



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 20 November 2009**

**7288/5/09  
REV 5**

**COPEN 47  
COASI 31**

**DECLASSIFICATION**

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of document:	7288/4/09 REV 4 RESTREINT UE
dated:	4 November 2009
new classification:	none
Subject:	Draft Mutual Legal Assistance Agreement between the European Union and Japan

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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# RESTREINT UE



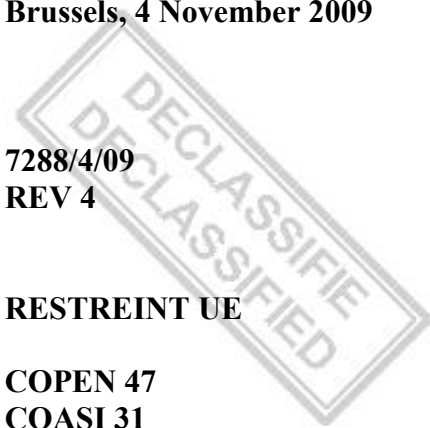
**COUNCIL OF  
THE EUROPEAN UNION**

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## **NOTE**

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from :	Presidency
to :	Delegations
No prev. doc :	10070/5/08 REV 5 COPEN 108 COASI 106 RESTREINT UE
Subject :	Draft Mutual Legal Assistance Agreement between the European Union and Japan

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Following the fourth round of negotiations (Brussels, 5-9 October 2009) and two further negotiations by videoconference (21 and 29 October 2009), delegations find annexed the text of the draft Agreement that has been agreed upon by the EU and Japanese delegations.

The consensus that has been reached between the two delegations is obviously subject to approval at political level on both sides.

The Presidency is convinced that the draft Agreement set out in the Annex will provide a solid basis for mutual legal assistance in criminal matters between our Member States and Japan, while at the same time ensuring respect for the fundamental values of the European Union (see in particular the provision on the death penalty in Article 11(1)(b)).

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The Agreement has been negotiated against the backdrop of the imminent entry into force of the Lisbon Treaty. The Lisbon Treaty will do away with Articles 24 and 38 TEU in their current form, on which the negotiation mandate of the Presidency is based. Therefore, the aim of the Presidency has been to enable the adoption of the draft Council Decision on signing of this Agreement before the entry into force of the Lisbon Treaty. Furthermore, the negotiations have had to be based on the current legal framework of the European Union and its Member States. Therefore the draft Agreement is phrased in such a way that the Contracting Parties are able to execute the Agreement on the basis of their current legislation. In the same vein, Japan has had to accept that some Member States, because of their current domestic requirements, need to derogate from some of the general rules contained in this draft Agreement (see in particular Annex IV). At the same time the draft Agreement does allow for future, more far-reaching co-operation (see Article 3(k)).

*The Presidency invites delegations:*

- 1) to approve the text of the draft Agreement, so that the lawyer-linguist revision can be started in time for approval of this draft Agreement;*
- 2) to inform the Presidency by 9 November of the Central Authority to be listed in Annex I;*
- 3) to inform the Presidency by 9 November of the authorities competent to originate requests to be listed in Annex II;*
- 4) to inform the Presidency by 9 November whether they wish to accept any other languages than those currently listed in Annex III. It follows from Article 9 that other languages can be accepted either for all cases or, as Japan will do, for urgent cases only.*

## AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The European Union and Japan,

Desiring to establish more effective cooperation between the European Union Member States and Japan in the area of mutual legal assistance in criminal matters,

Desiring that such cooperation will contribute to combating crime,

Reaffirming their commitment to respect for justice, principles of the rule of law and democracy, and judicial independence,

Have agreed as follows:

### Article 1

#### *Object and purpose*

1. The requested State shall, upon request by the requesting State, provide mutual legal assistance (hereinafter referred to as “assistance”) in connection with investigations, prosecutions and other proceedings, including judicial proceedings, in criminal matters in accordance with the provisions of this Agreement.
2. This Agreement does not apply to extradition, transfer of proceedings in criminal matters and enforcement of sentences other than confiscation provided for under Article 25.

