



OECD International Academy for Tax Crime Investigation

*Asset recovery: Seizure and confiscation of assets*



# Mutual Legal Assistance Treaties (MLAT)

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# Mutual Legal Assistance Treaties



# General overview: Arrangements

1. Formal sources:
  1. Diplomatic rules
2. Informal sources
  1. Police – Police
  2. Public prosecution office – Public prosecution office
  3. FIU – FIU

# General overview: Sources

1. Bilateral Co-operation Agreements (MLAT)
2. Multilateral Co-operation Agreements
3. International friendship and reciprocity



# Example Argentina MLAT

([www.co-operacion-penal.gov.ar/tratados-internacionales](http://www.co-operacion-penal.gov.ar/tratados-internacionales))

- ▶ Australia
- ▶ Canada
- ▶ China
- ▶ Colombia
- ▶ El Salvador
- ▶ France
- ▶ Italy
- ▶ Mexico
- ▶ Peru
- ▶ Portugal
- ▶ Russia
- ▶ South Africa
- ▶ South Korea
- ▶ Spain
- ▶ Switzerland
- ▶ Tunisia
- ▶ United Kingdom
- ▶ USA



## E.g. Argentina's Multilateral Agreements

(<http://www.co-operacion-penal.gov.ar/tratados-internacionales>)

- ▶ Agreement with MERCOSUR, Bolivia and Chile on Mutual Assistance in Criminal Matters
- ▶ Vienna Convention on Drugs Trafficking
- ▶ UN Convention against Organized Crime
- ▶ UN Convention against Corruption
- ▶ Inter-American Convention against Corruption
- ▶ Inter-American Convention on Mutual Assistance in Criminal Matters
- ▶ Convention on Combating Bribery
- ▶ MERCOSUR Protocols on MLAT

**INFORMACION GENERAL DEL TRATADO: A-55**

PAISES SIGNATARIOS	FIRMA	RATIFICACION/ADHESION	DEPOSITO	INFORMACION*
Antigua y Barbuda	-	07/14/2004	01/05/2005 RA	-
Argentina	06/06/2004	10/09/2006	12/12/2006 AD	Si
Bahamas	04/26/2001	04/22/2009	04/30/2009 RA	Si
Barbados	-	-	-	-
Belize	-	-	-	-
Bolivia	-	11/28/2006	12/14/2006 AD	-
Brasil	01/07/1994	10/10/2007	11/12/2007 RA	-
Canada	06/03/1996	05/29/1996	06/03/1996 RA	-
Chile	04/24/1997	06/05/2003	04/28/2004 RA	Si
Colombia	-	12/04/2002	01/13/2003 RA	Si
Costa Rica	03/08/2002	-	-	-
Dominica	-	09/14/2004	10/20/2004 AD	-
Ecuador	10/15/1992	12/26/2001	03/08/2002 RA	Si
El Salvador	07/02/2002	04/21/2004	07/16/2004 RA	Si
Estados Unidos	01/10/1995	01/05/2001	05/25/2001 RA	Si
Grenada	03/10/1993	11/29/2001	01/16/2002 RA	-
Guatemala	12/19/2002	01/24/2003	05/05/2003 RA	Si
Guyana	02/28/2006	04/07/2008	06/09/2008 RA	Si
Haití	-	-	-	-
Honduras	-	09/25/2006	11/10/2006 AD	-
Jamaica	-	07/14/2004	08/12/2004 AD	Si
México	06/05/2001	01/07/2003	02/11/2003 RA	Si
Nicaragua	03/04/1993	09/24/2002	11/25/2002 RA	Si
Panamá	11/13/2000	10/28/2001	01/29/2002 RA	Si
Paraguay	06/02/1998	07/30/2004	10/22/2004 RA	Si
Perú	10/28/1994	04/03/1995	04/26/1995 RA	Si
República Dominicana	-	-	-	-
San Kitts y Nevis	-	-	-	-
Santa Lucía	-	-	-	-
St. Vicente & Grenadines	-	-	-	-
Suriname	05/16/1995	02/28/2008	03/31/2008 RA	-
Trinidad & Tobago	-	06/01/2004	06/08/2004 RA	-
Uruguay	01/22/1993	-	-	-
Venezuela	08/27/1992	03/11/1995	03/14/1996 RA	Si



