



Libya No. 4 (2009)

Treaty

On Judicial Co-operation between the Government of the United Kingdom of Great Britain and Northern Ireland and the Great Socialist People's Libyan Arab Jamahiriya in Civil and Commercial Matters

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 ON JUDICIAL CO-OPERATION
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT
BRITAIN & NORTHERN IRELAND AND THE GREAT SOCIALIST
PEOPLE'S LIBYAN ARAB JAMAHIRIYA
IN CIVIL AND COMMERCIAL MATTERS**

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

Desirous to establish fruitful co-operation between them in the field of judicial co-operation in civil and commercial matters;

Seeking to establish such co-operation on sound principles for the benefit of their societies and to provide legal protection for individuals resident within their territories;

Have agreed as follows:

**SECTION 1
GENERAL PROVISIONS**

ARTICLE 1

The citizens of each of the contracting parties shall, in the territory of the other party, be subject to the same conditions as are prescribed for the citizens of that party in respect of the right of free access to the courts in order to claim and defend their rights and shall enjoy the same legal protection therein.

When exercising such right, the citizens of each of the contracting parties may not be asked to provide any bond or security under any nomenclature on account of their being foreigners. This principle shall apply to amounts required to guarantee judicial or legal costs.

ARTICLE 2

The provisions of Article 1 of this Treaty shall apply to all legal persons duly set up and licensed in the territory of one of the parties, provided their statutory articles and objects are in keeping with that party's public policy and the legal capacity of such legal persons is defined in accordance with the legislation of the party in whose territory their head office is located.

ARTICLE 3

The citizens of each of the contracting parties shall have the right to enjoy judicial assistance or legal aid in the territory of the other party under the same conditions as the citizens of that party.

ARTICLE 4

There must be attached to a request for judicial assistance or legal aid a statement in respect of the applicant's financial status to the effect that he lacks financial capacity issued by the competent authority in his habitual place of residence or by the diplomatic mission with which the applicant is associated if he is resident in a third country.

The authority that is asked to provide judicial assistance or legal aid may seek additional information on the financial position of the applicant from the authorities of the party of which he is a citizen, especially if he is resident in the territory of the requested party, and inform him of any difficulties with the application and the decision issued in respect thereof.

ARTICLE 5

Requests for judicial assistance or legal aid shall be submitted together with supporting documentation directly to the authority competent to decide upon it in the requested party, if the applicant is resident in its territory, or:

- (a) in relation to the United Kingdom:
 - (i) for England and Wales and Northern Ireland, the Ministry of Justice;
or
 - (ii) for Scotland, the Constitution, Law and Courts Directorate,
through diplomatic channels; or
- (b) The General People's Committee for Justice in the Great Socialist People's Libyan Arab Jamahiriya.

ARTICLE 6

Referral or acceptance of requests for judicial assistance or legal aid or decisions thereon shall be free of charge and the provision of judicial assistance or legal aid shall

grant the same exemption from defence costs and all other fees and costs arising from the case or the part of the case to which the judicial assistance or legal aid relates as that applicable to citizens of the requested party.

SECTION 2 JUDICIAL CO-OPERATION IN CIVIL & COMMERCIAL MATTERS

ARTICLE 7

1. The contracting parties shall undertake to provide reciprocal judicial co-operation in civil and commercial matters.

2. Judicial co-operation shall include the service of judicial papers and documents and the execution of letters of request where it relates to taking the statements of parties, witnesses and experts.

3. Requests for judicial co-operation shall be sent to the central authorities. The central authorities are:

- (a) for England and Wales, the Senior Master of the Queen's Bench Division of the Royal Courts of Justice;
- (b) for Scotland, the Constitution, Law and Courts Directorate;
- (c) for Northern Ireland, the Supreme Court of Judicature; and
- (d) The General People's Committee for Justice in the Great Socialist People's Libyan Arab Jamahiriya.

4. Applications and documents sent in accordance with the provisions of this Treaty shall be exempt from any authentication or other such procedure.

5. Documents must be signed by the authority competent to issue them and stamped with its seal. In the case of copies, they must be certified true copies of the original by the competent authority and, if there is any serious doubt as to the authenticity of a document, it shall be investigated by the competent authorities.

ARTICLE 8

Both contracting parties may serve judicial and non-judicial papers directly to their citizens through their diplomatic and consular representatives in the other party.

ARTICLE 9

Service shall be in accordance with the applicable procedures in the legislation of the requested party.

ARTICLE 10

If the information relating to the person to be served or his address is insufficient, the requested party may ask the requesting party for supplementary information that shall assist with implementing the request.

ARTICLE 11

Delivery of a judicial or non-judicial document or the attempted delivery thereof shall not entitle the requested party to seek any expenses, unless it is a requirement of national law.

