

No. 48517

**Japan
and
United States of America**

Treaty between Japan and the United States of America on mutual legal assistance in criminal matters (with attachment, forms and exchange of notes). Washington, 5 August 2003

Entry into force: *21 July 2006 by the exchange of instruments of ratification, in accordance with article 19*

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**Japon
et
États-Unis d'Amérique**

Traité d'entraide judiciaire en matière pénale entre le Japon et les États-Unis d'Amérique (avec annexe, formulaires et échange de notes). Washington, 5 août 2003

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY BETWEEN
JAPAN AND THE UNITED STATES OF AMERICA
ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS

Japan and the United States of America,

Desiring to establish more effective cooperation
between both countries in the area of mutual legal
assistance in criminal matters,

Desiring that such cooperation will contribute to
combating crime in both countries,

Have agreed as follows:

Article 1

1. Each Contracting Party shall, upon request by the
other Contracting Party, provide mutual legal assistance
(hereinafter referred to as "assistance") in connection
with investigations, prosecutions and other proceedings in
criminal matters in accordance with the provisions of this
Treaty.

2. The assistance shall include the following:

- (1) taking testimony, statements or items;
- (2) examining persons, items or places;
- (3) locating or identifying persons, items or places;
- (4) providing items in the possession of governmental
departments or agencies;
- (5) presenting an invitation to a person whose
appearance in the requesting Party is sought;
- (6) transfer of a person in custody for testimony or
other purposes;
- (7) assisting in proceedings related to forfeiture
and immobilization of proceeds or instrumentalities of
criminal offenses; and

(8) any other assistance permitted under the laws of the requested Party and agreed upon between the Central Authorities of the Contracting Parties.

The term "items" as used in this Treaty means documents, records and articles of evidence.

3. Each Contracting Party shall, upon request by the other Contracting Party, provide assistance in accordance with the provisions of this Treaty in connection with an administrative investigation of suspected criminal conduct, in such cases and upon such conditions as the Central Authority of the requested Party deems appropriate, if the Central Authority of the requesting Party certifies that:

(1) the authority conducting the administrative investigation has statutory or regulatory authority for the administrative investigation of facts that could constitute criminal offenses, including referring matters to prosecutors for criminal prosecution or providing testimony, statements or items obtained during administrative investigations to prosecutors in accordance with specific procedures; and

(2) the testimony, statements or items to be obtained will be used in the requesting Party in an investigation, prosecution or other proceeding in criminal matters, including the decision whether to prosecute.

4. Except as otherwise provided for in this Treaty, assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution or other proceeding in the requesting Party would constitute a criminal offense under the laws of the requested Party.

5. This Treaty is intended solely for assistance between the Contracting Parties. The provisions of this Treaty neither create a new right nor affect a pre-existing right on the part of a private person to impede the execution of a request or to suppress or exclude any evidence.

Article 2

1. Each Contracting Party shall designate the Central Authority that is to perform the functions provided for in this Treaty:

(1) For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General.

(2) For Japan, the Central Authority shall be the Minister of Justice or the National Public Safety Commission or persons designated by them.

2. Requests for assistance under this Treaty shall be made by the Central Authority of the requesting Party to the Central Authority of the requested Party.

3. The Central Authorities of the Contracting Parties shall communicate directly with one another for the purposes of this Treaty.

Article 3

1. The Central Authority of the requested Party may deny assistance if the requested Party considers that:

(1) a request relates to a political offense;

(2) the execution of a request would impair its security or other essential interests;

(3) a request does not conform to the requirements of this Treaty; or

(4) the conduct that is the subject of the investigation, prosecution or other proceeding in the requesting Party would not constitute a criminal offense under the laws of the requested Party and the execution of a request requires a court warrant or other compulsory measures under the laws of the requested Party.

2. Before denying assistance pursuant to paragraph 1, the Central Authority of the requested Party shall consult with the Central Authority of the requesting Party to consider whether assistance can be provided subject to such conditions as the requested Party may deem necessary. If the requesting Party accepts such conditions, the requesting Party shall comply with them.

3. If assistance is denied, the Central Authority of the requested Party shall inform the Central Authority of the requesting Party of the reasons for the denial.

Article 4

1. The Central Authority of the requesting Party shall make a request in writing. However, the Central Authority of the requesting Party may make a request by any other reliable means of communication if the Central Authority of the requested Party considers it appropriate to receive a request by that means. In such cases, the Central Authority of the requested Party may require the Central Authority of the requesting Party to provide supplementary confirmation of the request in writing. A request shall be made in the language of the requested Party unless otherwise agreed between the Central Authorities of the Contracting Parties.

2. A request shall include the following:

(1) the name of the authority conducting the investigation, prosecution or other proceeding;

(2) the facts pertaining to the subject of the investigation, prosecution or other proceeding; the nature and the stage of the investigation, prosecution or other proceeding; and the text of the relevant laws of the requesting Party;

(3) a description of the assistance requested; and

(4) a description of the purpose of the assistance requested.

3. To the extent necessary and possible, a request shall also include the following:

(1) information on the identity and whereabouts of any person from whom testimony, statements or items are sought;

(2) a description of the manner in which testimony, statements or items are to be taken or recorded;

(3) a list of questions to be asked of the person from whom testimony, statements or items are sought;

(4) a precise description of persons or places to be searched and of items to be sought;

(5) information regarding persons, items or places to be examined;