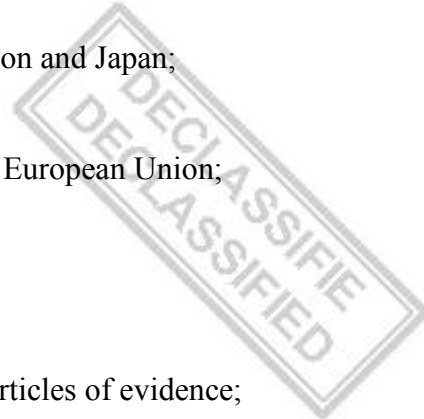
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## Article 2

### *Definitions*

For the purpose of this Agreement:

- (a) the term “Contracting Parties” means the European Union and Japan;
- (b) the term “Member State” means a Member State of the European Union;
- (c) the term “State” means a Member State or Japan;
- (d) the term “items” means documents, records and other articles of evidence;
- (e) the term “property” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;
- (f) the term “instrumentalities” means any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence;
- (g) the term “proceeds” means any property derived from or obtained, directly or indirectly, through the commission of a criminal offence;
- (h) the term “freezing or seizure” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority; and
- (i) the term “confiscation”, which includes forfeiture where applicable, means a penalty or a measure, ordered by a court following proceedings in relation to a criminal offence or criminal offences resulting in the final deprivation of property.



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## Article 3

### *Scope of assistance*

Assistance shall include the following:

- (a) taking testimony or statements;
- (b) enabling the hearing by videoconference;
- (c) obtaining items, including through the execution of search and seizure;
- (d) obtaining records, documents or reports of bank accounts;
- (e) examining persons, items or places;
- (f) locating or identifying persons, items or places;
- (g) providing items in the possession of the legislative, administrative or judicial authorities of the requested State as well as the local authorities thereof;
- (h) serving documents and informing a person of an invitation to appear in the requesting State;
- (i) temporary transfer of a person in custody for testimony or other evidentiary purposes;
- (j) assisting in proceedings related to freezing or seizure and confiscation of proceeds or instrumentalities; and
- (k) any other assistance permitted under the laws of the requested State and agreed upon between a Member State and Japan.



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## Article 4

### *Designation and responsibilities of Central Authorities*

Each State shall designate the Central Authority that is the authority responsible for sending, receiving and responding to requests for assistance, the execution of such requests or their transmission to the authorities having jurisdiction to execute such requests under the laws of the State. The Central Authorities shall be the authorities listed in Annex I to this Agreement.

## Article 5

### *Communication between Central Authorities*

1. Requests for assistance under this Agreement shall be sent by the Central Authority of the requesting State to the Central Authority of the requested State.
2. The Central Authorities of the Member States and Japan shall communicate directly with one another for the purpose of this Agreement.

## Article 6

### *Authorities competent to originate requests*

The authorities which are competent under the laws of the States to originate requests for assistance pursuant to this Agreement are set out in Annex II to this Agreement.

## Article 7

### *Authentication*

Documents transmitted by a State pursuant to this Agreement which are attested by the signature or seal of a competent authority or the Central Authority of the State need not be authenticated.

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## Article 8

### *Requests for assistance*

1. The requesting State shall make a request in writing.
2. The requesting State may, in urgent cases, after having been in contact with the requested State, make a request by any other reliable means of communication, including fax or e-mail. In such cases, the requesting State shall provide supplementary confirmation of the request in writing promptly thereafter, if the requested State so requires.
3. A request shall include the following:
  - (a) the name of the competent authority conducting the investigation, prosecution or other proceeding, including judicial proceeding;
  - (b) the facts pertaining to the subject of the investigation, prosecution or other proceeding, including judicial proceeding;
  - (c) the nature and stage of the investigation, prosecution or other proceeding, including judicial proceeding;
  - (d) the text or a statement of the relevant laws, including applicable penalties, of the requesting State;
  - (e) a description of the assistance requested; and
  - (f) a description of the purpose of the assistance requested.
4. A request shall, to the extent possible and relevant to the assistance requested, include the following:



