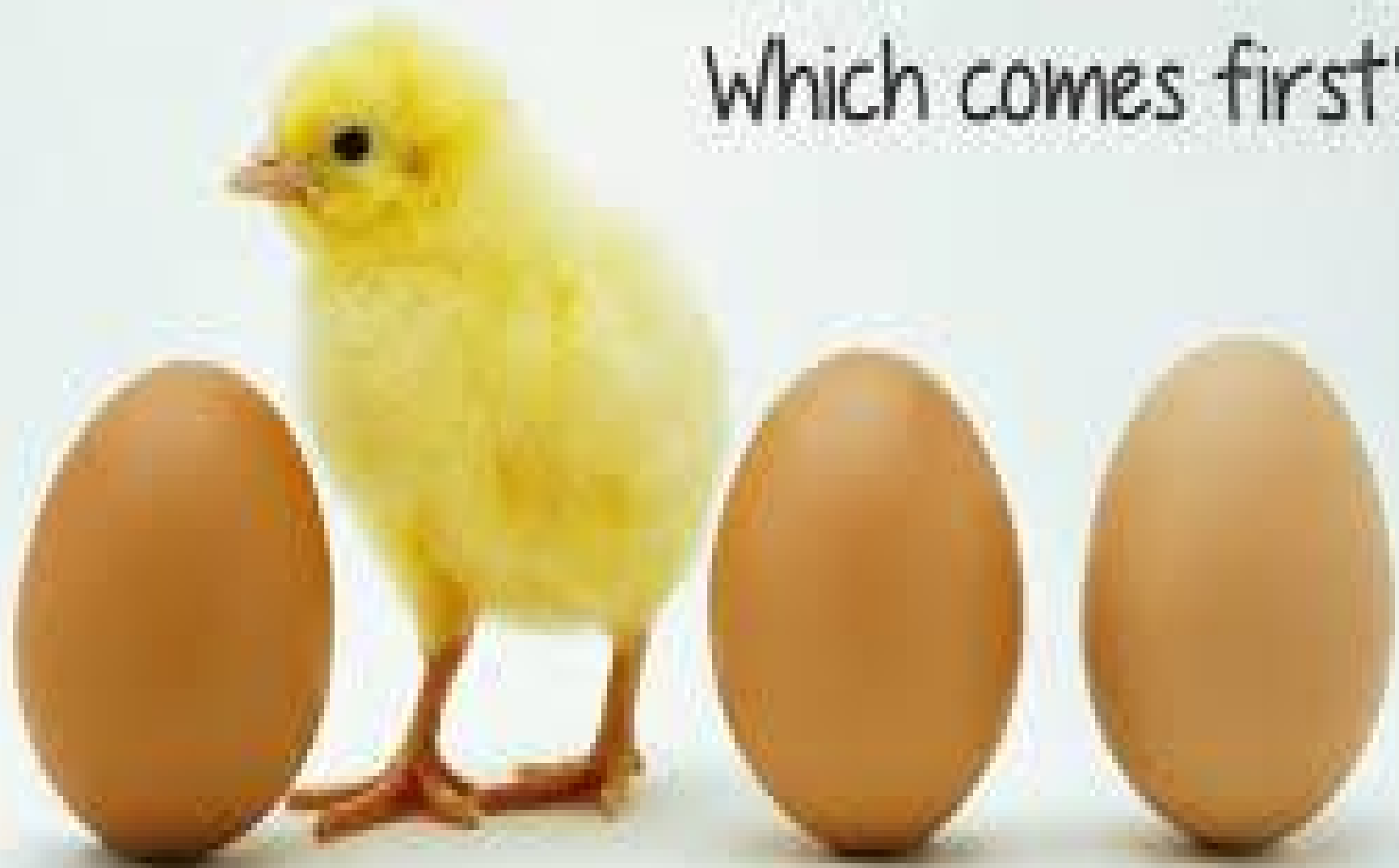


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Which comes first?



# Drug money gone

*Cops probed over missing narco cash*

Added by Emmanuel Joseph on March 29, 2017.

Saved under Crime, Local News



A major investigation of the Drug Squad is under way as the Royal Barbados Police Force tries to solve a potentially embarrassing case of missing drug money.

Few details were immediately available as to how far the net spreads, but Acting Assistant Commissioner responsible for Crime Management Lybron Sobers confirmed to Barbados TODAY this afternoon that a number of police officers were under investigation in connection with the absent cash.

