

**No. 48819**

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**Ireland  
and  
United States of America**

**Instrument as contemplated by Article 3 (2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003, as to the application of the Treaty between the Government of Ireland and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters signed 18 January 2001 (with annex and forms). Dublin, 14 July 2005**

**Entry into force:** *1 February 2010, in accordance with article 5*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *Ireland, 5 August 2011*

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**Irlande  
et  
États-Unis d'Amérique**

**Instrument tel que visé au paragraphe 2 de l'article 3 de l'Accord en matière d'entraide judiciaire signé le 25 juin 2003 entre les États-Unis d'Amérique et l'Union européenne et portant sur l'application du Traité entre le Gouvernement de l'Irlande et le Gouvernement des États-Unis d'Amérique relatif à l'entraide judiciaire en matière pénale, signé le 18 janvier 2001 (avec annexe et formulaires). Dublin, 14 juillet 2005**

**Entrée en vigueur :** *1<sup>er</sup> février 2010, conformément à l'article 5*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Irlande, 5 août 2011*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**Instrument as contemplated by Article 3(2) of  
the Agreement on Mutual Legal Assistance between  
the United States of America and the European Union signed 25 June 2003,  
as to the application of the Treaty between the Government of  
Ireland and the Government of the United States of America  
on Mutual Legal Assistance in Criminal Matters signed 18 January 2001**

1. As contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003 (hereafter "the U.S.-EU Mutual Legal Assistance Agreement"), the Governments of the United States of America and Ireland acknowledge that, in accordance with the provisions of this Instrument, the U.S.-EU Mutual Legal Assistance Agreement is applied in relation to the bilateral Treaty between the Government of Ireland and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters signed 18 January 2001 (hereafter "the 2001 Mutual Legal Assistance Treaty") under the following terms:
  - (a) Article 4 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 16 *bis* of the Annex to this Instrument shall govern the identification of financial accounts and transactions, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
  - (b) Article 5 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 16 *ter* of the Annex to this Instrument shall govern the formation and activities of joint investigative teams, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
  - (c) Article 6 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Articles 6 and 16 *quater* of the Annex to this Instrument shall govern the taking of testimony of a person located in the requested Party by use of video transmission technology between the Requesting and Requested Parties, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
  - (d) Article 7 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 4 (1) of the Annex to this Instrument shall govern the use of expedited means of communication, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
  - (e) Article 8 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 1 (1 *bis*) of the Annex to this Instrument shall govern the providing of mutual legal assistance to the administrative authorities concerned, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
  - (f) Article 9 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 7 of the Annex to this Instrument shall govern the limitation on use of information or evidence provided to the Requesting Party, and the conditioning or refusal of assistance on data protection grounds.
2. The Annex reflects the integrated text of the provisions of the 2001 Mutual Legal Assistance Treaty and the U.S.-EU Mutual Legal Assistance Agreement that shall apply upon entry into force of this Instrument.

3. In accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, this Instrument shall apply to offences committed before as well as after it enters into force.
4. This Instrument shall not apply to requests made prior to its entry into force; except that, in accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, Articles 4(1), 6 and 16 *quater* of the Annex shall be applicable to requests made prior to such entry into force.
- 5 (a) This Instrument shall be subject to the completion by the United States of America and Ireland of their respective applicable internal procedures for entry into force. The Governments of the United States of America and Ireland shall thereupon exchange instruments indicating that such measures have been completed. This Instrument shall enter into force on the date of entry into force of the U.S.-EU Mutual Legal Assistance Agreement.
- (b) In the event of termination of the U.S.-EU Mutual Legal Assistance Agreement, this Instrument shall be terminated and the 2001 Mutual Legal Assistance Treaty shall be applied. The Governments of the United States of America and Ireland nevertheless may agree to continue to apply some or all of the provisions of this Instrument.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Instrument.

DONE at Dublin, in duplicate, this \_\_\_\_ day of July, 2005.

1

FOR THE GOVERNMENT OF  
IRELAND:

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA:

ANNEX

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

TABLE OF CONTENTS

Article 1	Scope of Assistance
Article 2	Central Authorities
Article 3	Limitations on Assistance
Article 4	Form and Contents of Requests
Article 5	Execution of Requests
Article 6	Costs
Article 7	Limitations on Use
Article 8	Testimony or Evidence in the Territory of the Requested Party
Article 9	Records of Government Agencies
Article 10	Testimony in the Territory of the Requesting Party
Article 11	Transfer of Persons in Custody
Article 12	Location or Identification of Persons or Items
Article 13	Service of Documents
Article 14	Search and Seizure
Article 15	Return of Items
Article 16	Assistance in Forfeiture Proceedings
Article 16 <i>bis</i>	Identification of bank information
Article 16 <i>ter</i>	Joint investigative teams
Article 16 <i>quater</i>	Video conferencing
Article 17	Compatibility with Other Arrangements
Article 18	Consultation
Article 19	Termination

Article 1  
Scope of Assistance

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution, and prevention of offences, and in proceedings related to criminal matters.

Ibis. (a) Mutual legal assistance shall also be afforded to a national administrative authority, investigating conduct with a view to a criminal prosecution of the conduct, or referral of the conduct to criminal investigation or prosecution authorities, pursuant to its specific administrative or regulatory authority to undertake such investigation. Mutual legal assistance may also be afforded to other administrative authorities under such circumstances. Assistance shall not be available for matters in which the administrative authority anticipates that no prosecution or referral, as applicable, will take place.

(b) Requests for assistance under this paragraph shall be transmitted between the Central Authorities designated pursuant to Article 2 of this Treaty, or between such other authorities as may be agreed by the Central Authorities.

2. Assistance shall include:

- (a) taking the testimony or statements of persons;
- (b) providing documents, records, and articles of evidence;
- (c) locating or identifying persons;
- (d) serving documents;
- (e) transferring persons in custody for testimony or other purposes;
- (f) executing requests for searches and seizures;
- (g) identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings;
- (h) such other assistance as may be agreed between Central Authorities.

3. Except when required by the laws of the Requested Party, assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the territory of the Requesting Party would constitute an offence under the laws of the Requested Party.

4. This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.