

EGYPT - ISRAELAGREEMENT TO ARBITRATE THE BOUNDARY DISPUTE  
AT TABA - ARBITRATION COMPROMIS\*

Israel and Egypt,

Reaffirming their adherence to the provisions of the Treaty of Peace of 26 March 1979, and their respect for the inviolability and sanctity of the recognized international boundary between Egypt and the former mandated territory of Palestine,

Recognizing that a dispute has arisen, as defined in Article II of this Compromis, on the location of fourteen boundary pillars of the recognized international boundary between Egypt and the former mandated territory of Palestine as stipulated in accordance with the Annex, which the parties wish to resolve fully and finally,

Recalling their obligation under the United Nations Charter to settle disputes by peaceful means,

Considering the conclusion and implementation of this agreement as an integral part of the process of furthering peaceful and good relations between them,

Affirming their intention to fulfill in good faith their obligations, including their obligations under this Compromis,

Recalling their obligation to settle disputes in accordance with Article VII of the Treaty of Peace,

Confirming their commitment to the provisions of the agreement of 25 April 1982, between them.

Having resolved to establish an arbitration tribunal,

Have agreed to submit the dispute to binding arbitration, in accordance with the following procedures:

ARTICLE I

1. The arbitration tribunal (hereinafter called "The Tribunal") shall be composed of the following members:

Ruth Lapidot, nominated by the Government of Israel,  
Hamed Sultan, nominated by the Government of Egypt,  
Pierre Bellet, Dietrich Schindler, and Gunnar Lagergren, who shall be the President of the Tribunal.

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\*[The text of this agreement, excluding appendices A and B which consist of area maps, was provided by the Embassy of Israel, Canberra. Appendix B is the map reproduced at 18 I L.M. 388 (1979) See also 1985 A.I.L.News 311-313, 719].

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2. Once the Tribunal has been constituted, its composition shall remain unchanged until the award has been rendered. However, in the event a member nominated by a government is or becomes unable for any reason to perform his or her duties, the original nominating government shall designate a replacement member, within 21 days of such a situation. The President shall consult with the parties in the event the President believes such a situation has arisen. Each party is entitled to inform the other party in advance of the individual it would designate in the event of such a situation occurring. In the event the President of the Tribunal or a non-national member of the Tribunal is or becomes unable for any reason to perform his or her duties, the two parties shall meet within seven days and shall endeavor to agree on a replacement within 21 days

3. Where a vacancy has been filled after the proceedings have begun, the proceedings shall continue from the point they had reached at the time the vacancy had occurred. The newly appointed arbitrator may, however, require that the oral proceedings and visits be recommenced from the beginning.

#### Article II

The Tribunal is requested to decide the location of the boundary pillars of the recognized international boundary between Egypt and the former mandated territory of Palestine, in accordance with the Peace Treaty, the April 25, 1982 Agreement, and the Annex.

#### Article III

1. Each party will be entitled to submit to the Tribunal any evidence which that party considers relevant to the question.

2. A party may, by notice in writing through the registrar, call upon the other party to make available to it any specified document or other evidence which is relevant to the question and which is, or is likely to be, in the possession or under the control of the other party

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3. At any time during the arbitral proceedings the Tribunal may call upon either party to produce additional documents or other evidence relevant to the question within such a period of time as the Tribunal shall determine. Any documents or other evidence so produced shall also be provided to the other party.

4. The Tribunal may request that a nonparty to this Compromis provide to it documents or other evidence relevant to the question. Any documents or other evidence so provided shall be transmitted simultaneously to both parties.

5 The Tribunal will review all documents and other evidence submitted to it.

#### Article IV

1. The participation of all Tribunal members shall be required for the award. The presence of all members shall also be required for all proceedings, deliberations and decisions other than the award except that the President may determine that the absence of not more than a single member from any proceeding, deliberation, or decision other than the award, is justified for good cause.