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- (a) information on the identity and location of any person from whom testimony, statements or items are sought;
- (b) a list of questions to be asked to the person from whom testimony or statements are sought;
- (c) a precise description of persons or places to be searched and of items to be sought;
- (d) a description of why the requesting State considers that the requested records, documents or reports of bank accounts are relevant and necessary for the purpose of the investigation into the offence, and other information that may facilitate the execution of the request;
- (e) information regarding persons, items or places to be examined;
- (f) information regarding persons, items or places to be located or identified;
- (g) information on the identity and location of a person to be served with a document or informed of an invitation, that person's relationship to the proceeding, and the manner in which service is to be made;
- (h) information on the allowances and expenses to which a person whose appearance is sought before the competent authority of the requesting State will be entitled; and
- (i) a precise description of proceeds or instrumentalities, the location thereof, and the identity of the owner thereof.

5. A request shall, to the extent necessary, also include the following:

- (a) a description of any particular manner or procedure to be followed in executing the request;
- (b) a description of the reasons for confidentiality concerning the request; and

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(c) any other information that should be brought to the attention of the requested State to facilitate the execution of the request.

6. If the requested State considers that the information contained in a request for assistance is not sufficient to meet the requirements under this Agreement to enable the execution of the request, the requested State may request that additional information be provided.

## Article 9

### *Language*

A request and any documents attached thereto shall be accompanied by a translation into an official language of the requested State or, in all or, in urgent cases, into a language specified in Annex III to this Agreement.

## Article 10

### *Execution of requests*

1. The requested State shall promptly execute a request in accordance with the relevant provisions of this Agreement. The competent authorities of the requested State shall take every possible measure in their power to ensure the execution of a request.

2. A request shall be executed by using measures that are in accordance with the laws of the requested State. The particular manner or procedure described in the request referred to in paragraph 4(g) or paragraph 5(a) of Article 8 shall be followed to the extent that it is not contrary to the laws of the requested State, and where it is practically possible. In case the execution of the request in the manner or procedure described in the request poses a practical problem for the requested State, the requested State shall consult with the requesting State in order to solve the practical problem.

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3. If the execution of a request is deemed to interfere with an ongoing investigation, prosecution or other proceeding, including judicial proceeding, in the requested State, the requested State may postpone the execution. The requested State shall inform the requesting State of the reasons for the postponement and consult the further procedure. Instead of postponing the execution, the requested State may make the execution subject to conditions deemed necessary after consultations with the requesting State. If the requesting State accepts such conditions, the requesting State shall comply with them.

4. The requested State shall make its best efforts to keep confidential the fact that a request has been made, the contents of the request, the outcome of the execution of the request and other relevant information concerning the execution of the request if such confidentiality is requested by the requesting State. If a request cannot be executed without disclosure of such information, the requested State shall so inform the requesting State, which shall then determine whether the request should nevertheless be executed.

5. The requested State shall respond to reasonable inquiries by the requesting State concerning the status of the execution of a request.

6. The requested State shall promptly inform the requesting State of the result of the execution of a request, and shall provide the requesting State with the testimony, statements or items, obtained as a result of the execution, including any claim from a person from whom testimony, statements or items are sought regarding immunity, incapacity or privilege under the laws of the requesting State. The requested State shall provide originals or, if there are reasonable grounds, certified copies of records or documents. If a request cannot be executed in whole or in part, the requested State shall inform the requesting State of the reasons therefore.

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## Article 11

### *Grounds for refusal of assistance*

1. Assistance may be refused if the requested State considers that:

- (a) a request concerns a political offence or an offence connected with a political offence;
- (b) the execution of a request is likely to prejudice its sovereignty, security, public order or other essential interests. For the purpose of this sub-paragraph, the requested State may consider that the execution of a request concerning an offence punishable by death under the laws of the requesting State or, in the relations between one Member State, set out in Annex IV to this Agreement, and Japan, an offence punishable by life imprisonment under the laws of the requesting State, could prejudice essential interests of the requested State, unless the requested State and the requesting State agree on the conditions under which the request can be executed;
- (c) there are well-founded reasons to suppose that the request for assistance has been made with a view to prosecuting or punishing a person by reason of race, religion, nationality, ethnic origin, political opinions or sex, or that such person's position may be prejudiced for any of those reasons;
- (d) the person, who is subject to criminal investigations, prosecutions or other proceedings, including judicial proceedings, for which the assistance is requested, in the requesting State, has already been finally convicted or acquitted for the same facts in a Member State or Japan; or
- (e) a request does not conform to the requirements of this Agreement.