Popular (Last 7 D

Recent Posts

'Stalker' rema  
A 32-year-old c  
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# Trend: Leyes de extinción/privación/pérdida de dominio

- Have adopted legislation

- Colombia
- El Salvador
- Guatemala
- Honduras
- Mexico
- Peru
- Uruguay (decomiso ampliado)

- Have pending legislation

- Bolivia
- Brazil
- Costa Rica
- Dominican Republic
- Ecuador
- Panama (now withdrawn)
- Paraguay



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# USA & Canada + 11 Caribbean jurisdictions:

## UK Overseas Territories

- Anguilla
- Bermuda
- Cayman Islands
- Monserrat
- Turks and Caicos Islands

- Antigua & Barbuda
- Dominica
- Grenada
- Jamaica
- St. Vincent & the Grenadines
- St. Lucia



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# Creation of asset management specialized units (*ad-hoc* or permanent)

- Neutrality
- Specialization (mix of skill sets required to manage different types of assets)
- Efficiency
- Transparency
- Credibility



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- ✓ Mitigate damages done to society
- ✓ Preserve the value of seized and confiscated assets for the benefit of the state, society and victims
- ✓ Create an economically viable asset recovery system (cost-benefit analysis)
- ✓ Ensure accountability and transparency of and public confidence in the asset recovery system



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# Asset disposal

- Destruction of assets
- Temporary use of assets (rental, agreement with universities or drug-related programs, loans)
- **Donation (% established by law, criteria and supervision)**
- Sale (in situ and on line auctions)



# Improving the protection and assistance to victims and witnesses

1

**Strengthen specialized institutions for the assistance and protection of witnesses and victims**

2

**Support the implementation of Project D.B.3 of the Central American Security Strategy**

3

**Identify good sub-regional practices and encourage horizontal cooperation**



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# The role of the OAS to enhance regional cooperation

Formal and informal

Legislation that allows for a expeditious cooperation

Channels for international cooperation

Staff trained in financial investigations and cooperation



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# Legislative and political support

- Meetings of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA);
- Model Laws. Ex. Model Law on Mutual Assistance in Criminal Matters;
- Multilateral Treaties;
- Mechanisms of multilateral evaluation (MESISIC, MEM/CICAD)



# GELAVEX

Created in 1992, as one of the advisor groups of CICAD

Oldest Group of Experts in the Western Hemisphere

- Sub-Working Group on International Cooperation and Forfeiture
- Sub-Working Group on FIUs and LEAs





# REACT

Program for international cooperation  
in asset recovery

- Mechanisms for sharing forfeited assets among countries
- Guide on existing procedures for requesting mutual assistance in tracing and recovering illicit assets



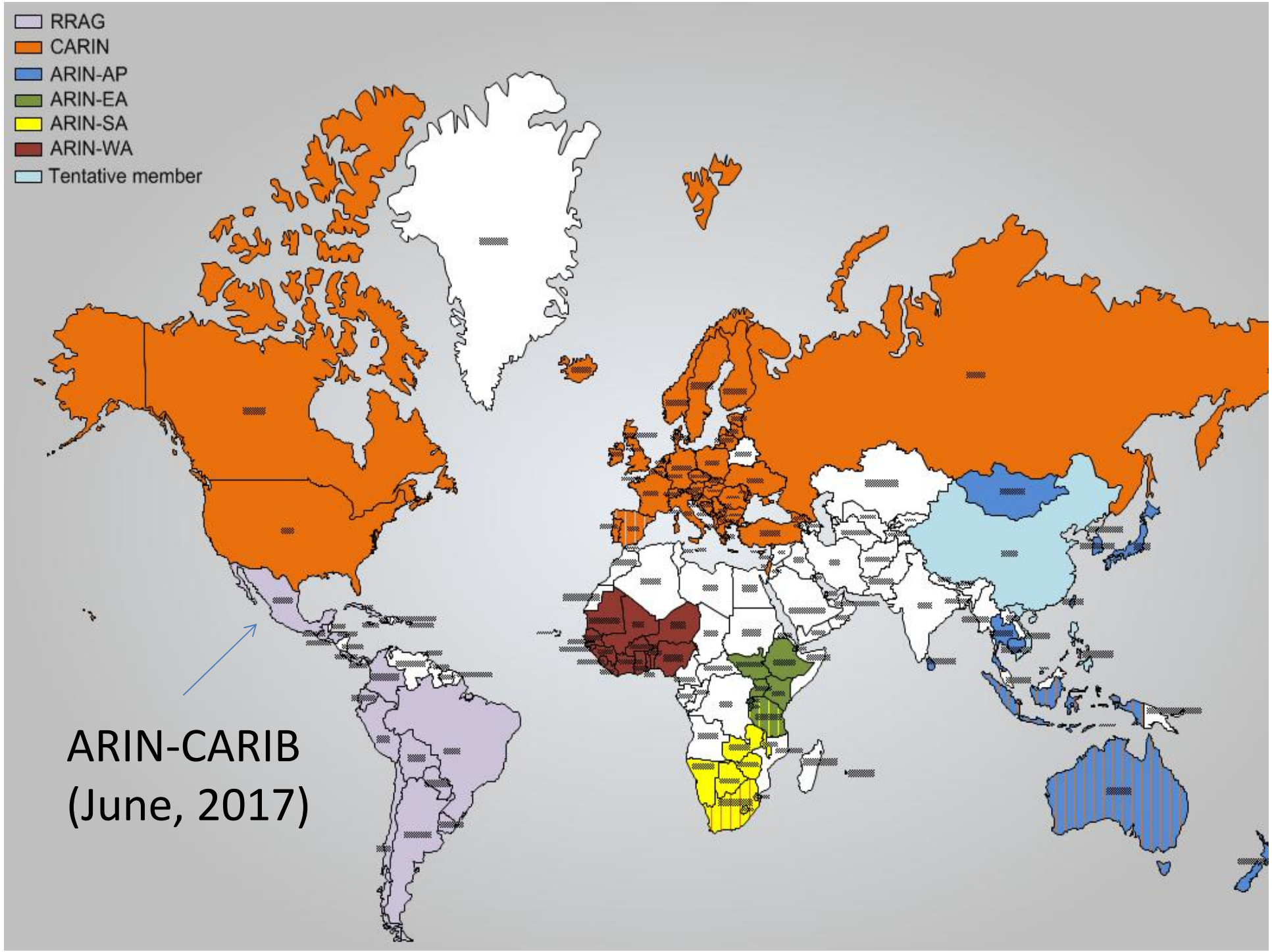
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# Recent accomplishments: ARIN-CARIN

