

No. 52713*

**Canada
and
Israel**

Exchange of notes between the Government of Canada and the Government of Israel constituting an agreement concerning the immunities of Canadian members of the Multinational Force and Observers (MFO) who enter Israel on leave or who take leave in Israel after having entered Israel on official duty. Jerusalem, 17 February 1986 and 20 March 1986

Entry into force: *20 March 1986 by the exchange of the said notes, in accordance with their provisions*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *Canada, 13 May 2015*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Canada
et
Israël**

Échange de notes entre le Gouvernement d'Israël constituant un accord concernant les immunités des membres canadiens de la force multinationale et d'observateurs (FMO) qui entrent en Israël en congé ou qui prennent un congé après leur entrée en Israël en devoir officiel. Jérusalem, 17 février 1986 et 20 mars 1986

Entrée en vigueur : *20 mars 1986 par l'échange desdites notes, conformément à leurs dispositions*

Textes authentiques : *anglais et français*

Enregistrement auprès du Secrétariat des Nations Unies : *Canada, 13 mai 2015*

**Le numéro de volume RTNU n'a pas encore été établi pour ce dossier. Les textes reproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.*

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Jerusalem, 17 February 1986

Excellency:

I have the honour to refer to the Protocol of 3rd August 1981, related to the Treaty of Peace of 26th March 1979 between the Government of the State of Israel and the Government of the Arab Republic of Egypt, and to the Agreement between the Government of Canada and the Director General of the MFO concerning the participation of a Canadian contingent in the Multinational Force and Observers (MFO) established by the said Protocol. I propose, in accordance with Article 11(d) of the Appendix to the Protocol, the following supplementary arrangement between the Government of the State of Israel and the Government of Canada respecting those Canadian military members of the MFO (other than those assigned to any MFO office in Israel in accordance with arrangements to be made with the MFO, who will be regarded as on duty during their assignment to such office) who enter Israel, as the receiving State within the meaning of paragraph 3 of the Appendix to the Protocol (hereinafter "Israel"), on leave or who are taking leave in Israel after having entered Israel on official duty and over whom your Government would otherwise exercise jurisdiction pursuant to paragraph 11(a) of that Appendix (hereinafter called vacationing Canadian members of the MFO). This arrangement is without prejudice to the right of Israel to request a waiver of immunity in individual cases pursuant to paragraph 11(c) of the Appendix.

(a) The Government of Canada waives the immunity of vacationing Canadian members of the MFO who are reasonably suspected of having committed while on leave in Israel offenses punishable by imprisonment of more than 3 years or death or of possessing, for personal use, dangerous drugs as defined in the Dangerous Drugs Ordinance (New Version) 5733-1973, to the extent necessary to permit the Israeli authorities to detain such suspected persons for the purpose of conducting investigations, in accordance with applicable legal procedures. As provided by applicable law, it is understood that the period for which the Israeli authorities may detain such suspected persons may not exceed 48 hours, except when detention is authorized by an order of a competent court issued following a hearing at which the suspected person may be represented by a lawyer. The Israeli authorities may seek a court order permitting detention for more than seven days only in special circumstances and with the personal approval of the Attorney General of Israel. The Israeli authorities shall notify the Director General of the MFO and the designated representative of the Government of Canada of the Attorney General's intention to request such a court order at least twenty-four hours prior to his doing so. Any views which the Government of Canada may express shall be brought to the attention of the Attorney General, in order that he may take them into account.

After detention under this section and except as provided in section (b) below, the Israeli authorities shall transfer the custody of such suspected persons to the MFO authorities for investigation and trial in accordance with national law as provided in the Protocol. The Government of Canada shall inform the Israeli authorities as to the results of legal proceedings taken with respect to such suspected persons in accordance with paragraph 11 of the Appendix to the Protocol following their transfer to custody of the MFO.

In accordance with Canadian law, an alleged victim of a crime, his family and/or his representative may be present at any trial for that crime of a member of the MFO transferred to the MFO in accordance with this section.

A member of the MFO who is detained by the Israeli authorities in accordance with this section shall be afforded all procedural guarantees established by applicable law, including the following guarantees:

- (i) to consult with a lawyer within a reasonable period of time;
- (ii) to have legal representation of his own choice for his defense in detention proceedings, or, if he indicates he lacks funds for his defense, to petition the court for free legal representation;
- (iii) to have a writ of habeas corpus sought on his behalf;

He shall also be entitled:

- (i) to have services of a competent interpreter, if he considers it necessary;
- (ii) not to be subject to the application of martial law;
- (iii) in accordance with consular practice to communicate with representatives of the MFO and of the Government of Canada and to have such representatives present at detention proceedings;
- (iv) in accordance with applicable prison regulations, to have the right to be visited by representatives of the MFO and of the Government of Canada and by members of his immediate family, and to receive during such visits material and medical assistance.

(b) The Government of Canada waives the immunity of vacationing Canadian members of the MFO whom the Government of the State of Israel intends to bring to trial for weapons offenses committed while on leave in Israel, in violation of Article 144 of the Penal Law, 5737-1977, or for drug felonies committed while on leave in Israel in violation of Articles 7, 13-20 of the Dangerous Drugs Ordinance (New Version) 5733-1973, as amended, (attached), including procurement, conspiracy and attempts to commit such offenses, it being understood that none of the offenses described in this paragraph are punishable by death.

The Israeli authorities shall notify the Director General of the MFO and the designated representative of the Government of Canada of the Attorney General's intention to bring such MFO members to trial at least twenty-four hours prior to presenting charges against such member. Any views which the Government of Canada may express shall be brought to the attention of the Attorney General, in order that he may take them into account.

(c) For purposes of this arrangement, a member of the MFO present in Israel shall be considered on leave unless that member's name has been forwarded in advance to the Israeli authorities as being in Israel on official duty in accordance with the regular mutually accepted procedures prevailing in this regard. The Director General of the MFO shall determine any question arising as to whether a member of the MFO whose name has been forwarded in accordance with those procedures was on official duty at the time the alleged offense was committed.

(d) In accordance with Protocol and consular practice, the Israeli authorities shall notify immediately the Director General of the MFO and the designated representative of the Government of Canada of the detention of a vacationing Canadian member of the MFO, and of any further action taken.