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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	5738/1/21 REV 1, 12934/21
No. Cion doc.:	11920/22 + ADD 1
Subject:	Proposal for a Council Decision approving the modification of Annexes I, II and III to the Agreement between the European Union and Japan on mutual legal assistance in criminal matters - Information on the state of play

A. Proposal for a Council Decision approving the modification of Annexes I, II and III to the MLA Agreement between the EU and Japan

On 25 August 2022, the Commission presented a proposal for a Council Decision approving the modification of Annexes I, II and III to the Agreement between the European Union and Japan on mutual legal assistance in criminal matters (11920/22 + ADD 1)¹.

At the COPEN meeting on 16 September 2022, the Commission presented the proposal. The Presidency invited Member States to notify any changes regarding Member States' authorities – as set out in 11920/22 ADD 1 – to the Council Secretariat and to the Commission (see also WK 12535/22).

¹ With a view to preparing the proposal, a call for notification of any changes to the Annexes had been issued under 5738/1/21 REV 1.

So far, and unless any filing error has been made, no such notification has been made. Should any changes still need to be made regarding the Member States' authorities in the said Annexes I, II and III, Member States are invited to inform the Council Secretariat and the Commission thereof.

Furthermore, at the same COPEN meeting, a series of questions were raised concerning the inclusion of the European Public Prosecutor's Office (EPPO) in the list of relevant judicial authorities to be communicated to Japan. The Presidency concluded that this subject would require specific consideration by COPEN in its EPPO format. Once a suitable solution has been found by the EPPO experts, consideration of the file would continue in the context of the COPEN (General Affairs) Working Party, with a view to its finalisation.

At the COPEN meeting that is scheduled to take place on 13 February 2024, the Commission and the Presidency will inform delegations of any developments.

B. Council Decision authorising the opening of negotiations to amend the Agreement between the European Union and Japan on mutual legal assistance in criminal matters

Following work in the COPEN Working Party, on 15 October 2021 the Council adopted the Decision authorising the opening of negotiations with Japan for the amendment of the Agreement between the European Union and Japan on mutual legal assistance in criminal matters (12934/21).

The intended amendment of the Agreement notably aims to review the data protection provisions of the Agreement and agree on new provisions, which will allow the Union to ensure that processing of personal data under the Agreement complies with Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data.

At the COPEN meeting that is scheduled to take place on 13 February 2024, the Commission will inform delegations of any developments regarding these negotiations.