



OECD International Academy for Tax  
Crime Investigation

*Recovery of assets: Freezing and seizing assets*



# Mutual Legal Assistance Treaties (MLATs) Basic concepts

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# Mutual Legal Assistance Treaties



# General overview: Approaches

1. Formal sources

1. Diplomatic channels

2. Informal sources

1. Police

2. Public Prosecutor's Office

3. Financial Intelligence Unit (FIU)

# General overview: Sources

1. Bilateral co-operation agreements
2. Multilateral co-operation agreements
3. International comity and reciprocity



# Example of Argentina: MLATs

(<http://www.cooperacion-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



## Example of Argentina: multilateral agreements

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

- ▶ MERCOSUR Agreement on Mutual Assistance in Criminal Matters, Bolivia and Chile
- ▶ Vienna Convention against Drug 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 against Transnational Bribery
- ▶ MERCOSUR MLAT Protocols

# 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



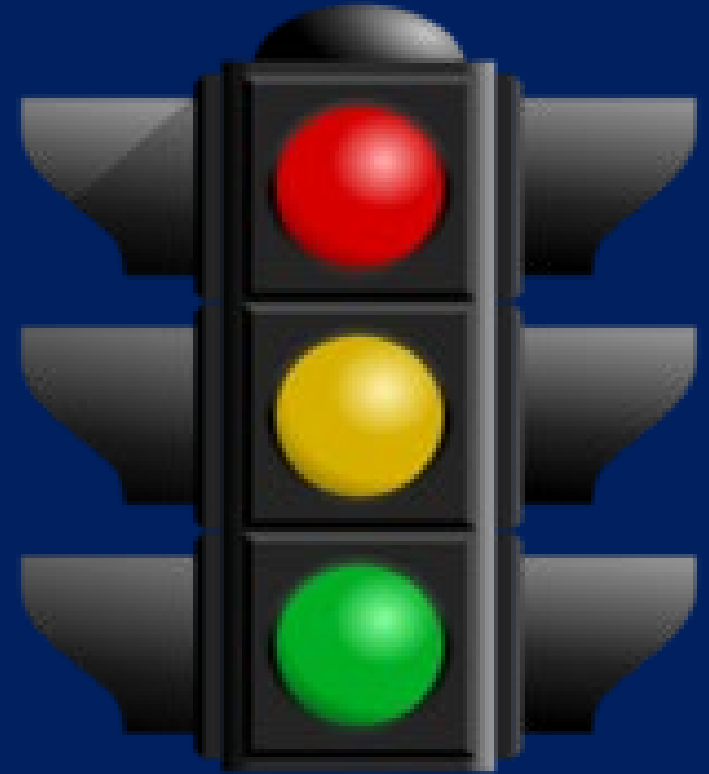


## Example of Argentina: international comity and reciprocity

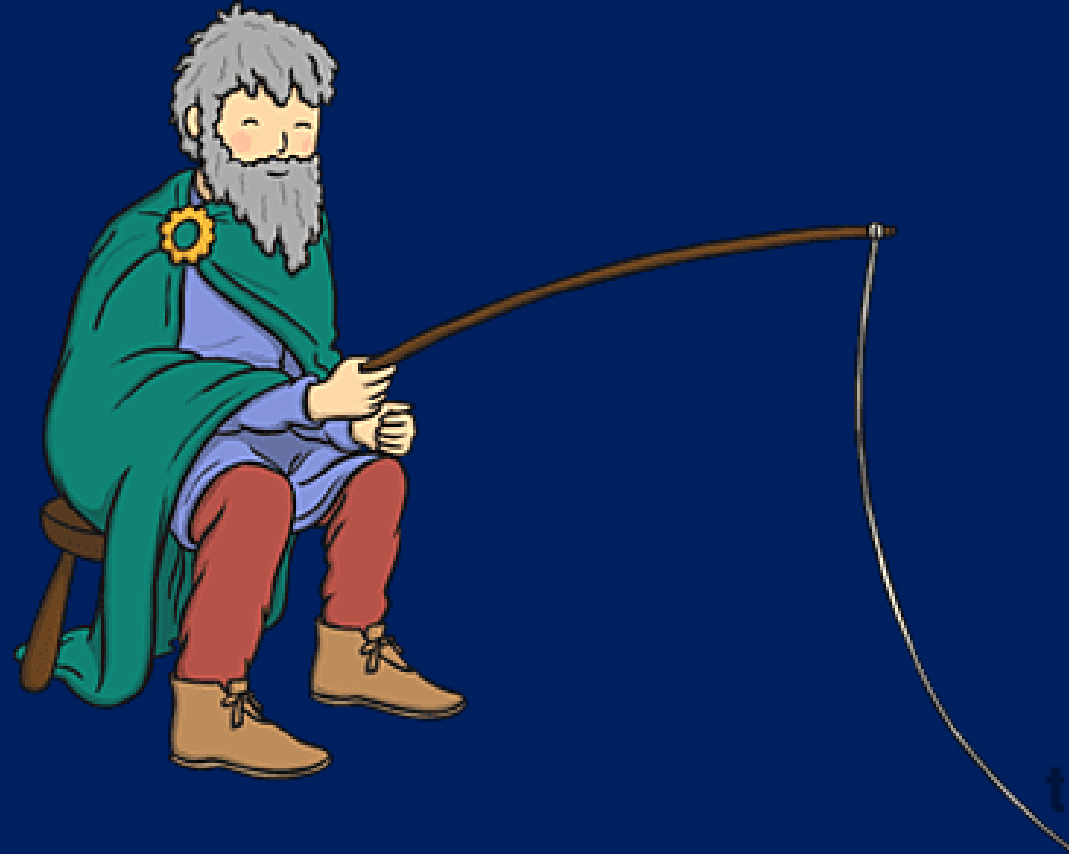
- ▶ LAW ON INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS (Law 24,767)
  - ▶ Principles:
    - ▶ Broad, timely co-operation: Article 1: *“The Argentine Republic will provide any state that so requires with the broadest assistance in relation to the investigation, prosecution and punishment of crimes in the latter’s 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 applying to MLATs



