



Libya No. 3 (2009)

Treaty

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Great Socialist People's Libyan Arab
Jamahiriya on Extradition

London, 17 November 2008

[Instruments of ratification have not been exchanged]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2009*

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**TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE GREAT
SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA ON EXTRADITION**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Great Socialist People's Libyan Arab Jamahiriya, hereinafter referred to as "the Parties";

Conscious of the need to respect the rights conferred upon every person involved in criminal proceedings, as embodied in international instruments on human rights;

Conscious of the need to respect human dignity and to guarantee the rights of defence;

Desiring to strengthen the relations of friendship between the two countries;

Desiring to make more effective their co-operation in fighting criminality in all its forms;

Desirous to establish co-operation in matters related to extradition between them;

Have agreed as follows:

ARTICLE 1

Obligation to Extradite

The Parties undertake to surrender to each other, in accordance with the provisions of this Treaty, any person who is wanted for trial or punishment in the requesting State for an extraditable offence.

ARTICLE 2

Extraditable Offences

(1) For the purposes of this Treaty, extraditable offences are offences which are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for at least a period of one year or by a more severe penalty.

(2) Where a request for extradition relates to a person already convicted of such an offence who is wanted for the enforcement of a sentence of imprisonment or other

deprivation of liberty extradition shall be granted only if a sentence of imprisonment of at least four months, or a more severe penalty, has been imposed.

(3) For the purposes of this Article it shall not matter whether or not the laws of the Parties place the relevant conduct within the same category of offences or denominate the offence by the same or similar description.

ARTICLE 3

Refusal to Extradite Nationals

(1) Neither Party may extradite its nationals to the other Party unless it is permitted by its law. Nationality shall be determined as at the date on which the request is received by the requested party.

(2) If it refuses to extradite one of its own nationals on the grounds of nationality, the requested State undertakes, in accordance with its domestic law, to prosecute that person if he or she has committed an offence in the requested or requesting state, in which case the requesting State shall send through the diplomatic channel a request for prosecution accompanied by the relevant files and documents in its possession.

(3) The requesting State shall be informed of the result of its request.

ARTICLE 4

Refusal of Extradition

(1) Extradition shall be refused if final judgment has been passed in the requested State or in any other State in respect of the acts for which the person's extradition is sought;

(2) Extradition may be refused on the following grounds:

- (a) if the passage of time since the offence was committed makes it unjust or oppressive to extradite the person;
- (b) where the offence or sentence has lapsed by prescription according to the laws of one of the contracting parties;
- (c) If legislation is enacted in one of the states rendering the act unpunishable;
- (d) if an amnesty has been given in the requested or requesting State;

- (e) if the relevant offence was committed outside the territory of the requesting State and the law of the requested State does not allow for prosecution of that offence in those circumstances;
- (f) where the extradition would breach the international principles of human rights;
- (g) if the relevant offence is a political offence with the exception of terrorist offences;
- (h) When the offence for which extradition is requested is subject solely to military law.

ARTICLE 5

Assurances given by the Requesting State

If the offence for which extradition is requested is punishable by death under the law of the requesting State, and if in respect of such offence the death penalty is not provided for by the law of the requested State, extradition may be refused unless the requesting State gives such assurance as the requested State considers sufficient that the death penalty will not be carried out.

ARTICLE 6

Extradition Requests and Required Documents

- (1) A request for extradition shall be made in writing and shall be presented through the diplomatic channel.
- (2) The request for extradition shall be accompanied:
 - (a) In all cases by:
 - as accurate a description as possible of the person whose extradition is sought, together with any other information that would help to establish identity, nationality and probable location. And
 - a statement of facts of the offence(s), of their legal classification and reference to applicable law in that instance or instances. And
 - the relevant text of the law prescribing punishment for the offence for which extradition is requested.

- (b) In addition to the requirements in paragraph (a) of this Article, a request for extradition of a person who is sought for prosecution shall be supported by:
- the original or authenticated copy of the warrant of arrest or order having the same effect issued in accordance with the procedure laid down by the law of the requesting State. And
 - a copy of the indictment or charging document. And
 - such evidence as would justify committal for trial under the laws of the requested State.
- (c) In addition to the requirements in paragraph (a) of this Article, a request for extradition relating to a person who has already been convicted of the offence for which extradition is sought shall be supported by:
- the original or an authenticated copy of the judgment of conviction and evidence of the sentence imposed, if any, and of any time served that counts towards that sentence. And
 - evidence establishing that the person sought is the person to whom the conviction of guilt refers. And
 - in the case of a person who has been convicted in absentia, information regarding the circumstances under which the person was absent from the trial and information regarding his right of appeal and full details of the form of that appeal or retrial. And
 - in the case of a person who was convicted in absentia, and who did not deliberately absent himself from his trial, such evidence as would justify committal for trial under the laws of the requested State.

