



U.S. CHAMBER OF COMMERCE



Information Technology Industry Council



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The Internet Association



April 23, 2015

The Honorable Mitch McConnell
Majority Leader, U.S Senate

The Honorable Harry Reid
Minority Leader, U.S. Senate

The Honorable John Boehner
Speaker, U.S. House of Representatives

The Honorable Nancy Pelosi
Minority Leader, U.S. House of Representatives

The Honorable Kevin McCarthy
Majority Leader, U.S. House of Representatives

The Honorable Thad Cochran
Chairman, Senate Appropriations Cmte.

The Honorable Barbara Mikulski
Ranking Member, Senate Appropriations Cmte.

The Honorable Richard Shelby
Chairman, Senate Appropriations Sbcmt. on
Commerce Justice and Science

The Honorable Harold Rogers
Chairman, House Appropriations Cmte.

The Honorable Nita Lowey
Ranking Member, House Appropriations Cmte.

The Honorable John Culberson
Chairman, House Appropriations Sbcmt. on
Commerce Justice and Science

The Honorable Chaka Fattah,
Ranking Member, House Appropriations Sbcmt.
on Commerce, Justice and Science

Dear Congressional Leaders,

The undersigned organizations are writing jointly to urge your support to assign the highest priority for funding the urgently needed improvements in the Mutual Legal Assistance Treaties (MLAT) process.

For more than half a century, the United States' bilateral MLATs and related multilateral agreements with foreign governments have served as a trusted and reliable mechanism for law enforcement to gain assistance across borders to pursue criminal investigations.¹ Unfortunately, resource constraints have put a severe strain on the Department of Justice's personnel and technological capabilities to efficiently process MLAT requests, as the demand from foreign governments has skyrocketed. In the last decade alone, there was a sixty percent increase in foreign

¹ <http://www.state.gov/j/inl/rls/nrcrpt/2014/vol2/222469.htm>

evidence requests and a one thousand percent increase in requests for electronic records submitted to the Department of Justice's Office of International Affairs. The increase in MLAT requests has coincided with a decrease in staffing within the Office of International Affairs, creating a substantial backlog in foreign evidence requests, with common response times of many months or more than a year for a single request.

The backlog now comprises more than 11,000 unanswered MLAT requests and more than 3,000 new requests were submitted to the Department of Justice in FY2014. As a result, foreign governments have attempted to forego the MLAT process by requesting data directly from U.S. companies operating overseas, even though U.S. law currently requires many of the requests to be processed by the Department of Justice, leaving U.S. companies facing difficult conflicts among international laws and procedures. In addition, the inefficiency of the MLAT process has resulted in a growing number of proposals in foreign jurisdictions relating to data that risks fragmenting the Internet and undercuts the competitiveness of U.S. companies.

Last July, Assistant Attorney General Leslie Caldwell testified that this problem "has harmed our relationships with foreign law enforcement agencies,"² and she stressed that the Department of Justice is now seeking \$32.1 million in dedicated funding³ to streamline the U.S. government's processing of MLAT requests. The additional funding would support additional prosecutors, support personnel, and technology that DOJ estimates would enable them to narrow MLAT response times to a matter of weeks by the end of 2015 and strengthen international relationships on cyber investigations. We strongly support this request and believe that it is key to rebuilding trust in the effectiveness of the U.S. MLAT process, while maintaining the rule of law around the world.

We appreciate that there are any number of worthy measures that could compete for additional resources during the fiscal year 2016 funding cycle. But in consonance with the sentiments expressed in the reports of both the Senate and the House Appropriations Committees on the pertinent appropriation bills for fiscal year 2015, we urge that you assign the highest priority to funding the urgently needed improvements in the MLAT process by fully supporting the requested \$32.1 million in dedicated funding. We note that legislative language that makes clear that an additional increment of funding to the Department of Justice is available specifically for MLAT activities would be a step forward in effectuating the necessary improvements.

² <http://www.justice.gov/opa/speech/assistant-attorney-general-leslie-r-caldwell-testifies-senate-committee-judiciary>

³ https://edit.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/02/10_criminal_division_crm.pdf

Thank you in advance for your consideration of this request. We stand ready to help in any way possible to assist the Congress in taking a critical step needed to remove barriers preventing U.S. businesses from competing effectively in the global information economy.

Sincerely,

Access Now
Application Developers Alliance
BSA – The Software Alliance
Center for Democracy and Technology
Computer and Communications Industry Association
Global Network Initiative
Information Technology Industry Council
Internet Association
Open Technology Institute
Software & Information Industry Association
TechNet
U.S. Chamber of Commerce
U.S. Council for International Business

cc: The Honorable Patrick Leahy, Chairman, U.S. Senate Judiciary Committee
The Honorable Chuck Grassley, Ranking Member, U.S. Senate Judiciary Committee
The Honorable Bob Goodlatte, Chairman, U.S. House Judiciary Committee
The Honorable John Conyers, Ranking Member, U.S. House Judiciary Committee