- XL Meeting of the Group of Experts for the Control of Money Laundering (GELAVEX) (Washington, May 2015)
- XLI CFATF & XLII CFATF Plenary Sessions (Port-of-Spain, May and November 2015) - Plan of action
- Practitioners meeting (Georgetown, November 2016)
- Steering Group meeting (Port-of-Spain, January 2017)
- Launch of the ARIN-CARIB (Miami, June 2017)



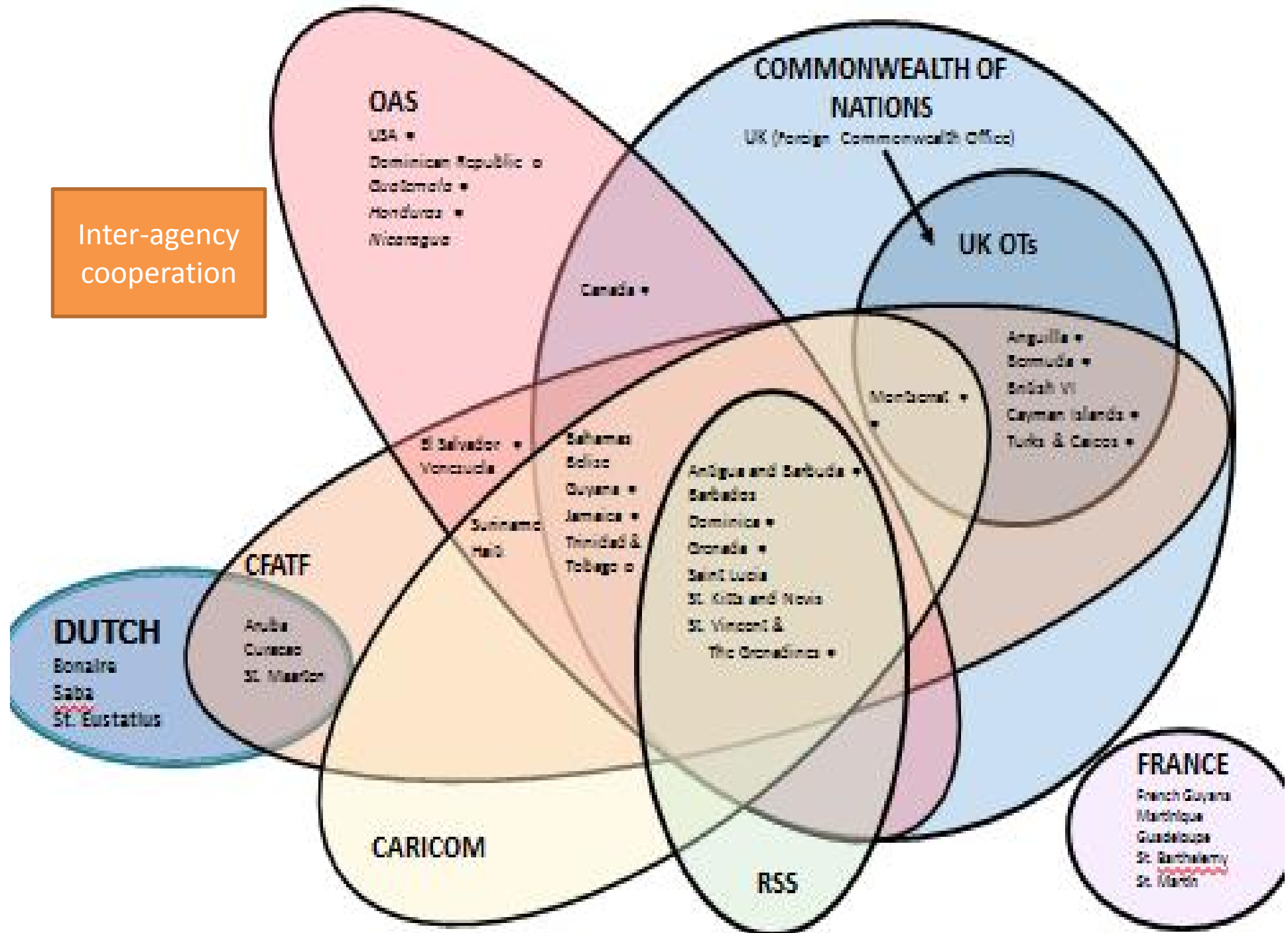
- RRAG
- CARIN
- ARIN-AP
- ARIN-EA
- ARIN-SA
- ARIN-WA
- Tentative member



