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Treaty

between the United Kingdom of Great Britain and Northern Ireland and the
United Arab Emirates on Mutual Legal Assistance in Criminal Matters

London, 6 December 2006

[Instruments of Ratification were exchanged on 3rd March 2008
and the Treaty entered into force on 2nd April 2008]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 2008*

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**TREATY BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND AND THE UNITED ARAB EMIRATES
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Arab Emirates (hereinafter referred to as “the Parties”).

CONSIDERING the related international instruments, which both parties have ratified.

DESIRING further to improve the effectiveness of the law enforcement authorities of both countries in the investigation and prosecution of crime, and to combat crime in a more effective way as a means of protecting their respective democratic societies and common values.

RECOGNISING the particular importance of combating serious criminal activities.

HAVING DUE REGARD for human rights and the rule of law.

MINDFUL of the guarantees under their respective legal systems which provide an accused person with the right to a fair trial, including the right to adjudication by an impartial tribunal established pursuant to law.

DESIRING to conclude a Treaty relating to mutual legal assistance in criminal matters.

HAVE AGREED AS FOLLOWS:

GENERAL PROVISIONS

ARTICLE 1

Definitions

For the purpose of this Treaty:

- (a) "proceedings" means proceedings related to criminal matters and includes any measure or step taken in connection with the investigation or prosecution of criminal offences, including the restraint, seizure or confiscation of proceeds of crime and, in accordance with the domestic law of the Requested Party, instrumentalities of crime;
- (b) “instrumentalities of crime” means any property which has been, is or is intended to be used in connection with the commission of an offence;

- (c) “proceeds of crime” means any assets derived or realised, directly or indirectly, by any person as a result of criminal conduct, or the value of any such assets; and
- (d) “assets” includes money and all kinds of moveable or immovable and tangible or intangible property.

ARTICLE 2

Scope of assistance

1. The Parties shall provide each other the widest measure of mutual legal assistance, in accordance with the provisions of the Treaty, for the purpose of proceedings, including those for which a legal person may be held liable in the Requesting Party.
2. For the purposes of this Treaty, the authorities which are competent to make a request for mutual legal assistance, are those defined in the domestic law of the Requesting Party.
3. Assistance shall include:
 - (a) Taking the testimony or statements of persons including by video conference or television link, according to the domestic law of the Requested Party;
 - (b) Providing documents, records and other evidentiary material;
 - (c) Serving documents;
 - (d) Locating or identifying persons or items where required as part of a wider request for evidence;
 - (e) Transferring persons in custody as witnesses, in accordance with Article 12;
 - (f) Obtaining judicial orders necessary for the production of documents or records, search or seizure;
 - (g) Restraining, seizing, confiscating and disposal of proceeds of crime and assistance in related proceedings;
 - (h) Return of assets, in accordance with domestic law of the Requested Party;
 - (i) Sharing of confiscated assets or their equivalent funds;

- (j) Where appropriate and agreed, and in accordance with the domestic law, permitting officers and prosecutors to be present during the execution of the request; and
 - (k) Such other assistance as may be agreed between the Parties.
4. Where a request is made for search and seizure of evidence, restraint or confiscation of proceeds of crime, the Requested Party will render the assistance in accordance with its domestic law.

ARTICLE 3

Central Authorities

1. For the United Kingdom, the Central Authorities shall be:
 - (a) The Secretary of State; or
 - (b) The Lord Advocate (for matters pertaining to Scotland).
2. For the United Arab Emirates, the Central Authority shall be the Ministry of Justice.
3. Requests under this Treaty shall be transmitted through diplomatic channels, and further where appropriate, via Central Authorities. The Parties may at any time designate any other authority as a Central Authority for the purposes of this Treaty. Notification of such a designation will take place by exchange of diplomatic notes.
4. In cases of urgency, requests may be transmitted directly:
 - (a) To the United Kingdom, via the International Criminal Police Organisation (Interpol); or
 - (b) To the United Arab Emirates, via the central authority.

In both cases, copies of such requests shall also be sent through diplomatic channels as soon as practicable thereafter.

ARTICLE 4

Grounds for refusal of assistance

1. The Requested Party may refuse assistance if:
 - (a) The execution of the request would prejudice the sovereignty, security, ordre public or other essential interests of the Requested Party;

- (b) The request relates to an offence that is the subject of investigation or prosecution in the Requested Party;
- (c) The request relates to a person who, if proceeded against in the Requested Party for the offence for which assistance is requested, would be entitled to be discharged on the ground of double jeopardy;
- (d) The request relates to an offence that is regarded by the Requested Party as an offence under military law, which is not also an offence under ordinary criminal law; or
- (e) The request is not made in conformity with the provisions of this Treaty.

