

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA

Agreement between Australia
and
the Republic of Lebanon
regarding
Cooperation on Protecting the Welfare of Children

(Beirut, 18 March 2009)

Not yet in force
[2009] ATNIF 9

Agreement between Australia and the Republic of Lebanon Regarding Cooperation on Protecting the Welfare of Children

The Government of Australia and the Government of the Republic of Lebanon

In support of their mutual relations, and desirous to promote cooperation between their two States to ensure the protection of the welfare of children;

Taking into consideration the provisions of the United Nations Convention on the Rights of the Child, done at New York on 20 November 1989, and in particular the provisions of Article 11 according to which the State Parties, including Australia and the Republic of Lebanon, shall take the necessary measures to combat the illicit transfer and non-return of children abroad and to this end, promote the conclusion of bilateral or multilateral agreements in this respect;

Taking into consideration the provisions of the Vienna Convention on Consular Relations, done at Vienna on 24 April 1963, to which Australia and the Republic of Lebanon are State Parties, and in particular the provisions of Article 5(e) and (h), according to which consular functions consist, inter alia, in helping and assisting nationals of the sending State and in safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of children who are nationals of the sending State;

Recognising that questions relating to personal status matters, including questions of child custody and access, can often represent human tragedies and present a particular challenge to bilateral efforts for a just and humane solution;

Desiring to promote and enhance consular cooperation and administrative cooperation between their two States to deal with these issues;

Have agreed as follows:

Part 1 Application and objects

Article 1

The objects of this Agreement include, consistent with the laws of both Parties:

- (a) ensuring that the best interests of children are treated as of primary importance in matters relating to parents' rights of custody and access to their children;
- (b) ensuring respect for the rights of children who are separated from one or both parents to maintain personal relations and direct access with both parents on a regular basis, except if it is contrary to a child's best interests, as provided for in the United Nations Convention on the Rights of the Child;
- (c) ensuring respect for the rights of a parent who is separated from a child to maintain personal relations and direct access with the child on a regular basis as provided for in the United Nations Convention on the Rights of the Child;
- (d) assisting a child to recover from any harmful effects suffered in the removal of the child by a parent from the territory of one Party to the territory of the other Party.

Article 2

For the purposes of this Agreement the word child shall include a child of either Australian or Lebanese nationality and/or a child of dual Australian and Lebanese nationality. In particular, consular access and assistance shall be made available to children of dual Australian and Lebanese nationality.

Part 2 Joint Consultative Commission

Article 3

1. A Joint Consultative Commission shall be established comprising representatives of the Ministries of Justice, Foreign Affairs & Emigrants and the Ministry of Interior and Municipalities for the Republic of Lebanon and representatives of the Department of Foreign Affairs and Trade and the Attorney-General's Department for Australia.
2. A Party may appoint additional persons to represent other concerned authorities of that Party in respect of cases submitted for consideration by the Commission.

Article 4

The Commission shall be consultative in nature.

Article 5

1. The Commission shall, in accordance with the laws of each Party:
 - (a) implement the objects of this Agreement;
 - (b) consider problems related to individual cases with a view to facilitating their resolution;
 - (c) respect the decisions of each Party's religious or civil courts in individual cases;
 - (d) promote awareness and cooperation between the concerned authorities of both Parties to achieve the objects of this Agreement with respect to cases brought to the attention of the Commission;
 - (e) provide information of a general character as to the law of the Party in connection with the application of the Agreement;
 - (f) keep each other informed with respect to the operation of this Agreement and, as far as possible, to eliminate any obstacles to its implementation.
2. The types of cases to be considered by the Commission shall include matters pertaining to personal status such as child custody and those which require measures pertaining to the protection of the child's rights and of basic human rights in general.
3. The Commission shall not consider cases or matters pertaining to visas or immigration except as provided for in Article 6(d).

Article 6

In particular, either directly or through any intermediary, the Commission shall take all appropriate measures in accordance with the laws of each Party:

- (a) to discover the whereabouts of a child who is subject to this Agreement;
- (b) to encourage an amicable resolution of the issues in cases in which custody of or access to a child is in dispute;
- (c) to assist in finding an amicable resolution of the issues in cases in which a child is removed to or retained in the territory of a Party against the wishes of a parent, including to encourage and facilitate agreement by the parents on access by a parent to the child or return of the child to the territory of the other Party;
- (d) to facilitate the making of applications, and expeditious determination of applications, for visas, exit permits and other travel documentation for parents and children;
- (e) to follow the progress of cases with a view to providing timely status reports to the concerned authorities of both Parties;
- (f) to receive and exchange information and documents related to cases and facilitate the transmission of such information and documents to the concerned authorities of either Party as required.

Article 7

1. Either Party may present, through diplomatic channels, cases to the Commission for consideration.
2. The usual channel of communication between the Parties shall be the diplomatic channel.

Article 8

The Commission shall meet at the request of either Party, on a date arrived at by mutual decision.

Article 9

The conclusions of the Commission are to be put on record. The Commission shall ensure the confidentiality of information regarding individual cases.

Article 10

The Commission shall report to the Ministry of Foreign Affairs and Emigrants for Lebanon and the Department of Foreign Affairs and Trade for Australia regarding the operation of this Agreement.

Article 11

1. Nothing in this Agreement is meant to limit or otherwise affect the rights and obligations of each Party arising from other treaties which apply to both Parties, and in

particular the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations.

2. Nothing in this Agreement is meant to replace or preclude any other means of communication and consideration of cases, including their resolution, between the Parties.

3. Nothing in Part 2 of this Agreement is meant to preclude the commencement of any proceedings before the judicial or administrative authority of a Party in respect of a child.

Article 12

For all written communications pursuant to this Agreement, the Parties shall provide a translation into an official language of the other Party.

Article 13

Any dispute arising out of the interpretation or execution of this Agreement shall be settled by consultation or negotiation through diplomatic channels.

Article 14

This Agreement will enter into force on the first day of the second month after the later of the two notifications has been received.

Article 15

This Agreement shall apply to a case raised by either Party even if the case began before the entry into force of this Agreement.

Article 16

This Agreement shall remain in force until terminated by either Party. Either Party may terminate this Agreement at any time by giving written notice to the other Party to that effect. Termination shall take effect six months after receipt of the notice. Notwithstanding termination, the Commission shall make every effort to finalise cases

brought to its attention prior to the giving of the written notice.

In Witness thereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done at Beirut on the 18th day of March two thousand and nine in two originals, in English and Arabic, each version being equally authentic.

For Australia:

H.E. Lyndall Sachs
Ambassador

For the Republic of Lebanon:

H.E. Ibrahim Najjar
Minister of Justice