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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.

RESTREINT UE



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THE EUROPEAN UNION**

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**COPEN 36
COASI 39**

NOTE

From :	Presidency
To	Delegations
On	7019/07 COPEN 27 COASI 32
Subject :	Questionnaire concerning a possible agreement between the European Union and Japan on mutual legal assistance

1. Introduction

Further to the informal EU - Japan meeting that was held between on 27 February 2007 with a view to discussing the possibility to conclude a Mutual Legal Assistance Treaty (MLAT) between Japan and the European Union¹, the Presidency would like to submit a number of questions to delegations.

The aim of these questions is to allow the Presidency to prepare a second informal meeting with Japan so that the possible subject matter of a possible EU-Japan Agreement on mutual legal assistance can be further explored.

¹ See the report set out in 7019/07 COPEN 27 COASI 32.

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2. Questions

Apart from the general question whether delegations would in principle welcome the continuation of informal and exploratory discussions with the Japanese delegation with a view to assessing the possible added value of an agreement Article 24/38, the Presidency would also like delegations to express themselves on the questions set out hereafter.

- **Subject matters dealt with in the 2000 EU Convention on mutual assistance**

Do delegations agree, on a provisional basis, that all of the subject matter dealt with in the 2000 EU Convention (such as temporary transfer of detainees, banking information, joint investigation teams, etc.) could potentially be dealt with an MLA Agreement with Japan, or do they think there are subject matters which are not suitable for co-operation with Japan (such as interception of telecommunications or controlled delivery)?

- **Co-operation in seizure and confiscation**

Do delegations think it would be: (1) expedient, and/or (2) possible to have provisions on seizing and confiscating assets in a possible MLA Agreement with Japan?

- **Conditions and grounds for refusal**

Are delegations of the opinion that the same conditions for granting and grounds for refusing mutual assistance could apply as under the 1959 Mutual Assistance Convention of the Council of Europe (and the 1978 and 2001 Protocols thereto).

- **Other matters**

Other than issues regarding death penalty and life imprisonment, are there any other matters of which delegations think they should be addressed by the Presidency in the context of further exploratory talks it intends to have with the Presidency? (Of course the Presidency is aware that any negotiation mandate for a possible MLA Agreement with Japan will need to be much more detailed than the points summarily mentioned above.)

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3. Further procedure

The Presidency would be grateful if delegations could answer the above questions, in a concise manner, by 4 April 2007. Replies may be sent to the General Secretariat of the Council, to the attention of Mr Guy Stessens (guy.stessens@consilium.europa.eu + 32.22.81.67.11).

Afterwards the Presidency intends to inform the Working Party on Co-operation in Criminal Matters (CCM) of the replies it has received and of the further contacts it intends to have with Japan.

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