## E.g. Argentina

### International friendship and reciprocity

- ▶ LAW ON INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS  
LAW 24 767
  - ▶ Principles:
    - ▶ Broad, prompt co-operation: Article 1: “The Argentine Republic shall afford to any State which so requests the widest measure of mutual legal assistance regarding the investigation, prosecution and punishment of offences over which the requesting State has jurisdiction. The authorities concerned will make every effort to ensure that the request is processed as expeditiously as possible so as not to detract from the assistance provided.”
    - ▶ Subsidiarity
    - ▶ Reciprocity

**Criteria that  
underpin MLAT**



**“Fishing  
expeditions” and  
coercive  
measures**

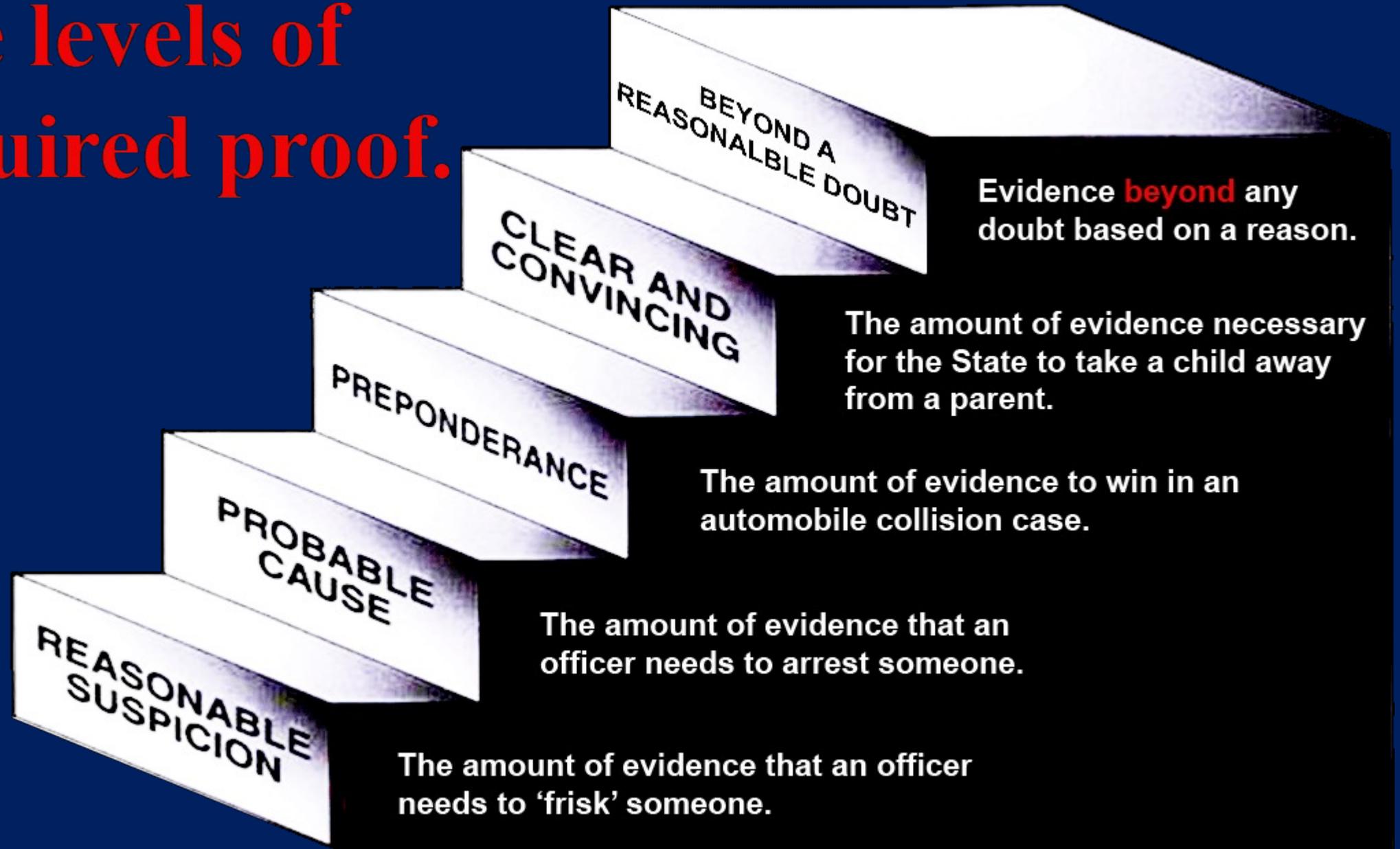


# Principle of speciality

**Preliminary  
investigations:  
careful and  
exhaustive**



# The levels of required proof.



A decorative graphic consisting of several bright yellow, irregular starburst or splatter shapes arranged in a curved path from the top center towards the bottom right corner of the slide.

# Seeking legal assistance: steps

**1. Consult the Central Authority or the relevant Enforcement Authority before sending a request.**

**2. Specify the legal instrument you will use to request co-operation.**

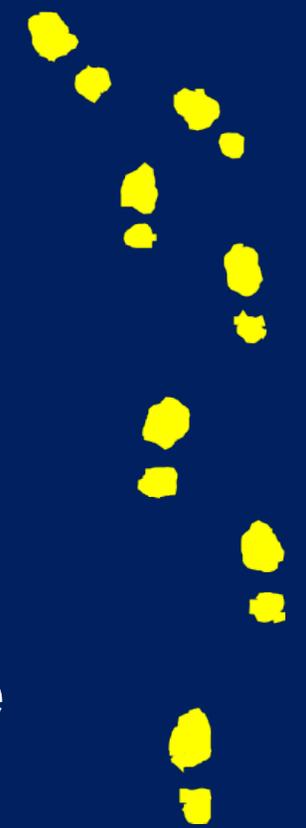