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2. The requested State may refuse assistance which would necessitate coercive measures under its laws if it considers that the conduct that is the subject of the investigation, prosecution or other proceeding, including judicial proceeding, in the requesting State would not constitute a criminal offence under the laws of the requested State. In the relations between Japan and two Member States, set out in Annex IV to this Agreement, assistance may be refused if the requested State considers that the conduct that is the subject of the investigation, prosecution or other proceeding, including judicial proceeding, in the requesting State would not constitute a criminal offence under the laws of the requested State.
3. Assistance shall not be refused on the ground of bank secrecy.
4. Before refusing assistance pursuant to this Article, the requested State shall consult with the requesting State when the requested State considers that assistance may be provided subject to certain conditions. If the requesting State accepts such conditions, the requesting State shall comply with them.
5. If assistance is refused, the requested State shall inform the requesting State of the reasons for the refusal.

## Article 12

### *Costs*

1. The requested State shall bear all costs related to the execution of a request, unless otherwise agreed between the requesting State and the requested State.
2. Notwithstanding the provisions of paragraph 1, the requesting State shall bear:
  - (a) the fees of an expert witness;

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(b) the costs of translation, interpretation and transcription;

(c) the allowances and expenses related to travel of persons pursuant to Articles 22 and 24;

(d) the costs of establishing a video link and costs related to the servicing of a video link in the requested State; and

(e) the costs of an extraordinary nature;

unless otherwise agreed between the requesting State and the requested State.

3. If the execution of a request would impose costs of an extraordinary nature, the requesting State and the requested State shall consult in order to determine the conditions under which the request will be executed.

## Article 13

### *Limitations on use of testimony, statements, items or information*

1. The requesting State shall not use testimony, statements, items or any information, including personal data, provided or otherwise obtained under this Agreement other than in the investigation, prosecution or other proceeding, including judicial proceeding, described in the request without prior consent of the requested State. In giving such prior consent, the requested State may impose such conditions as it deems appropriate.

2. The requested State may request that testimony, statements, items or any information, including personal data, provided or otherwise obtained under this Agreement be kept confidential or be used only subject to other conditions it may specify. If the requesting State agrees to such confidentiality or accepts such conditions, it shall comply with them.

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3. In exceptional circumstances a State may, at the time it is providing testimony, statements, items or any information, including personal data, request that the receiving State will give information on the use made of them.

## Article 14

### *Transport, maintenance and return of items*

1. The requested State may request that the requesting State transport and maintain items provided under this Agreement in accordance with the conditions specified by the requested State, including the conditions deemed necessary to protect third-party interests in the items to be transferred.
2. The requested State may request that the requesting State return any items provided under this Agreement in accordance with the conditions specified by the requested State, after such items have been used for the purpose described in a request.
3. The requesting State shall comply with a request made pursuant to paragraph 1 or 2. When such a request has been made, the requesting State shall not examine the items without the prior consent of the requested State if the examination impairs or could impair the item.

## Article 15

### *Taking of testimony or statements*

1. The requested State shall take testimony or statements. The requested State shall employ coercive measures in order to do so, if such measures are necessary and the requesting State provides the requested State with information justifying those measures under the laws of the requested State.

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2. The requested State shall make its best efforts to make possible the presence of such persons as specified in a request for taking testimony or statements during the execution of the request, and to allow such persons to question the person from whom testimony or statements are sought. In the case that such direct questioning is not permitted, such persons shall be allowed to submit questions to be posed to the person from whom testimony or statements are sought.

3. If a person, from whom testimony or statements are sought pursuant to this Article, asserts a claim of immunity, incapacity or privilege under the laws of the requesting State, testimony or statements may nevertheless be taken, unless the request includes a statement from the requesting State that when such immunity, incapacity or privilege is claimed, the testimony or statements cannot be taken.