ARIN-CARIB  
(June, 2017)



Inter-agency cooperation



## Capacity-building activities

### Asset investigation and asset recovery

Strengthen the technical capacity of member states in asset investigation, identification, location, seizure, forfeiture, administration and disposition of assets from money laundering and related crimes.

#### Components:

- Mock trials; Workshops on Special Investigative Techniques; Methodological Investigation Plan; Methodological Program to Strengthen the Management of the Chain of Custody, Workshops for judges and prosecutors.
- Technical assistance to the GAFILAT (RRAG) and ARIN-CARIB Asset Recovery Networks.



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# Money Laundering Training Program for Law Enforcement

## Objective:

Provide training on the application of special investigative techniques (to establish the commission of the crime, identify its authors and participants and linked assets) as well as strategies for asset investigation that facilitate the seizure and forfeiture of assets and other evidence connected to these criminal activities. Through the implementation of this project, law enforcement agencies improve their operations and develop an effective response to those criminal activities.

## Components:

Mock investigations



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# Training Program for Financial Intelligence Units

## Objective:

Strengthen the operational capacity and analytics of Financial Intelligence Units, providing them with the legal, administrative, and technological tools and human resources necessary for the collection, storage, analysis, and dissemination of information on financial intelligence.

## Components:

Workshops on Analysis, Linkages and Relationships, Specialized Courses on Forensic Accounting and Analysis of Financial Intelligence Information, and Workshops on facilitating dialogue between the public and private sectors on AML/CFT, and Workshops on Strategic Analysis



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# Counterdrug Law Enforcement Intelligence Training:

- ✓ Regional Counterdrug Intelligence School of the Americas (Bogota)
- ✓ Regional Caribbean Counterdrug Intelligence Training School (Port- of- Spain)
  - Specialized courses for counterdrug analysts and operators in strategic, operational and prospective intelligence
  - Technical assistance (capacity assessments)
  - Information/intelligence sharing (alumni network of analysts and investigators)

## Precursor Chemicals and Synthetic Drugs Control:

- ✓ Training and technical assistance in areas such as identification of new psychoactive substances (NPS); precursor chemical diversion control; disposal of chemicals; drug production methods; and clandestine drug labs



- **Maritime Border, Port and Airport Drug Trafficking Control:**
  - ✓ Technical assistance and training of Customs personnel and port/airport authorities in risk analysis, internal conspiracy investigations, cargo and passenger profiling, and search of recreational vessels
- **Group of Experts on Chemical Substances and Pharmaceutical Products / Group of Experts on Maritime Narcotrafficking:**
  - ✓ Forum for member states to exchange information and expertise and provide a regional perspective and analysis on trends, threats and challenges
- **Inter-American Program for Strengthening Gender Equality in Counter-Drug Law Enforcement Agencies (LEAs)**
  - ✓ Enhance the effectiveness of drug-related investigations, increase the level of technical expertise to develop intelligence related to counter-drug activities, and promote a more common gender-based approach in counter-drug LEAs

# Next steps...

- Where are we now?
- Where are we going?



- Allocate resources
- Appropriately route next steps

Cooperation with  
the ICC, UNODC  
and other  
strategic partners

# THANK YOU!

Ana Álvarez - Specialist

Inter-American Drug Abuse Control Commission (CICAD)

Secretariat for Multidimensional Security (SMS)

[amalvarez@oas.org](mailto:amalvarez@oas.org)



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