ARTICLE 7

Authentication of Supporting Documents

- (1) The documents that, in accordance with Article 6 of this Treaty, accompany a request for extradition shall be admitted in evidence in the requested State, if legally authenticated.
- (2) A document is legally authenticated for the purposes of this Treaty if it purports to be signed or certified by a judge or competent officer of the requesting State.

ARTICLE 8

Provisional Arrest

- (1) In urgent cases, upon a request of the competent authorities of the requesting State, provisional arrest by the competent authorities of the requested State may be undertaken pending the receipt of the extradition request and the documents mentioned in Article 6 of this Treaty.
- (2) The request for provisional arrest shall be transmitted by the International Criminal Police Organization (INTERPOL), or by post, telegraph or any other means affording a record in writing.
- (3) The availability of the documents mentioned in Article 6 of this Treaty and the intention to forward a request for extradition within the time limits set out in the paragraph 5 of this Article must be stated in the request. The request must also state the offence in respect of which the extradition is requested, a brief summary of the facts of the offence, the place and the time of the commission of the offence and as accurate a description as possible of the person whose extradition is sought.
- (4) The requesting State must be informed promptly about measures taken as regards its request.
- (5) If the requested State does not receive all of the documents mentioned in Article 6 of this Treaty within sixty (60) days of the date of the provisional arrest, the person may be released.
- (6) Such release shall not preclude the re-arrest and extradition of the person if the request for extradition and supporting documents are subsequently received by the requested State.

ARTICLE 9

Waiver of Extradition

- (1) The requested State, if not precluded by its law, may grant simplified extradition provided that the person whose extradition is sought consents to be extradited.
- (2) After the person has provided written consent, the requesting authorities are exempted from the required formalities provided in Article 6 of this Treaty.

ARTICLE 10

Competing Requests

If the extradition of a person is simultaneously requested by several States for the same or for different offences, the requested State may determine to which of those States the person is to be extradited, taking into account all the relevant circumstances and in particular: the existence of a relevant international convention or treaty, the possibility of a subsequent extradition between the requesting States, the dates of the receipt of the requests, the seriousness of the offences and the place of their commission.

ARTICLE 11

Seizure and Surrender of Property

- (1) When extradition is carried out, the requested State may in accordance with its law surrender to the requesting State, on its request, all objects obtained or used in the offence and any objects that might have evidential value.
- (2) The mentioned property may be surrendered even if the request for extradition can not be carried out due to the escape or death of the person sought.
- (3) Any rights which any third parties acting in good faith may have acquired in such property shall be duly respected. Where these rights exist, the property shall, at the expense of the requesting State, be returned to the requested State as soon as possible after the completion of the proceedings in the requesting State.

ARTICLE 12

Additional Information

- (1) If the requested State considers that the information furnished in support of the request for extradition is not sufficient to fulfill the requirements of its law with respect to extradition, that State may request that additional information be furnished within such time as it reasonably specifies.
- (2) If the person whose extradition is requested is under arrest and the additional information furnished is not sufficient or is not received within the time specified, the person may be released from custody but such release shall not preclude the requesting State from making a new request for extradition.

(3) Where the person sought is released from custody in accordance with paragraph 2 of this Article, the requested State shall notify the requesting State as soon as practicable.

ARTICLE 13

Postponed or Conditional Surrender

(1) The requested State may postpone the extradition of a person whose extradition is sought in order to bring criminal proceedings against the person, or so that the person may serve a sentence for an offence other than the offence for which extradition is requested. In this case, the requested State shall advise the requesting State accordingly.

(2) The provisions of paragraph 1 of this Article do not prevent the person sought being temporarily surrendered to the requesting State on condition that the said person be returned to the requested State after conclusion of the proceedings in the requesting State.