## Article 16

### *Hearing by videoconference*

1. If a person is in the requested State and has to be heard as a witness or an expert witness by the competent authorities of the requesting State, the requested State may enable testimony or a statement to be taken from that person by those competent authorities by videoconference, if such hearing is necessary for the proceeding of the requesting State. The requesting and the requested States shall consult, if necessary, in order to facilitate resolution of legal, technical or logistical issues that may arise in the execution of the request.

2. The following rules shall apply to the hearing by videoconference unless otherwise agreed between the requesting State and the requested State:

(a) the authority of the requested State will identify the person to be heard specified in the request, and invite the person to facilitate his or her appearance;

(b) the hearing will be conducted directly by, or under the direction of, the competent authority of the requesting State in accordance with its own laws and the fundamental principles of the law of the requested State;



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(c) the authority of the requested State will be present during the hearing, where necessary assisted by an interpreter, and will observe the hearing. If the authority of the requested State is of the view that during the hearing the fundamental principles of the law of the requested State are being infringed, it will immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;

(d) at the request of the requesting State or the person to be heard, the requested State will ensure, if necessary, that the person is assisted by an interpreter; and

(e) the person to be heard may claim the right not to testify which would accrue to him or her under the laws of either the requesting or the requested State. Other measures necessary for the protection of the person as agreed upon between the authorities of the requesting and the requested States will also be taken.

## Article 17

### *Obtaining of items*

1. The requested State shall obtain items. The requested State shall employ coercive measures, including search and seizure in order to do so, if such measures are necessary and the requesting State provides the requested State with information justifying those measures under the laws of the requested State.
2. The requested State shall make its best efforts to make possible the presence of such persons as specified in a request for obtaining items during the execution of the request.

## Article 18

### *Bank accounts*

1. The requested State shall confirm whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts in the banks specified in the request.

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2. The requested State shall provide the specified records, documents or reports of the specified accounts, the records of banking operations which have been carried out during a specified period through the accounts specified in the request or identified in accordance with paragraph 1 and the specified records, documents or reports of any sending or recipient account.
3. The obligations set out in this Article shall apply only to the extent that the information is in the possession of the bank keeping the account.
4. The requested State may make an execution of a request in paragraphs 1 and 2 dependent on the conditions as it applies in respect of a request for obtaining items.

## Article 19

### *Examination of persons, items or places*

1. The requested State shall examine persons, items or places. The requested State shall employ coercive measures in order to do so, if such measures are necessary and the requesting State provides the requested State with information justifying those measures under the laws of the requested State.
2. The requested State shall make its best efforts to make possible the presence of such persons as specified in a request for examining persons, items or places during the execution of the request.

## Article 20

### *Locating or identifying persons, items or places*

The requested State shall make its best efforts to locate or identify persons, items or places.

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## Article 21

*Providing items in possession of the legislative, administrative, judicial or local authorities*

1. The requested State shall provide the requesting State with items that are in the possession of the legislative, administrative or judicial authorities of the requested State as well as the local authorities thereof and are available to the general public.
2. The requested State shall make its best efforts to provide the requesting State with items, including criminal records, that are in the possession of the legislative, administrative or judicial authorities of the requested State as well as the local authorities thereof and are not available to the general public, to the same extent and under the same conditions as such items would be available to its investigative and prosecuting authorities.

## Article 22

*Service of documents and informing a person of an invitation*

1. The requested State shall effect service of documents, including service of summons or other documents requiring the appearance of a person before the competent authority of the requesting State, on persons in the requested State. The requested State shall inform a person in that State of an invitation to appear before the competent authority of the requesting State.
2. Where a request concerns service of a document requiring the appearance of a person before the competent authority of the requesting State, the request shall be received by the Central Authority of the requested State not less than fifty (50) days before the scheduled appearance date. In urgent cases, the requested State may waive this requirement.
3. Where the requesting State knows that the addressee does not understand the language which the documents, served or sent pursuant to paragraph 1, are drawn up in or translated into, the requesting State shall endeavour to translate the documents, or shall, at least, translate the important passages thereof, also into the language the addressee understands.

