



OAS-0073

The Permanent Mission of Canada to the Organization of American States presents its compliments to the General Secretariat of the Organization of American States and has the honour to request that the General Secretariat circulate to other missions the attached comments on the "Summary of Recommendations" (CP/CSH-667/05) in order to facilitate discussion at the next meeting of Committee of the Hemispheric Security Committee on Transnational Organized Crime.

The Permanent Mission of Canada avails itself of the opportunity to renew to the General Secretariat the assurances of its highest consideration.

Washington, D.C.

March 4<sup>th</sup>, 2005



Canada

## Summary of Recommendations (CP/CSH-667/05)

The Permanent Mission of Canada has the following observations with respect to the subject Summary of Recommendations:

- At this point, recommendations relating to drugs and drug-related activities at the CICAD are absent from the Summary of Recommendations. Now that the Summary of Recommendations has been made available, we would expect CICAD to develop some input. The CICAD meeting of experts on money laundering and organised crime issues that is scheduled for March 16-18, 2005 would provide an opportunity to work on these matters.

- We would suggest revision of Recommendation #42 as follows : *"To sign and ratify, ratify, or accede to, as the case may be, and implement the 2003 United Nations Convention against Corruption, the 1996 Inter-American Convention against Corruption, and the 2000 United Nations Convention Against Transnational Organized Crime."* This suggested revision is intended to reflect the importance of implementation of treaty obligations. In our view, it is appropriate to mention the Palermo Convention here as that convention also has provisions on corruption and money laundering.

- The following language is suggested for Recommendation #44: *"Prior to REMJA-VI, to take measures to deny safe haven to officials found guilty of corruption, those found guilty of corrupting them, and their assets"*. As the delegation of Canada indicated at the last meeting of the Committee, we believe that it is important to clarify that this recommendation relates to officials found guilty of corruption, in accordance with due process.

- We find that the meaning of Recommendation #46 is unclear and believe that it should be revised for clarity. If it is a reference to asset sharing of the confiscated proceeds of crime that have been forfeited and are now the property of the state, then Canada's legal system requires a pre-existing agreement to enable asset sharing; this would not constitute a "legislative measure". If this recommendation a reference to civil forfeiture, the recommendation raises serious jurisdictional issues for Canada as a federal state, and also speaks to due process; again, this would not be a question of a "legislative measure." Without some authority from a court case, Canada cannot seize property in Canada and hand it over to another country to adjudicate property rights. We would therefore suggest that the recommendation be revised as follows: *"To adopt measures to enable countries to assist each other in tracing and recovering improperly diverted state assets."*