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**Japan
and
European Union**

Agreement between Japan and the European Union on mutual legal assistance in criminal matters (with annexes). Brussels, 30 November 2009, and Tokyo, 15 December 2009

Entry into force: *2 January 2011, in accordance with article 31*

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**Japon
et
Union européenne**

Accord entre le Japon et l'Union européenne relatif à l'entraide judiciaire en matière pénale (avec annexes). Bruxelles, 30 novembre 2009, et Tokyo, 15 décembre 2009

Entrée en vigueur : *2 janvier 2011, conformément à l'article 31*

Textes authentiques : *anglais et japonais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

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

Japan and the European Union,

Desiring to establish more effective cooperation
between Japan and the European Union Member States 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.

Article 2
Definitions

For the purpose of this Agreement:

- (a) the term "Contracting Parties" means Japan and
the European Union;
- (b) the term "Member State" means a Member State of
the European Union;
- (c) the term "State" means Japan or a Member State;
- (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 or other judicial authority following proceedings in relation to a criminal offence or criminal offences resulting in the final deprivation of property.

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 Japan and a Member State.

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 Japan and the Member States 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.

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:
 - (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;