

EXPLANATORY MEMORANDUM ON THE CONVENTION ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE KINGDOM OF MOROCCO

TITLE OF TREATY

Convention on Mutual Legal Assistance in Criminal Matters between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco.

Command Paper Number: 8683

SUBJECT MATTER

The Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco provides an international framework for mutual legal assistance (MLA) in criminal matters. The Convention applies to all crimes that are being investigated or prosecuted in the territory of the requesting state where the evidence required is located in the territory of the requested state. The Convention also provides for assistance to be given in restraint and confiscation matters.

KEY ELEMENTS OF THE TREATY ARE AS FOLLOWS:

Assistance will be provided without the need to establish dual criminality except in cases of search and seizure of material and in relation to the restraint and confiscation of the proceeds of crime, where such assistance can be given subject to the domestic law of the Requested State.

Assistance will not be provided under this Convention for offences that are exclusively offences punished by the criminal military law.

The Contracting States expressly retain a right to refuse requests where:

- the assistance concerns an offence which the Requested State considers a political offence or an offence connected with a political offence;
- the assistance has been made for the purpose of investigating, prosecuting or punishing a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions;
- the person requested would be entitled to be discharged on the grounds of a previous acquittal or conviction;
- the Requested State considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

- assistance would or would **likely** to prejudice an investigation or criminal proceedings in the Requested State or endanger the safety of any person.

With the exception of the costs associated with video-conferenced hearings, the fees of experts, the expenses of witnesses and the costs associated with transfer of persons in custody, the costs of execution will be borne by the Requested State. This is in line with accepted international practice.

Requests are to be treated as confidential in so far as this is possible under the law of the Requested State. The evidence provided in response to a request is to be used for that request only unless consent for further use is obtained, subject to any rules on disclosure that may apply.

The text contains a provision on the return of stolen state assets, which is consistent with the principles of the UN Treaty against Corruption that entered into force on 14 December 2005.

In line with previous bilateral MLA Treaties the Convention can be extended (with necessary amendments) to the Crown Dependencies and the Overseas Territories with the agreement of the Contracting States by exchange of notes.

This Convention does not rule out the provision of assistance through procedures set out in other international agreements or arrangements.

MINISTERIAL RESPONSIBILITY

The Secretary of State for the Home Department has overall responsibility for policy on judicial co-operation. The Lord Advocate and the Scottish Ministers also have an interest. The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for UK policy relating to the UK's relations with the Kingdom of Morocco.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

Both the Scottish Government and the Northern Ireland Office have seen the Convention and are content.

POLICY CONSIDERATIONS

This Convention will provide a sound framework for co-operation between the UK and the Kingdom of Morocco, especially where requests from UK prosecution agencies are sent to Morocco. There

is now a clear basis under which such requests can be executed. It should be noted that the UK does not need a Treaty basis to provide mutual legal assistance. This can be provided pursuant to the Crime (International Co-operation) Act 2003 and the Proceeds of Crime Act 2002. The Kingdom of Morocco is an important partner for the UK and this package of measures will enhance our ability to work in close co-operation with Morocco on important issues such as money laundering, fraud and terrorism.

REGULATORY IMPACT ASSESSMENT

No Regulatory Impact Assessment is required.

FINANCIAL

Administering the Convention will not result in significant costs.

RESERVATIONS AND DECLARATIONS

None.

CONSULTATIONS

The Convention was negotiated on behalf of the United Kingdom by the Home Office and on behalf of the Kingdom of Morocco by officials from the Ministry of Justice and Liberties.

IMPLEMENTATION

No additional legislation is required in order to implement the Convention.



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Minister of State for Immigration
HOME OFFICE