2. In the absence of unanimity, decisions, including the award, will be taken by a majority vote of the members.

#### Article V

1. The seat of the Tribunal shall be at Geneva, Switzerland.

2. The President of the Tribunal shall, with the approval of the parties, appoint a registrar who shall be located at the seat of the Tribunal. The President and the parties shall endeavor to reach agreement on the appointment of the registrar within 21 days of the entry into force of this Compromis. The registrar shall be the regular channel of communications to and from the Tribunal. The President shall serve in such capacity until the registrar is appointed. The proceedings under this Compromis will not be delayed by the inability of the parties to agree on the appointment of a registrar.

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#### Article VI

1. The remuneration of the members of the Tribunal shall be borne equally by both parties.
2. The general expenses of the Tribunal shall be borne equally by both parties.
3. Each party shall bear its own expenses incurred in, or for, the preparation and presentation of its case
4. The parties shall agree upon the amount of remuneration of the members, in consultation with the President.
5. The registrar, in consultation with the President, shall keep a record of all general expenses and shall render a final accounting to the parties.
6. The Tribunal may, in consultation with the parties, engage such staff and obtain such services and equipment as may be necessary.

#### Article VII

1. Within 21 days of the entry into force of this Compromis, each party shall appoint its agent for the purposes of the arbitration.
2. Each party may nominate a deputy or deputies to act for its agent. The agent may be assisted by such counsel, advisors and staff as the agent deems necessary.
3. Each party shall communicate the names and addresses of its respective agent and deputy or deputies to the other party and to the Tribunal.

#### Article VIII

1. The Tribunal shall apply the provisions of this Compromis.
2. Within 30 days of the entry into force of this Compromis, the Tribunal shall meet.

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3 The proceedings shall consist of written pleadings, oral hearings and visits, to sites which the Tribunal considers pertinent, in accordance with the following schedule:

(A) The written pleadings shall include the following documents:

(i) A memorial, which shall be submitted by each party to the Tribunal within 150 days of the first session of the Tribunal, and

(ii) A counter-memorial, which shall be submitted by each party to the Tribunal within 150 days of the exchange of memorials, and

(iii) A rejoinder, if a party, after informing the other party, notifies the registrar within 14 days of the exchange of counter-memorials of its intention to file a rejoinder. In the event of such notification by one party, the other party shall also be entitled to submit a rejoinder. The rejoinders shall be submitted to the Tribunal within 45 days of the notification.

Written pleadings shall be filed simultaneously with the registrar and then be transmitted simultaneously by the registrar to each party. Notwithstanding this provision, a party may file its pleading at the end of the time period specified, even if the other party has not done so.

The Tribunal may, if it deems it necessary, or at the request of one party, and after hearing the views of the parties, decide, for good cause, to extend the time periods for the submission of written pleadings. By agreement, the parties may exchange their written pleadings prior to the expiration of the period provided in paragraph 3 of this article.

The original of every pleading shall be signed by the agent. It shall be accompanied by a copy of the pleading, certified by the respective agent, and by 30 additional copies for communication by the registrar to the other party. It shall also be accompanied by copies, certified by the respective agent, for

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communication by the registrar to each of the members of the Tribunal. Any documents and maps quoted or referred to in a pleading shall, whenever possible, be annexed to the pleading. The registrar shall specify such additional copies as may be required.

After the end of the written pleadings, no additional papers or documents may be submitted, except with the permission of the Tribunal. The Tribunal shall provide the other party an opportunity to respond if it has permitted the submission of an additional paper or document.

The registrar shall file all submissions received. The registrar shall make such files available for perusal by either party on request, and shall inform the other party of such requests.

(B) The oral hearings and the visits shall be conducted in such order and in such manner as the Tribunal shall determine. The Tribunal shall endeavor to complete its visits and the oral hearings within 60 days of the completion of the submission of written pleadings.

The oral hearings and the deliberations shall be held at the seat of the Tribunal or such place as the Tribunal, with the agreement of the two parties, may determine. Each party shall be represented at the oral hearings by its agent and/or deputies and by such counsel and advisors as it may appoint.