2. Before refusing assistance pursuant to this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

3. If the Central Authority of the Requested Party refuses assistance, it shall inform the Central Authority of the Requesting Party of the reasons for refusal.

ARTICLE 5

Form and contents of requests

1. A request for assistance shall be in writing. The request shall be in the language of the Requesting Party accompanied by a translation into the language of the Requested Party, unless otherwise agreed.

2. The request shall include the following:

- (a) The name of the authority conducting the proceedings to which the request relates;
- (b) The subject matter and nature of the proceedings for the purposes of which the request is made;
- (c) A summary of the information giving rise to the request;
- (d) A description of the evidence or other assistance sought;
- (e) The purpose for which the evidence or other assistance is sought; and
- (f) The text of the statutory provisions or, where this is not possible, a statement of the relevant law applicable.

3. To the extent necessary and possible, a request shall also include:
- (a) The identity, date of birth and location of any person from whom evidence is sought;
 - (b) The identity, date of birth and location of a person to be served, that person's relationship to the proceedings, and the manner in which the service is to be made;
 - (c) Available information on the identity and whereabouts of a person to be located;
 - (d) A precise description of the place to be searched and of the articles to be seized;
 - (e) A description of the manner in which any testimony or statement is to be taken and recorded;
 - (f) A list of questions to be asked of a witness or expert;
 - (g) A description of any particular procedures to be followed in executing the request;
 - (h) Information as to the allowances and expenses to which a person asked to appear in the territory of the Requesting Party will be entitled;
 - (i) Any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request; and
 - (j) Requirements for confidentiality.

ARTICLE 6

Execution of requests

1. The Central Authority of the Requested Party shall execute the request by transmitting it to the competent authority to do so. The said authority shall use its best efforts to execute the request. The judicial authority of the Requested Party shall have power to issue subpoenas, search warrants, or any other orders necessary to execute the request.
2. The Central Authority of the Requested Party may ask the Central Authority of the Requesting Party to provide information in such form as may be necessary to enable it to execute the request or to undertake any steps which may be necessary under the domestic law of the Requested Party in order to give effect to the request received from the Requesting Party.

3. Requests shall be executed in accordance with the domestic law of the Requested Party; procedures specified in the request shall be followed except to the extent those procedures are contrary to the domestic law in the Requested Party; where neither the provisions of this Agreement nor the request specifies particular procedures, the request shall be executed in accordance with the procedures prescribed by the Requested Party.

4. If the Central Authority of the Requested Party determines that execution of a request would interfere with an ongoing investigation, prosecution, or proceedings in that State, it may make execution subject to conditions. The Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party. If the Requesting Party accepts the assistance subject to conditions, it shall comply with those conditions.

5. The Requested Party shall use its best efforts to keep confidential the request and its contents if the Central Authority of the Requesting Party so requires. If the request cannot be executed without breaching such confidentiality, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party, which shall then determine whether the request should nevertheless be executed.

6. The Central Authority of the Requested Party shall respond to reasonable requests by the Central Authority of the Requesting Party on progress toward execution of the request.

7. The Central Authority of the Requested Party shall inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the execution of the request is denied, delayed or postponed, the Central Authority of the Requested Party shall inform the Central Authority of the Requesting Party of the reasons for the denial, delay or postponement therein.

ARTICLE 7

Confidentiality, Data Protection and limitations on use

1. The Requesting Party shall protect and not use or disclose any information, personal data or evidence obtained under this Treaty in any investigation, prosecution, or proceedings other than that described in the request without the prior consent of the Central Authority of the Requested Party. Personal data may exceptionally be used without prior consent for preventing an immediate and serious threat to public security.

2. The Requested Party shall, upon request, keep confidential any information which might indicate that a request has been made or responded to. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine the extent to which it wishes the request to be executed.

3. Information or evidence that has been made public in the Requesting Party in a manner consistent with paragraphs 1 or 2 of this Article may thereafter be used for any purpose.

4. Any Party that transfers personal data obtained as a result of the execution of a request made under the Treaty may require the Party to which the data have been transferred to give information on the use made of such data.

ARTICLE 8

Costs

1. The Requested Party shall pay all costs relating to the execution of the request, except for the following:

- (a) Fees of experts, and the allowances and expenses related to travel of persons pursuant to Articles 9 and 11;
- (b) The costs of establishing and operating video-conferencing or television links, and the interpretation of such proceedings; and
- (c) The costs of transferring persons in custody pursuant to Article 12.

Such fees, costs, allowances, and expenses shall be paid by the Requesting Party.

2. If during the execution of a request it becomes apparent that execution will entail expenses of an extraordinary nature, the Central Authorities shall consult to determine the terms and conditions under which execution may continue.