# “Fishing operations” and enforcement measures

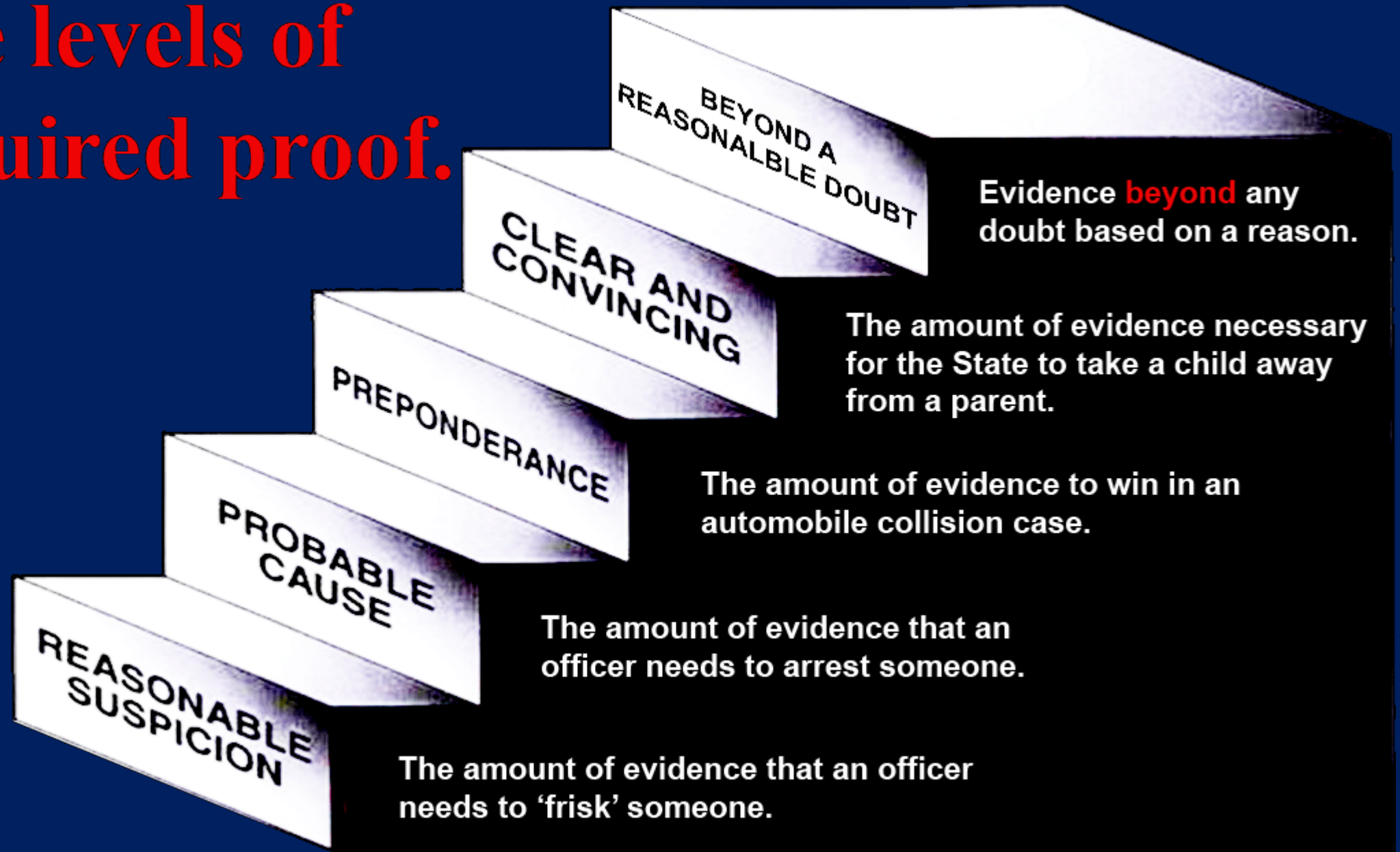



# Principle of speciality

**Previous  
investigations:  
due diligence  
and exhaustion**




# The levels of required proof.





**Seeking  
legal help:  
what steps to take**


- 
- 1. Consult the central authority or the appropriate enforcement authority before sending a formal request.**
  - 2. Specify the legal instrument you will use to request co-operation.**
  - 3. Identify the authority responsible for the investigation and prosecution of the criminal case.**



**4. Provide a summary of the case: include an outline of the evidence collected and explain how the evidence supports the case and underpins the reasonableness and the need for the request.**

**5. Identify and report on the (criminal and procedural) provisions applicable to the case.**

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



**7. Highlight any kind of request with confidentiality implications: when the case for which co-operation is requested calls for secrecy.**

**8. If the case calls for special urgency, highlight the reasons for the urgency. If there is no specific urgency, do not claim that there is.**

**9. Include details of the contact points in the jurisdiction making the request: provide the names and contact details of the people involved in the case (public prosecutor's offices, special units, diplomatic authority, etc.) with their email addresses and telephone numbers, in case clarifications or further information are needed.**

**10. Translate the request into the language required by the agency whose co-operation is requested (find out about the central authorities' translation resources).**

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

# Thank you

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