**3. Identify the authority with responsibility for investigating/bringing charges in the criminal matter.**



**4. Give a brief overview of the case: include an outline of the evidence collated, indicate how it supports the case as well as the reasonable nature of and need for the request you are to make.**

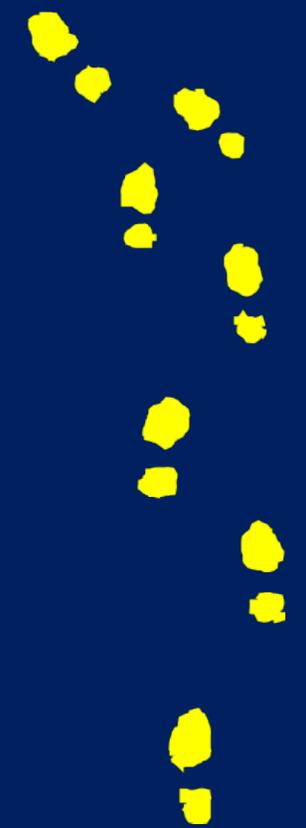
**5. Identify and state the (criminal and procedural) rules that apply in the case.**

**6. Ensure that the request will be read by the authorities: add a clear, detailed summary of the content of the request. Comply with formalities (certification, authentication, translation, etc.).**



**7. Note any type of confidentiality requirement: those aspects where secrecy is necessary in the case that is the subject of the request for co-operation.**

**8. When there are special urgent circumstances in the case, state the reasons for them. Do not claim that specific urgent circumstances obtain unless they really do.**



**9. Include details for contact points in the requesting jurisdiction: state the names and contact details of the people with a role in the case (Prosecutors, Special Units, Diplomatic Authority, etc.) along with their e-mail addresses and telephone numbers in case any clarification or further information is required.**

**10. Translate the request into the language required by the agency whose co-operation is sought (make yourself familiar with the central authorities' translation resources).**

**11. Explain to the receiving authority that the information will be used only for a specific purpose (principle of speciality).**

**Thank you**

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