ARTICLE 9

Taking testimony and producing evidence in the Territory of the Requested Party

1. A person in the Territory of the Requested Party from whom evidence is requested pursuant to this Treaty may be compelled, if necessary, to appear in order to testify or produce documents, records or articles of evidence by summons or such other method as may be permitted under the domestic law of the Requested Party.

2. If the person referred to in paragraph 1 of this Article asserts a claim of immunity or incapacity under the domestic law of the Requesting Party, the testimony or evidence shall nonetheless be taken and the claim made known to the Central Authority of the Requesting Party for resolution by the authorities of that Party.

3. Where not contrary to its domestic law and, where appropriate, subject to the discretion of the court, the Requested Party may:

- (a) Permit the presence of such persons specified in the request during its execution; and
- (b) Permit such persons to ask questions of a witness giving testimony or evidence.

4. Evidence produced in the Requested State or that has been subject of testimony taken under this article upon request from the Requesting Party, shall be authenticated in accordance with the domestic law of the Requested Party.

ARTICLE 10

Official records

1. The Requested Party shall provide the Requesting Party with copies of publicly available records, including documents and information that are in the possession of government departments and agencies.

2. The Requested Party may provide the Requesting Party with copies of any records in any form, including documents and information that are in the possession of a government department or agency in that State, but that are not publicly available.

3. The records produced pursuant to this Article shall be authenticated in accordance with the domestic law of the Requested Party.

ARTICLE 11

Testimony in the Requesting State

1. A request under this Treaty may seek assistance in facilitating the appearance of any person in the territory of the Requesting State for the purpose of giving evidence before a court or of being identified in or otherwise by his presence assisting any proceedings.

2. The Central Authority of the Requested Party shall:

- (a) Ask a person whose voluntary appearance in the territory of the Requesting Party is desired whether he agrees to appear; and
- (b) Promptly inform the Central Authority of the Requesting Party of his answer.

3. The Requesting Party shall pay the allowances and expenses related to assistance given under this Article.

4. The Requesting Party shall not subject the person appearing in its territory pursuant to the provisions of this Article to service of process, detention or restriction of personal liberty, by reason of any acts or convictions that preceded his departure from the Requested State, and the person shall not be prosecuted, detained or punished by reason of his testimony other than for perjury.

5. The immunity provided for by this Article shall cease fifteen days after the person appearing has been formally notified by the relevant authority that his presence is no longer required or if the person has left the territory of the Requesting Party and voluntarily returned to it. The period of immunity may be extended to take account of circumstances beyond the control of the person appearing which do not include the commission of a criminal offence.

ARTICLE 12

Transfer of persons in custody

1. A person in the custody of one Party whose presence in the territory of the other Party is requested for the purpose of providing assistance under this Treaty shall be transferred for that purpose if both person and the Central Authority of the Requested Party consent.

2. For the purposes of this Article:

- (a) The Requesting Party shall be responsible for the safety of the person transferred and shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorised by the Requested Party; and
- (b) The Requesting Party shall return the person transferred to the custody of the Requested Party within one month from his surrender, or such a later time as may be agreed by the both Central Authorities and person transferred and in any event no later than the date upon which he would have been released from custody in the territory of the Requested State.

ARTICLE 13

Transit of persons in custody

The Requested Party may authorize the transit through its territory of a person in custody to the Requesting Party whose appearance has been requested by the Requesting Party.

Where domestic law permits the Requested Party shall keep the person in custody during transit.

ARTICLE 14

Location or identification of persons or items

If the Requesting Party seeks the location or identity of the persons or items in the Requested State, the Requested Party shall use its best efforts to ascertain the location or identity pursuant to its domestic law where required as part of a wider request for evidence.

ARTICLE 15

Service of Documents

1. The Requested Party shall use its best efforts to effect service of any document relating to or forming part of any request for assistance properly made pursuant to this Treaty by the Requesting Party, including any summons or other process requiring the appearance of any person before any authority or court in the territory of the Requesting State. In accordance with Article 5(1) such documents will be accompanied by a translation into the language of the Requested Party.

2. The Central Authority of the Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority or court in the Requesting State within a reasonable time before the scheduled appearance.

3. The Requested Party shall:

- (a) Return a proof of service in the manner specified in the request; or
- (b) Where service cannot be effected in the manner specified in the request, such information or evidence as to either personal delivery or failure of delivery.

ARTICLE 16

Search and seizure

1. The Requested Party shall execute a request for the search, seizure and delivery of any article to the Requesting Party, where it is permitted to do so under its domestic law and if the request includes the information justifying such action.

2. Every official who has custody of a seized article shall certify the continuity of custody, the identity of the article and the integrity of its condition and, where possible, in the form indicated by the Requesting Party.

3. The Central Authority of the Requested Party may require that the Requesting Party agree to terms and conditions deemed necessary to protect any Requested Party or third party interest in the item to be transferred.