ARTICLE 14

Rule of Speciality

A person who has been extradited under the provisions of this Treaty shall not be detained, judged, condemned, punished or deprived of liberty in the territory of the requesting State for an offence committed prior to extradition other than the one for which his extradition is granted, except in the following cases:

- (a) where the person extradited, having had the opportunity to leave the territory of the requesting State has not done so within forty five (45) days of final discharge, or has voluntarily returned to that state after having left it; or
- (b) where the requested State consents. The requested State may require from the requesting State that a new request is presented, accompanied by the relevant documents referred to in Article 6 of this Treaty as well as a record of any statement made by the extradited person in respect of the request; or
- (c) where during the course of proceedings, the offence is re-classified to another offence based on the same facts as the offence for which extradition is granted, provided that the new offence is an extraditable offence; or

- (d) where the extradited person consents.

ARTICLE 15

Decision and Surrender of the Person

- (1) The requested State shall inform, as soon as possible, the requesting State of its decision on the request for extradition.
- (2) If the request is denied in whole or in part, the requested State shall provide reasons for the denial and provide copies of pertinent judicial decisions upon request.
- (3) If the extradition is granted, the Parties shall agree on the date and place for the extradition of the person sought.
- (4) The requesting State shall through its agents receive the person within twenty eight (28) days from the date of the final extradition order.
- (5) If that period expires, the person may be released and the requested State may refuse to extradite that person for the same offence. However, if exceptional circumstances prevent a Party from surrendering or receiving the person to be extradited within twenty eight (28) days, the State concerned shall inform the other State before the expiry of the period and the two States shall agree another date to extradite the person sought.
- (6) The requesting State shall also inform the requested State of the result of the criminal proceedings instituted against the person who has been extradited and shall, in addition, on request, provide the requested State with a copy of the judgment having the force of res judicata.

ARTICLE 16

Re-extradition to a Third State

The State to which the person has been extradited shall not extradite that person to another State without the consent of the Party that extradited him, except where the person has not left the territory of the requesting State or returned to it as contemplated in the paragraph (a) of Article 14 of this Treaty.

ARTICLE 17

Escape of Requested Person

If the person whose extradition is requested escapes before the conclusion of his prosecution or sentence and returns to the territory of the requested State, he will be re-extradited after receiving a new extradition request without supporting documents unless new facts occur justifying the request for further documents.

ARTICLE 18

Transit

(1) Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

(2) Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby.

(3) In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for 48 hours, pending receipt of the transit request to be made in accordance with paragraph 1 of the present Article.

ARTICLE 19

Representation

Each Party shall grant to the other Party the most appropriate legal representation without fees, as permitted by its internal law.

ARTICLE 20

Expenses

Except for the costs of conveying the extradited person, which shall be borne by the requesting State, expenses resulting from the extradition shall be borne by the State in whose territory they were incurred.

ARTICLE 21

Exchange of Information about Extradition Law

The Parties shall exchange, on request, information about the national law on extradition.

ARTICLE 22

Language

Any request for extradition and supporting documents shall be written in the language of the requesting State and shall be accompanied by a translation into the language of the requested State.

ARTICLE 23

Temporal Application

This agreement will apply to crimes committed prior to and after the date it enters in to force.

ARTICLE 24

Territorial Application

This Treaty shall apply to:

- (a) the territory of the Great Socialist People's Libyan Arab Jamahiriya;
- (b) the territory of the United Kingdom, which consists of Great Britain and Northern Ireland;

- (c) any other territory for whose international relations one of the Parties is responsible and to which this Treaty shall have been extended by Exchange of Notes and by agreement of the parties.

ARTICLE 25

Final Provisions

1. This Treaty shall be subject to ratification in accordance with the applicable procedures in the two states and shall enter into force with effect from the date of receipt of the last notice of ratification, if the ratification documents are not exchanged on the same day.

2. This Treaty will remain in force for an indefinite period unless terminated by either Party submitting a written notice of its wish to terminate to the other Party through diplomatic channels. Such termination will come into effect six months after the date of receipt of the termination notice.

In witness whereof, the undersigned, being duly authorised, have signed this Treaty.

Done in duplicate at London this seventeenth day of November 2008, in the English and Arabic languages, both texts being equally authoritative.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

BILL RAMMELL

For the Great Socialist People's
Libyan Arab Jamahiriya:

ABDULATI I. ALOBIDI



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