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4. Documents served pursuant to paragraph 1 shall include a statement that the addressee may obtain information from the competent authority by which the document was issued or from other authorities of the requesting State regarding his or her essential rights and obligations concerning the documents, if any.

5. In informing the result of the service of documents in accordance with paragraph 6 of Article 10, the requested State shall give proof of service by means of a receipt dated and signed by the person served or by means of a statement made by the requested State that service has been effected, as well as on the date, place and manner of service. The requested State shall, upon request by the requesting State, promptly inform the requesting State, where possible, of the response of the person who is invited or required to appear before the competent authority of the requesting State under paragraph 1.

6. A person who has been invited or required to appear before the competent authority of the requesting State under paragraph 1, but does not appear before that authority shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measure in the requesting State, notwithstanding any contrary statement in the request or documents served or sent.

## Article 23

### *Safe conduct*

1. A person who is invited or required to appear before the competent authority of the requesting State under paragraph 1 of Article 22 shall not:

(a) be subject to detention or any restriction of personal liberty in that State by reason of any conduct or conviction that precedes the departure of the person from the requested State; or

(b) be obliged to give evidence or to assist in any investigation, prosecution or other proceeding, including judicial proceeding, other than the proceeding specified in the request.

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2. If the safe conduct provided for in paragraph 1 cannot be provided, the requesting State shall so specify in the request or documents served in order for the person to be informed accordingly and be able to make a decision whether to appear before the competent authority of the requesting State.

3. The safe conduct provided for in paragraph 1 shall cease when:

(a) the person, having had, for a period of fifteen (15) consecutive days from the date when his or her presence is no longer required by the competent authority or from the day when he or she failed to appear before that authority on the scheduled appearance date, an opportunity of leaving, has nevertheless remained voluntarily in the requesting State; or

(b) the person, having left the requesting State, voluntarily returns to it.

4. When the requesting State knows that the safe conduct provided for in paragraph 1 has ceased pursuant to paragraphs 3(a) and 3(b), the requesting State shall so inform the requested State without delay, if such information is requested by the requested State and considered necessary by the requesting State.

## Article 24

### *Temporary transfer of persons in custody*

1. A person in custody of the requested State whose presence in the requesting State is necessary for testimony or other evidentiary purposes shall be temporarily transferred for those purposes to the requesting State, if the person consents and if the requesting State and the requested State agree, when permitted under the laws of the requested State.

2. The requesting State shall keep the person transferred pursuant to paragraph 1 in the custody of the requesting State, unless permitted by the requested State to do otherwise.

3. The requesting State shall immediately return the person transferred to the requested State, as agreed beforehand, or as otherwise agreed between the requesting State and the requested State.

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4. The person transferred shall receive credit for service of the sentence being served in the requested State for the time spent in the custody of the requesting State.
5. The person transferred to the requesting State pursuant to this Article shall enjoy the safe conduct provided for in paragraph 1 of Article 23 in the requesting State until the return to the requested State, unless the person consents to give evidence or assist in any investigation, prosecution or other proceeding, including judicial proceeding, other than the proceeding specified in the request and the requesting State and the requested State agree thereto.
6. A person who does not consent to be transferred pursuant to this Article shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measure in the requesting State, notwithstanding any contrary statement in the request.

## Article 25

### *Freezing or seizure and confiscation of proceeds or instrumentalities*

1. The requested State shall assist, to the extent permitted by its laws, in proceedings related to freezing or seizure and confiscation of the proceeds or instrumentalities.
2. A request for the confiscation described in paragraph 1 shall be accompanied by a decision of a court or other judicial authority imposing the confiscation.
3. The requested State that has custody over proceeds or instrumentalities may transfer such proceeds or instrumentalities, in whole or in part, to the requesting State, to the extent permitted by the laws of the requested State and upon such conditions as it deems appropriate.
4. In applying this Article, the legitimate rights and interests of *bona fide* third parties shall be respected under the laws of the requested State.

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## Article 26

### *Spontaneous exchange of information*

1. Member States and Japan may, without prior request, provide information relating to criminal matters to each other to the extent permitted by the laws of the providing State.
2. The providing State may impose conditions on the use of such information by the receiving State. In such a case, the providing State shall give prior notice to the receiving State of the nature of the information to be provided and of the conditions to be imposed. The receiving State shall be bound by those conditions if it agrees to such conditions.