If a party submits an affidavit to the Tribunal in support of its case, the other party shall, on request, be given an opportunity to cross-examine the deponent. Each party will be permitted to present witnesses and to cross-examine witnesses of the other party at the oral hearings.

Each party shall facilitate the visits of the Tribunal. The agent of each party, and such other individuals as the agent may determine, shall be entitled to accompany the Tribunal during the visits. Members of the Tribunal shall be accorded by each party the privileges and immunities applicable under customary international law. The Tribunal shall be accompanied by such expert, technical or other staff as it deems necessary.

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(C) If the Tribunal determines that without good cause a party has failed within the prescribed time to appear or present its case at any stage of the proceedings, the Tribunal may determine how to proceed with the arbitration process and to render its award on the merits.

(D) At the time of the rendering of the award, the award and the written pleadings shall be made public, unless otherwise agreed by the parties. The registrar shall keep a transcript of the oral hearings, and it shall be made available to the parties as soon as possible. With the agreement of the two parties, this transcript shall be made public at the time of the rendering of the award.

4. Subject to these provisions, the Tribunal shall, as the need arises and as appropriate, and after consulting with the parties, decide on any necessary supplementary procedures, taking into account international practice.

5. The Tribunal may engage experts. The Tribunal shall hear and take the views of the parties into consideration before any such engagement.

#### Article IX

1. A three-member chamber of the Tribunal shall explore the possibilities of a settlement of the dispute. The three members shall be the two national arbitrators and, as selected by the President of the Tribunal sometime before the submission of the suggestions, one of the two non-national arbitrators.

2. After the submission of counter-memorials, this chamber shall give thorough consideration to the suggestions made by any member of the chamber for a proposed recommendation concerning a settlement of the dispute. Suggestions based upon the memorials, the counter-memorials, and other relevant submissions shall be presented to the chamber commencing from the month immediately preceding the counter-memorials. The chamber shall thereafter consider these suggestions, and the counter-memorials, during the period after submission of the counter-memorials until the completion of the written pleadings. Any proposed recommendation concerning a settlement of the dispute which obtains the approval of the three members of the chamber will be

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reported as a recommendation to the parties not later than the completion of the exchange of written pleadings. The parties shall hold the report in strictest confidence.

3. The arbitration process shall terminate in the event the parties jointly inform the Tribunal in writing that they have decided to accept a recommendation of the chamber and that they have decided that the arbitration process should cease. Otherwise, the arbitration process shall continue in accordance with this Compromis.

4. All work pursuant to the above paragraphs absolutely shall not delay the arbitration process or prejudice the arbitral award, and shall be held in the strictest confidence. No position, suggestion, or recommendation, not otherwise part of the presentation of a party's case on the merits, shall be brought to the attention of the other members of the Tribunal, or be taken into account in any manner by any of the members of the Tribunal in reaching their arbitral decision.

#### Article X

The written and oral pleadings, and the decisions of the Tribunal, and all other proceedings, shall be in English.

#### Article XI

1. In accordance with the provisions of the agreement of 25 April 1982:

(A) Israel and Egypt agree to invite the MFO to enter Taba and maintain security therein through the establishment of an observation post in a suitable topographic location under the flag of the MFO in keeping with the established standards of the MFO. Modalities for the implementation of this paragraph have been discussed and concluded by Israel and Egypt through the liaison system before the signature of the Compromis. The interpretation and implementation of this paragraph shall not be within the jurisdiction of the Tribunal.



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(B) During the interim period any temporary arrangements and/or any activities conducted shall not prejudice in any way the rights of either party or be deemed to affect the position of either party or prejudice the final outcome of the arbitration in any manner.

(C) The provisions of the interim period shall terminate upon the full implementation of the arbitral award.

2 The Tribunal shall have no authority to issue provisional measures concerning the Taba area.

#### Article XII

1. The Tribunal shall endeavor to render its award within 90 days of the completion of the oral hearings and visits. The award shall state the reasons upon which it is based.

2. The award shall be deemed to have been rendered when it has been presented in open session, the agents of the parties being present, or having been duly summoned to appear.