ARTICLE 12

The judicial authorities in each of the contracting parties may, when taking measures in respect of civil and commercial matters, ask the judicial authorities of the other party by a letter of request to supplement any measures it is taking and hear witness and expert statements or to take any other measures necessary and consequential to the request.

ARTICLE 13

1. A letter of request shall contain the following information:
 - (a) the requesting authority and, if possible, the requested authority;
 - (b) the parties' identities and addresses and, if necessary, the identities and addresses of their representatives;
 - (c) the subject of the dispute and a brief summary of the facts; and
 - (d) the judicial measures to be undertaken.

2. In addition to that, the letter of request shall, if necessary, include the following:
 - (a) the names and addresses of those whose statements are to be taken;
 - (b) the questions to be put to them or the facts concerning which their statements are to be taken;
 - (c) other documents or things to be examined; and
 - (d) special procedures to be followed in accordance with the provision of Article 14 of this Treaty.

ARTICLE 14

A letter of request shall be executed by the competent authority in the requested party in accordance with its national law including where it relates to mandatory procedures and permissible means of coercion.

Notwithstanding, the requested authority may, at the express request of the requesting judicial authority, execute the letter of request in accordance with special procedures that do not conflict with the requested state's legislation. Execution of the letters of request must be expedited.

ARTICLE 15

The requesting authority shall, on request, be informed of the time and place at which the letter of request is being executed so that the parties concerned or their representatives can, if necessary, be present.

ARTICLE 16

The requested authority may not refuse to execute a letter of request, except in one of the following circumstances:

- (a) if such execution does not fall within the jurisdiction of the judicial authorities in the party requested to execute it; or
- (b) if execution thereof is likely to violate the sovereignty, security or public policy of the requested party.

In the event that a letter of request is not executed in whole or in part, the requesting party shall be informed immediately and apprised of the reasons for that.

ARTICLE 17

Execution of a letter of request shall not entitle the requested party to seek any fees or expenses. Notwithstanding, the requested party may claim from the requesting party the fees of experts and translators and such costs as arise from implementing any special measure requested.

The litigants may guarantee payment of the costs in the form of a written undertaking attached to the letter of request based on an estimate of the costs prepared by the requested authority. The statement of costs shall be attached to the documents confirming execution of the letter of request.

ARTICLE 18

The central authorities in the United Kingdom and the General People's Committee for Justice in the Great Jamahiriya may ask that published legal judgments and decisions be sent free of charge and may, on request, exchange information relating to legislation in force in the territory of each party in order to facilitate the establishment of evidence before the courts.

ARTICLE 19

Official documents issued by the competent public authorities in the territory of one contracting party shall have the same evidential force as identical documents in the territory of the other party, provided they do not conflict with basic public policy.

ARTICLE 20

Official documents drawn up by the competent authority in the territory of one of the contracting parties and which bear an official stamp shall not be subject to authentication because they shall be deemed acceptable in the territory of the other party.

ARTICLE 21

Requests for judicial co-operation and any documents to be served as described in this section shall be drawn up in duplicate in the language of the requesting party, to which

shall be attached two copies of the translation thereof into the language of the requested party.

**SECTION 3
RECOGNITION & ENFORCEMENT OF LEGAL JUDGMENTS**

ARTICLE 22

Judicial decisions made in civil and commercial matters, including decisions granting damages made by the courts of one of the parties may be executed or enforced or declared enforceable in the other party in accordance with national law.

**SECTION 4
CONCLUDING PROVISIONS**

ARTICLE 23

This Treaty shall apply:

- (a) in relation to the United Kingdom:
 - (i) to England and Wales, Scotland and Northern Ireland; and
 - (ii) to the Isle of Man and the Channel Islands;
- (b) to the territories of the Great Socialist People's Libyan Arab Jamahiriya; and
- (c) in any other territory for whose international relations one of the parties is responsible and to which this Treaty shall have been extended by mutual agreement between the parties by exchange of notes, subject to any modifications agreed by the parties and to either party being able to terminate such extension by giving six months written notice to the other through the diplomatic channels.

ARTICLE 24

1. This Treaty shall be subject to ratification in accordance with the legal procedures in force in each country.

2. This Treaty shall enter into force on the date the instruments of ratification are exchanged or if they are not exchanged on the same day, the date after the later of the two instruments.

3. This Treaty shall remain in force for an indefinite period unless terminated by either party giving written notice of its termination to the other party through diplomatic channels. Such termination shall come into effect six months after the date of receipt of the notice.

4. In the case of termination the terms of this Treaty will remain in force in respect of any request received by the competent authority of the requested party before the said notice of termination.

This Treaty was done in the city of London on 17/11/2008, in two original copies, one in the English language and the other in the Arabic language, with both copies having equal legal force.

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

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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