## Article 27

### *Relation to other instruments*

1. Nothing in this Agreement shall prevent any State from requesting assistance or providing assistance in accordance with other applicable international agreements, or pursuant to its laws that may be applicable.
2. Nothing in this Agreement shall prevent a Member State and Japan from concluding international agreements confirming, supplementing, extending or amplifying the provisions thereof.

## Article 28

### *Consultations*

1. The Central Authorities of the Member States and Japan shall, if necessary, hold consultations for the purpose of resolving any difficulties with regard to the execution of a request, and facilitating speedy and effective assistance under this Agreement, and may decide on such measures as may be necessary for this purpose.

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2. The Contracting Parties shall, as appropriate, hold consultations on any matter that may arise in the interpretation or application of this Agreement.

## Article 29

### *Territorial application*

1. This Agreement shall apply to the territory of Japan and, in relation to the European Union, to:

(a) the territories to which the Treaty on European Union and the Treaty on the Functioning of the European Union, as resulting from the Treaty of Lisbon, signed on 13 December 2007, apply; and

(b) territories for whose external relations a Member State has responsibility, or countries that are not Member States for whom a Member State has other duties with respect to external relations, where agreed upon by an exchange of diplomatic notes between the Contracting Parties, duly confirmed by the relevant Member State.

2. The application of this Agreement to any territory or country in respect of which extension has been made in accordance with paragraph 1(b) may be terminated by either Contracting Party giving six months' written notice to the other Contracting Party through the diplomatic channel, where duly confirmed between the relevant Member State and Japan.

## Article 30

### *Status of annexes*

Annexes to this Agreement form an integral part of this Agreement. Annexes I, II and III may be modified by mutual consent in writing of the Contracting Parties without amendment of this Agreement.



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## Article 31

### *Entry into force and termination*

1. This Agreement shall enter into force on the thirtieth day after the date on which the Contracting Parties exchange diplomatic notes informing each other that their respective internal procedures necessary to give effect to this Agreement have been completed.
2. This Agreement shall apply to any request for assistance presented on or after the date upon which this Agreement enters into force, whether the acts relevant to the request were committed before, on or after that date.
3. Either Contracting Party may terminate this Agreement at any time by giving written notice to the other Contracting Party, and such termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Agreement.

Done at [...], the [...]th day of [...] 2009, in two originals in the English and Japanese languages, both texts being equally authentic. This Agreement shall also be drawn up in the Bulgarian, Czech, Danish, Dutch, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, and the Contracting Parties shall authenticate those language versions by an exchange of diplomatic notes.

For the European Union:

For Japan:

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## Annex I to the ANNEX I

### ANNEX I

#### THE CENTRAL AUTHORITIES

The Central Authorities of the Contracting Parties are the following authorities:

the Kingdom of Belgium:

the Republic of Bulgaria:

the Czech Republic:

the Kingdom of Denmark:

the Federal Republic of Germany:

the Republic of Estonia:

Ireland:

the Hellenic Republic:

the Kingdom of Spain:

the French Republic:

the Italian Republic:



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the Republic of Cyprus:

the Republic of Latvia:

the Republic of Lithuania:

the Grand Duchy of Luxembourg:

the Republic of Hungary:

the Republic of Malta:

the Kingdom of the Netherlands:

the Republic of Austria:

the Republic of Poland:

the Portuguese Republic:

Romania:

the Republic of Slovenia:

the Slovak Republic:

the Republic of Finland:

the Kingdom of Sweden:

the United Kingdom of Great Britain and Northern Ireland:



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Japan:

The Minister of Justice or the National Public Safety Commission or persons designated by them.



