



Libya No.1 (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 the Transfer of Prisoners

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
January 2009*

Cm 7540

£5.50

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978 0 10 175402 6

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Great Socialist People’s Libyan Arab Jamahiriya (hereinafter called the “Parties”):

In order to encourage the social rehabilitation of sentenced persons by giving them the opportunity to complete their sentences in their own countries;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Treaty:

- (a) “transferring State” means the State under whose jurisdiction the sentence was imposed on the prisoner who is serving his sentence in that State, and who may be, or has been, transferred;
- (b) “receiving State” means the State to which the prisoner may be, or has been, transferred in order to complete his sentence;
- (c) “prisoner” means a person who is required to be detained in a prison, a hospital or any other institution in the transferring State by virtue of an order or a decision made by a court in the course of the exercise of its criminal jurisdiction;
- (d) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction;
- (e) “judgment” means a decision or order of a court or tribunal imposing a sentence;
- (f) “national” means:
 - (i) in relation to The Great Jamahiriya, a citizen who holds the Libyan Nationality or Arab nationality awarded to him according to valid Libyan Legislation whose transfer The Great Jamahiriya

considers appropriate having regard to any close ties which that person has with The Great Jamahiriya;

- (ii) in relation to the United Kingdom, a British citizen or any person whose transfer the Government of the United Kingdom considers appropriate having regard to any close ties which that person has with the United Kingdom.

ARTICLE 2

General Principles

1. The Parties undertake to afford each other the widest measure of co-operation in respect of the transfer of prisoners in accordance with the provisions of this Treaty.
2. A person who has received a liberty depriving sentence in the territory of one Party may be transferred to the territory of the other Party, in order to complete the sentence imposed on him. To that end he may express his interest to the transferring State or to the receiving State in being transferred under this Treaty.
3. Transfer may be requested by either the transferring State or the receiving State.

ARTICLE 3

Conditions for Transfer

A prisoner may be transferred under this Treaty only if the following criteria are met:

- (a) the prisoner is a national of the receiving State for the purposes of this Treaty;
- (b) the judgment is final and no other criminal proceedings relating to the offence or any other offence committed by the prisoner are pending in the transferring State;
- (c) at the time of receipt of the request for the transfer, the prisoner still has at least six months of the sentence to serve, or if the sentence is indeterminate. In exceptional cases, the Parties may agree to a transfer even if the prisoner has less than six months of the sentence left to serve;
- (d) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the

receiving State or would constitute a criminal offence if committed on its territory; and

- (e) the transferring and receiving States agree to the transfer.

ARTICLE 4

Procedure for Transfer

1. Any prisoner to whom this Treaty may apply shall be informed by the transferring State of the substance of this Treaty.

2. If the transferring State is prepared, in principle, to approve any prisoner's request for transfer, it shall provide the receiving State with the following information:

- (a) the name, date and place of birth of the prisoner;
- (b) the nature, duration and date of commencement of the sentence that has been imposed;
- (c) a statement of the facts upon which the sentence was based;
- (d) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission and any other factor relevant to the enforcement of the sentence;
- (e) a certified copy of the judgment and information about the law on which it is based;
- (f) if appropriate, a medical or social report on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State.

3. If the receiving State, having considered the information which the transferring State has supplied, is willing to consent to the prisoner's transfer, it shall furnish the transferring State with the following:

- (a) a statement indicating that the prisoner is a national of that State for the purposes of this Treaty;
- (b) a copy of the relevant law of the receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State, or would constitute a criminal offence if committed on its territory;

- (c) a statement of the effect, in relation to the prisoner, of any law or regulation relating to that person's detention in the receiving State after that person's transfer, including a statement, if applicable, of the effect of paragraph 2 of Article 7 of this Treaty upon that person's transfer.

4. Transfer of the prisoner from the custody of the authorities of the transferring State into the custody of the authorities of the receiving State shall take place on the territory of the transferring State.

ARTICLE 5

Requests and Replies

1. Requests for transfer and replies shall be made in writing through the diplomatic channel.
2. The requested State shall inform the State requesting the transfer of its decision whether or not to agree to the requested transfer, normally within 90 days of the receipt of the request. If a decision cannot be notified within 90 days of the request, the requested State shall inform the requesting State of the reasons for any delay and use best endeavours to notify the requesting State of its decision as soon as possible

ARTICLE 6

Effect of Transfer for Transferring State

1. The taking into charge of the prisoner by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the transferring State.
2. The transferring State may no longer enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

ARTICLE 7

Procedure for Enforcement of Sentence

1. The continued enforcement of the sentence after transfer shall be governed by the law of the receiving State and that State shall take all appropriate decisions.
2. The receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State. If, however, the sentence is by its nature or duration incompatible with the law of the receiving State, that State may, by a court or administrative order and with the agreement of the transferring State

prior to transfer, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. It shall not, however, aggravate, by its nature or duration, the sanction imposed in the transferring State, nor exceed the maximum penalty prescribed by the law of the receiving State.

ARTICLE 8

Review of Judgment

1. The transferring State alone shall have the right to decide on any application for review of the judgment.
2. If the transferring State revises, modifies, or overturns the judgment pursuant to paragraph 1 of this Article or otherwise reduces, commutes or terminates the sentence, the receiving State shall, upon being notified of the decision, give effect thereto in accordance with this paragraph.

ARTICLE 9

Information Regarding Enforcement of Sentence

The receiving State shall provide information to the transferring State concerning enforcement of the sentence:

- (a) when the sentence has been completed;
- (b) if the prisoner has escaped from custody before the sentence has been completed; or
- (c) if the transferring State requests a special report.

ARTICLE 10

Transit

If either Party enters into arrangements for the transfer of prisoners for the purposes of the enforcement of a sentence of imprisonment with any third State, that Party may request transit through the territory of the other Party. The Party through whose territory transit is requested may refuse to grant that request. The Party making the request for transit will give the other Party advance notice of at least 7 days.

ARTICLE 11

Costs

Any costs incurred in the transfer of a prisoner under this Treaty shall be borne by the receiving State, except costs incurred exclusively in the territory of the transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from the prisoner or from some other source.

ARTICLE 12

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 of Great Britain and Northern Ireland, and the Isle of Man;
- (c) any other territory for whose international relations either of the Parties is responsible and to which this Treaty shall have been extended by mutual agreement between the Parties by Exchange of Notes.

ARTICLE 13

Temporal Application

This Treaty shall be applicable to the enforcement of liberty depriving sentences imposed either before or after its entry into force.

ARTICLE 14

Final Provisions

1. This Treaty shall be subject to ratification and shall enter into force on the date on which the instruments of ratification are exchanged or the date of the later of the two instruments if they are not exchanged on the same day.
2. This Treaty will 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 will come into effect six months after the date of receipt of the notice.

3 Notwithstanding any termination, this Treaty shall continue to apply to the enforcement of sentences of prisoners who have been transferred under this Treaty before the date on which such termination takes effect.

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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ISBN 978-0-10-175402-6

