

## Type of possible assistance

Japan may:

1. have either a police officer or a public prosecutor to interview the person concerned or have a Judge to hear from the witness;\*

\*In order to obtain statement/testimony;

- Questionnaire is essential.
- Unless specified in the request letter, the statement will be taken by a prosecutor or a police officer (thus the witness will not be making an oath). Under Japanese law, testimony under an oath will only be administered by a judge/ court.
- If to request a judge to hear the witness, sufficient information as to why such testimony, not an interview by prosecutor/police officer is required. Therefore, the request letter needs to include such information and the relevant law of the requesting State.
- If the person to be interviewed/testify is a suspect, note that Japanese law provides suspects with the right to remain silent even if he/she agreed to offer a statement before the court. Thus there is no procedure of obligating the suspect to testify/make a statement under an oath, nor to charge for perjury on his/her conducts.

2. request an expert to give an opinion;
3. conduct voluntary investigative measures (ex. examination of place and items, request for an voluntary submission by the owner, possessor or custodian of a document or other material to submit it, ask a public office or a public or private organization to make a report);

\* , If the requested evidences sought is a **document**, unless otherwise specified, Japan will send its certified copy.

\* Should the requesting States needs original evidence (whether a document or an article), it is required for us to have the clarification as to why providing the original evidence is essential to the case.

\* If the requested evidence sought is **bank record**, Japan does not require a warrant or subpoena to obtain bank records. Therefore, other than the basic information to make a request, there are no particular additional requirements for bank records. However, practically, name of the bank, name of the account holder and the account number will be necessary.

4. undertake seizure, search and compulsory inspection (i.e. examination of places and items ) upon a warrant issued by a judge;

\* For compulsory measures;

- The executing agency will be requesting a judge for the issuance of warrant. The request needs to elaborate on justifications and necessity of obtaining the evidence by coercive measures. The warrant of the requesting country will NOT suffice.
- All supporting evidences for the execution of the request needs to be translated.
- There are certain professional privileges given under Japanese law to refuse the seizure.

5. confiscate "illicit property " \* (property referred to in items of Paragraph 1 or 4 of the Article 13 of Act on Punishment of Organized Crimes, Control of Crime Proceeds and Other Matters (Anti-Organized Crimes Act: AOCA) " or of equivalent value.

\* Illicit property:

- (a) crime\*\* proceeds,

- (b) any property derived from crime proceeds (except for property obtained through the possession or disposition of crime proceeds which are to be covered by (e) below),
- (c) position of shareholder or credit acquired by crime proceeds and/or its derivatives for the purpose of obtaining control of management of an enterprise,
- (d) crime proceeds or the like involving an offence of money launderings,
- (e) any property produced by, obtained through, or obtained in reward for the offence of money launderings or the offence of controlling the management of an enterprise by exercising the influence from the share or credit acquired by crime proceeds and/or its derivatives in selection of managers of the enterprise or its subsidiaries,
- (f) any property obtained as the fruit of or in exchange for the property referred in (c) – (e) above, or any other property obtained through the possession or disposition of the property referred in (c)-(e) above.

\*\* Crimes applicable for AOCA procedures are specified in the Act.

If the assets sought is under collateral and there exists secured party to be protected, then the secured rights may continue.

6. secure property for the purpose of confiscation of the property or of equivalent value (freezing assets)
7. Returning of the confiscated asset to the legitimate title holder of the assets