

No. 22305

**AUSTRALIA
and
ISRAEL**

Exchange of notes constituting an agreement regarding the taking of evidence in one country for use in criminal proceedings in the other country. Canberra, 5 February 1982 and 13 January 1983

Authentic text: English.

Registered by Australia on 11 August 1983.

**AUSTRALIE
et
ISRAËL**

Échange de notes constituant un accord relatif à l'obtention, dans un pays, de témoignages destinés à être utilisés dans des procédures pénales engagées dans l'autre pays. Canberra, 5 février 1982 et 13 janvier 1983

Texte authentique : anglais.

Enregistré par l'Australie le 11 août 1983.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE STATE OF ISRAEL REGARDING THE TAKING OF EVIDENCE IN ONE COUNTRY FOR USE IN CRIMINAL PROCEEDINGS IN THE OTHER COUNTRY

I

February 5th, 1982

Dear Foreign Minister,

I have the honour to refer to the discussions which have taken place between the representatives of our two Governments for the purpose of concluding an Agreement regarding the taking of evidence in one country for use in criminal proceedings in the other.

On instructions from my Government, I have the honour to propose that the following terms be agreed between the Government of Israel and the Government of Australia:

- (a) At the request of the Government of Israel, evidence shall be taken by the Courts of Australia for use in criminal proceedings in Israel;
- (b) Such evidence shall be taken by a judge or magistrate in the manner provided for by Australian law;
- (c) Such evidence may be taken either as evidence for the prosecution or as evidence for the defence;
- (d) Where necessary, witnesses shall be compelled to attend and give evidence, in accordance with Australian law;
- (e) A request for the taking of evidence shall be submitted through diplomatic channels;
- (f) The record of the evidence taken, or a true copy thereof, together with all exhibits submitted by the witnesses, shall be signed and confirmed by the judge or magistrate concerned and transmitted to the Government of Israel through diplomatic channels;
- (g) The Government of Australia shall notify the Government of Israel of the place, date and time at which the evidence is to be taken and shall permit the accused, if the evidence is to be taken for the prosecution, or the prosecutor, if the evidence is to be taken for the defence, to be legally represented and to cross-examine the witnesses. The Government of Israel shall be responsible for notifying the accused or the prosecutor of the place, date and time for the taking of the evidence;
- (h) Evidence shall be taken in the language in which it was given and submitted to the Government of Israel in that form;
- (i) It is understood that the Courts of Israel shall determine in accordance with Israeli law, whether evidence so taken in Australia is admissible; and

¹ Came into force on 13 January 1983, the date of the note in reply, in accordance with the provisions of the said notes.

- (j) Expenses incurred in Australia in the taking of evidence — other than the costs and expenses of the accused's or the Israeli prosecutor's representation — shall be borne by the Government of Australia.

If this proposal meets with the approval of Your Excellency's Government, I have the honour to propose that this note and Your Excellency's reply to that effect shall constitute an Agreement between our two Governments which shall enter into force upon the date of your reply and which shall terminate on the one hundred and eightieth day after the day on which either Government gives notice in writing to the other of its intention to terminate the Agreement.

Yours sincerely,

[Signed]

ABRAHAM KIDRON
Ambassador of Israel

The Hon. A. A. Street, MP
Minister for Foreign Affairs
Canberra (ACT)

II

13 January 1983

Sir:

I have the honour to refer to the late Ambassador's Note of 5 February 1982 which reads as follows:

[See note I]

I have the honour to confirm that the Government of Australia accepts the proposal of the Government of Israel and that the late Ambassador's Note and the present reply shall together constitute an Agreement between our two Governments which shall enter into force on today's date and shall terminate on the one hundred and eightieth day after the day on which either Government gives notice in writing to the other of its intention to terminate the Agreement.

I have the honour to convey to you, Sir, the assurances of my high consideration.

IAN SINCLAIR

Mr. Dov Pashtan
Chargé d'Affaires a.i. of Israel
Embassy of Israel
Canberra