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**United Kingdom of Great Britain and Northern Ireland
and
Malaysia**

**Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia on mutual assistance in criminal matters.
Kuala Lumpur, 21 July 2010**

Entry into force: *16 December 2011 by the exchange of instruments of ratification, in accordance with article 23*

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**Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
et
Malaisie**

**Traité entre le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et le Gouvernement de la Malaisie concernant l'assistance mutuelle en matière pénale.
Kuala Lumpur, 21 juillet 2010**

Entrée en vigueur : *16 décembre 2011 par échange des instruments de ratification, conformément à l'article 23*

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**TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE GOVERNMENT OF MALAYSIA ON MUTUAL ASSISTANCE IN
CRIMINAL MATTERS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Malaysia (hereinafter referred to singularly as “the Party” and collectively as “the Parties”):

DESIRING to improve the effectiveness of the law enforcement authorities of the Parties through cooperation and mutual assistance in criminal matters,

MINDFUL of the guarantees under their respective legal systems concerning human rights and the rule of law,

HAVE AGREED as follows:

ARTICLE 1

Definitions

- (a) “criminal matter” means -
 - (i) a criminal investigation;
 - (ii) criminal proceedings; or
 - (iii) an ancillary criminal matter which includes restraint, freezing, seizure, forfeiture and confiscation of proceeds of crime and 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 property derived or realised, directly or indirectly, by any person as a result of criminal conduct, or the value of any such property;
- (d) “property” includes money and all kinds of moveable or immoveable and tangible or intangible property, and includes any interest in such property and instrumentalities of crime.

ARTICLE 2

Scope of Assistance

1. The Parties shall, in accordance with this Treaty and in conformity with their respective domestic laws, render to one another the widest measure of mutual assistance in criminal matters.
2. Such assistance shall include:
 - (a) taking the testimony or statements of persons;
 - (b) providing relevant documents and records, including bank, financial, corporate or business records, and other evidentiary material;
 - (c) making arrangements for persons to give evidence or to otherwise assist in the Requesting Party in relation to criminal matters;
 - (d) transferring persons in custody to give evidence or to otherwise assist in the Requesting Party in relation to criminal matters;
 - (e) effecting service of judicial and related documents;
 - (f) executing requests for search and seizure;
 - (g) locating and identifying persons or items where required as part of a wider request for assistance;
 - (h) examining items and sites where required as part of a wider request for assistance;
 - (i) identifying, locating, restraining, freezing, seizure, forfeiture and confiscation of proceeds of crime and instrumentalities of crime;
 - (j) return of property;
 - (k) sharing of property; and
 - (l) any other form of assistance as may be agreed between the Central Authorities.
3. This Treaty does not authorise any person from either Party to undertake, in the territory of the other Party, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of that other Party under its domestic law.

4. This Treaty applies solely to the provision of mutual assistance in criminal matters between the Parties. The provisions of this Treaty shall not create any right on the part of any private person to obtain any evidence pursuant to this Treaty.

ARTICLE 3

Central Authorities

1. Each Party shall designate a Central Authority to send and receive requests pursuant to this Treaty.

2. For Malaysia, the Central Authority for the purpose of sending and receiving requests shall be the Attorney General or a person designated by the Attorney General.

3. For the United Kingdom, the Central Authorities for the purpose of sending requests shall be:

- (a) the Secretary of State; and
- (b) the Lord Advocate for matters pertaining to Scotland.

4. For the United Kingdom, the Central Authorities for the purpose of receiving requests shall be:

- (a) the Secretary of State;
- (b) the Lord Advocate for matters pertaining to Scotland; and
- (c) Her Majesty's Revenue and Customs.

5. 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 shall take place by exchange of diplomatic notes.

6. Requests from the United Kingdom shall be transmitted through the Ministry of Foreign Affairs of Malaysia to the Malaysia Central Authority. Requests from Malaysia shall be transmitted through the Ministry of Foreign Affairs of Malaysia directly to the relevant United Kingdom Central Authority.

7. Except as otherwise provided in this Article, the Central Authorities shall communicate directly with one another for the purposes of this Treaty.

ARTICLE 4

Refusal of Assistance

1. The refusal of a request for assistance under this Treaty shall be done in conformity with the respective domestic laws of the Parties and the grounds of refusal shall include the following:

- (a) that the request relates to an offence that is regarded by the Requested Party as an offence under military law that if it had occurred in the Requested Party would not be an offence under ordinary criminal law;
- (b) that 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;
- (c) that there are substantial grounds for believing that the request has been made for the purpose of -
 - (i) investigating, prosecuting or punishing a person for an offence of a political nature; or
 - (ii) causing prejudice to a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions;
- (d) that the execution of the request would prejudice the sovereignty, security, national interest, public order or other essential interests of the Requested Party;
- (e) that the conduct to which the request relates fails to satisfy a requirement of the domestic law of the Requested Party requiring the establishment of dual criminality;
- (f) that the offence to which the request relates does not satisfy a minimum sentencing requirement of the Requested Party or is otherwise considered to be an offence of a trivial nature by the Requested Party;
- (g) that provision of the assistance sought could prejudice a criminal matter in the Requested Party;
- (h) that the request involves an assertion of jurisdiction which in the view of the Requested Party is extraterritorial and objectionable;
- (i) that provision of the assistance sought could impose an excessive burden on the resources of the Requested Party.