ARTICLE 17

Return of documents and articles

The Central Authority of the Requesting Party shall return any documents or articles furnished to it in the execution of a request under this Treaty as soon as is practicable unless the Central Authority of the Requested Party waives the return of the documents or articles.

ARTICLE 18

Assistance in Restraint and Confiscation Proceedings

1. The Parties shall assist each other in relation to proceedings involving the proceeds and instrumentalities of crime in accordance with the domestic law of the Requested Party.

2. In addition to the provisions contained within Article 5, a request for assistance in restraint or confiscation proceedings shall also include:

- (a) Details of the property in relation to which co-operation is sought;
- (b) The location of the property and its connection with the subjects of the request;
- (c) The connection, if any, between the property and the offences;
- (d) Details of any third party interests in the property; and
- (e) a certified true copy of the Restraint or Confiscation Order made by the Court and statement of the grounds on the basis of which the Order was made, if they are not indicated in the Order itself.

3. Nothing in this Article shall prejudice the rights of bona-fide third parties.

ARTICLE 19

Assistance in Forfeiture Proceedings

1. If the Central Authority of one Party becomes aware of proceeds or instrumentalities of crime that are located in the other State and may be forfeitable or otherwise subject to seizure under the domestic law of that Party, it may so inform the Central Authority of the other Party. If that other Party has jurisdiction in this regard, it may present this information to its authorities to take any decision in this regard and those authorities shall issue their decision in accordance with their domestic law and report to the other Party on the action taken.
2. Each Party shall assist the other to the extent permitted by its respective domestic law in proceedings relating to the forfeiture of the proceeds and instrumentalities of crime.

ARTICLE 20

Return of embezzled public funds

1. When the Requested Party seizes or confiscates assets that constitute public funds, whether or not these have been laundered, and which have been embezzled from the Requesting Party, the Requested Party shall return the seized or confiscated assets, less any reasonable costs of realisation, to the Requesting Party.
2. The return shall occur once a final judgement has been given in the Requesting Party.

ARTICLE 21

Sharing of confiscated assets or their equivalent funds

1. In any case in which a Party is in possession of confiscated assets, and it appears to that Party ('the Holding Party') that co-operation has been given by the other Party ('the Co-operating Party'), the Holding Party may, at its discretion and in accordance with domestic law, share those assets or their equivalent funds with the Co-operating Party.
2. A request for asset sharing shall be made within one year from the date of entry of the final order of confiscation, unless otherwise agreed between the Parties in exceptional cases.
3. Unless otherwise mutually agreed, where the Holding Party transfers any sum pursuant to this Article it may not impose on the Co-operating Party any conditions

as to the use of that sum, and in particular may not require the Co-operating Party to share the sum with any other State, organisation or individual.

FINAL PROVISIONS

ARTICLE 22

Compatibility with other Agreements

Assistance and procedures set forth in this Treaty shall not prevent either of the Parties from granting assistance to the other under the provisions of other international Agreements or their domestic law.

ARTICLE 23

Consultation

The Parties shall consult, at the request of either, concerning the operation of this Treaty either generally or in relation to a particular case. The Parties may also agree on such practical measures as may be necessary to facilitate the operation of this Treaty. These may include the exchange of information concerning the laws in force and the judicial practice in their respective countries related to the subject matter of this Treaty.

ARTICLE 24

Territorial Application

This Treaty shall apply:

1. In relation to the United Kingdom:
 - (a) To England and Wales, Scotland, and Northern Ireland; and
 - (b) To the Isle of Man, Channel Islands and to any other territory for whose international relations the United Kingdom is responsible and to which this Treaty shall have been extended by exchange of notes between the Parties, 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.
2. To The United Arab Emirates.

ARTICLE 25

Ratification, entry into force and termination

1. This Treaty shall be ratified in accordance with the constitutional procedures of the contracting Parties and the instruments of Ratification shall be exchanged through diplomatic channels.
2. This Treaty shall enter into force thirty days after the receipt of the last instrument of Ratification.
3. Requests made under this Treaty can apply to offences committed prior to its entry into force.
4. This Treaty may be terminated by either Party at any time upon giving six months' notice to the other. However, requests submitted prior to the notice shall continue to be governed by the provisions of this Treaty until their conclusion.

ARTICLE 26

Dispute Settlement

Any dispute arising from the interpretation and operation of this Treaty shall be resolved by consultation through diplomatic channels if the Central Authorities of the Parties are themselves unable to reach agreement.

IN WITNESS THEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Treaty.

DONE in duplicate at London, this 6th day of December 2006 in the English and Arabic languages, both texts being equally authentic.

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

JOHN REID

For the Government of the
United Arab Emirates:

**MOHAMMED NEKHAIRA
AL DHAHERI**



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