3. Two original copies of the award, signed by all members of the Tribunal, shall immediately be communicated by the President of the Tribunal to each of the agents. The award shall state the reason for the absence of the signature of any member.

4. The Tribunal shall decide the appropriate manner in which to formulate and execute its award.

5 Any member of the Tribunal shall be entitled to deliver a separate or dissenting opinion. A separate or dissenting opinion shall be considered part of the award.

6 The Tribunal shall at the joint request of the parties incorporate into its award the terms of any agreement between the parties relating to the issue.

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Article XIII

1. Any dispute between the parties as to the interpretation of the award or its implementation shall be referred to the Tribunal for clarification at the request of either party within 30 days of the rendering of the award. The parties shall agree within 21 days of the award on a date by which implementation will be completed.

2. The Tribunal shall endeavor to render such clarification within 45 days of the request, and such clarification shall become part of the award and shall not be considered a provisional measure under the provisions of Article XI (2) of this Compromis.

Article XIV

1. Israel and Egypt agree to accept as final and binding upon them the award of the Tribunal.

2. Both parties undertake to implement the award in accordance with the Treaty of Peace as quickly as possible and in good faith.

Article XV

This Compromis shall enter into force upon the exchange of instruments of ratification.

Done at Giza on the            day of September 1986.

For the Government of The  
The State of Israel

For the Government of  
Arab Republic of Egypt

A. Tamir 200 2012K  
David Limor 2012K

Nabil Gharib  
Bader Homayon

Witnessed by. [Signature]  
[Signature]

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### Annex

1 A dispute has arisen on the location of the following boundary pillars of the recognized international boundary between Egypt and the former mandated territory of Palestine: 7, 14, 15, 17, 27, 46, 51, 52, 56, 85, 86, 87, 88, and 91. The parties agree that boundary pillars 26 and 84 are on the straight lines between boundary pillars 25 and 27, and 83 and 85, respectively, and that the decision of the Tribunal on the locations of boundary pillars 27 and 85 will establish the locations of boundary pillars 26 and 84, respectively. The parties agree that if the Tribunal establishes the Egyptian location of boundary pillar 27, the parties accept the Egyptian location of boundary pillar 26, recorded in Appendix A; and, if the Tribunal establishes the Israeli location of boundary pillar 27, the parties accept the Israeli location of boundary pillar 26, recorded in Appendix A. The parties agree that if the Tribunal establishes the Egyptian location of boundary pillar 85, the parties accept the Egyptian location of boundary pillar 84, recorded in Appendix A; and if the Tribunal establishes the Israeli location of boundary pillar 85, the parties accept the Israeli location of boundary pillar 84, recorded in Appendix A. Accordingly, the Tribunal shall not address the location of boundary pillars 26 and 84.

2. Each party has indicated on the ground its position concerning the location of each boundary pillar listed above. For the final boundary pillar No. 91, which is at the point of Ras Taba on the western shore of the Gulf of Aqaba, Israel has indicated two alternative locations, at the granite knob and at Bir Taba, whereas Egypt has indicated its location, at the point where it maintains the remnants of the boundary pillar are to be found.

3. The markings of the parties on the ground have been recorded in Appendix A.

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4. Attached at Appendix B is the map referred to in Article II of the Treaty of Peace, which provides:

The permanent boundary between Israel and Egypt is the recognized international boundary between Egypt and the former mandated territory of Palestine, as shown on the map at Annex II, without prejudice to the issue of the status of the Gaza Strip. The parties recognize this boundary as inviolable. Each will respect the territorial integrity of the other, including their territorial waters and airspace.

A 1:100,000 map is included in order to permit the indication of the locations of the 14 disputed boundary pillars advanced by the parties and provides an index to Appendix A. The Tribunal is requested to refer to the general armistice agreement between Israel and Egypt dated 24 February 1949.

5. The Tribunal is not authorized to establish a location of a boundary pillar other than a location advanced by Israel or by Egypt and recorded in Appendix A. The Tribunal also is not authorized to address the location of boundary pillars other than those specified in paragraph 1.