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## Annex II to the ANNEX I

### ANNEX II

With regard to Article 6 of this Agreement, the authorities which are competent under the laws of the States to originate requests for assistance pursuant to this Agreement are set out below:

the Kingdom of Belgium:

the Republic of Bulgaria:

the Czech Republic:

the Kingdom of Denmark:

the Federal Republic of Germany:

the Republic of Estonia:

Ireland:

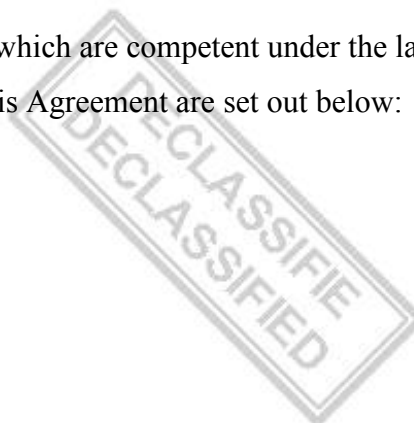
the Hellenic Republic:

the Kingdom of Spain:

the French Republic:

the Italian Republic:

the Republic of Cyprus:



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the Republic of Latvia:

the Republic of Lithuania:

the Grand Duchy of Luxembourg:

the Republic of Hungary:

the Republic of Malta:

the Kingdom of the Netherlands:

the Republic of Austria:

the Republic of Poland:

the Portuguese Republic:

Romania:

the Republic of Slovenia:

the Slovak Republic:

the Republic of Finland:

the Kingdom of Sweden:

the United Kingdom of Great Britain and Northern Ireland:

Japan:



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## Annex III to the ANNEX I

### ANNEX III

With regard to Article 9 of this Agreement, the Member States and Japan accept the following languages:

the Kingdom of Belgium: Dutch, French and German in all cases....

the Republic of Bulgaria: Bulgarian in all cases...

the Czech Republic: Czech in all cases...

the Kingdom of Denmark: Danish in all cases...

the Federal Republic of Germany: German in all cases...

the Republic of Estonia: Estonian in all cases...

Ireland: English and Irish in all cases...

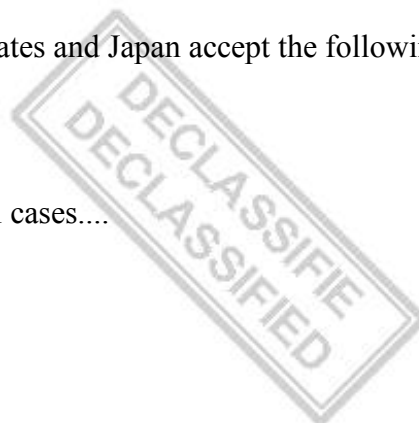
the Hellenic Republic: Greek in all cases...

the Kingdom of Spain: Spanish in all cases...

the French Republic: French in all cases...

the Italian Republic: Italian in all cases...

the Republic of Cyprus: Greek in all cases...



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the Republic of Latvia: Latvian in all cases...

the Republic of Lithuania: Lithuanian in all cases...

the Grand Duchy of Luxembourg: French and German in all cases...

the Republic of Hungary: Hungarian in all cases...

the Republic of Malta: Maltese in all cases...

the Kingdom of the Netherlands: Dutch in all cases...

the Republic of Austria: German in all cases...

the Republic of Poland: Polish in all cases...

the Portuguese Republic: Portuguese in all cases...

Romania: Romanian in all cases...

the Republic of Slovenia: Slovenian in all cases...

the Slovak Republic: Slovak in all cases...

the Republic of Finland: Finnish and Swedish





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the Kingdom of Sweden: Swedish in all cases...

the United Kingdom of Great Britain and Northern Ireland: English in all cases...

Japan: Japanese in all cases and English in urgent cases



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## Annex IV to the ANNEX I

### ANNEX IV

#### **Paragprah1(b) of Article 11:**

In the relations between Portugal and Japan, the requested State may consider that the execution of a request concerning an offence punishable by life imprisonment under the laws of the requesting State could prejudice essential interests of the requested State, unless the requested State and the requesting State agree on the conditions under which the request can be executed.

#### **Paragraph2 of Article 11:**

In the relations between Austria and Japan as well as between Hungary and Japan, assistance may be refused if the requested State considers that the conduct that is the subject of the investigation, prosecution or other proceeding, including judicial proceeding, in the requesting State would not constitute a criminal offence under the laws of the requested State.