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MEMORANDUM

May 8, 2014

To: U.S. Senate Committee on Energy and Natural Resources
Attention: Tristan Abbey

From: Jeremy M. Sharp, Specialist in Middle Eastern Affairs, Foreign Affairs, Defense, and Trade Division,

Subject: **1979 Memorandum of Agreement between the United States and Israel on Oil**

Per your request, the following updated memorandum (the original was published in 2004) provides background on the 1979 Memorandum of Agreement on Oil between the United States and Israel. If you have any additional questions, please contact me at the extension listed above.

Background

Israel occupied Egypt's Sinai Peninsula, including several small oil fields, in the June 1967 war. In subsequent years, Israel met most of its oil supply needs by exploiting Egypt's Sinai oil fields. Following the October 1973 war, during which Egypt regained access to the Sinai, Israel and Egypt negotiated two disengagement agreements providing for a cease-fire and a mutual withdrawal of forces, including an Israeli withdrawal from the Egyptian oil fields. At the same time that Israel and Egypt signed the second disengagement agreement on 1 September 1975, the United States and Israel signed an agreement that provided for, *inter alia*, a U.S. promise to assist Israel in securing an oil supply should Israel not be able to purchase oil on the international market.¹ If the United States were prevented from purchasing oil, under an embargo for example, the United States would supply oil to Israel under the same guidelines that applied to the International Energy Agency (IEA).² The 1975 agreement also stated that the United States would give "special attention" to Israel's oil needs when providing foreign assistance. The agreement was to last five years.

In 1979, Israel and Egypt signed a peace treaty that was accompanied by two U.S.-Israel agreements, similar to the 1975 agreement, that assured Israel access to U.S. oil at market prices should Israel be unable to meet its domestic needs from the international market.³ The agreements also called for the United States to assist with arranging the transport of oil if Israel was unable to secure adequate tankers on the open market. The 15-year agreement was to expire on 25 November 1994.

¹ <http://www.jewishvirtuallibrary.org/jsource/Peace/mou1975.html>

² TEA sharing called for a 7% reduction in demand and a pooling of available supply among members. Israel was not an IEA member.

³ TIAS 9533, 30 UST 5990. The agreements were signed on 26 March and 22 June 1979.

Alaskan Oil

Section 7(d) of the Export Administration Act of 1979 prohibited the export of Alaskan oil in order to assure domestic supplies of oil.⁴ Congress created a special exception to the ban on Alaskan oil exports in Section 7(d)(3) that authorized the President to export Alaskan oil to countries that had signed a bilateral oil supply agreement before 25 June 1979. The only country to which the Section 7(d)(3) exception applied was Israel; the U.S.-Israel agreement was signed on 22 June 1979. Later, IEA member states were added to the export exception. (The Export Administration Act of 1979 has expired, but has been extended temporarily through legislation and the Presidential use of the International Economic Emergency Powers Act.)⁵

Expanding the Agreements

The Contingency Implementing Agreement of 17 October 1980⁶ provided for notification, consultation, and implementation of the 1979 agreement, and added a stipulation that the 1979 agreement would be implemented and the United States would provide oil for Israel if the price Israel paid for oil on the international market was 20% higher than the price of U.S. imported oil. The 1980 agreement also provided for the agreement to be implemented if Israel lost 22% of its imports from its primary sources. The United States had three options under the 1980 agreement: (1) use its "good offices" to negotiate a supply arrangement for Israel, (2) make open market purchases on Israel's behalf, or (3) transfer domestic oil to Israel. The last option implied that Alaskan oil would be available for Israel under Section 7(d)(3) of the Export Administration Act.

The 13 November 1994 "Agreement Between the United States of America and Israel Amending and Extending the Memorandum of Understanding of 22 June 1979,"⁸ extended the 1979 and 1980

Proposed Amendment to the Energy Policy Act (108th Congress)

In June 2003, Senator Lisa Murkowski proposed Senate Amendment 885⁶ to S. 14, the Energy Policy Act (not passed), that would have added language similar to Section 7(d) of the Export Administration Act to authorize the President to export oil or secure oil supplies for any country that had a bilateral oil supply agreement prior to 25 June 1979. As was the case with the Export Administration Act, the only country that qualified was Israel, having signed the bilateral oil supply agreement on 22 June 1979. Also, the amendment "deemed" the 1994 and 1995 agreements to have the force of law, and "deemed" that the two agreements do not have a termination date, thereby erasing what was at the time the 25 November 2004 expiration date. Amendment 885 was not considered by the Senate and S. 14 was not approved.

⁴ 93 Stat. 518, P.L. 96-72 (S. 737), 29 September 1979. 50 USC App 2406(d).

⁵ See CRS Report for Congress RL31832, The Export Administration Act: Evolution, Provisions, and Debate, by Ian F. Fergusson, 1 April 2003.

⁶ The proposed amendment read as follows: SEC. 1195. ENERGY SECURITY OF ISRAEL. (a) IN GENERAL.-- Notwithstanding any other provision of law, the President may export oil to, or secure oil for, any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency. (b) MEMORANDUM OF AGREEMENT.--The following agreements shall be deemed to have entered into force by operation of law and shall be deemed to have no termination date: (1) The agreement entitled "Agreement amending and extending the memorandum of agreement of June 22, 1979", entered into force November 13, 1994 (TIAS 12580). (2) The agreement entitled "Agreement amending the contingency implementing arrangements of October 17, 1980", entered into force June 27, 1995 (TIAS 12670).

⁷ TIAS 9908, 32 UST 3667.

⁸ TIAS 12580.

agreements for another ten years, until 25 November 2004. In 2004, the agreements were extended again until November 25, 2014.⁹

The Agreement Amending the Contingency Implementing Arrangements of 17 October 1980¹⁰ which entered into force on 27 June 1995, changed the mechanism that would compel the United States to provide oil for Israel in two ways: first, the United State would make oil available for Israel when the price Israel paid for crude rose 20% above the average of several benchmark crudes; and second, the United States would make oil available to Israel without delay when Israel lost 22% of its supply from major suppliers. Previous agreements allowed the United States up to 60 days in which to find alternative sources of oil for Israel. The contingency agreement remains in force so long as the original oil supply agreement remains in force.

Table I. Timeline on U.S.-Israel Agreement on Oil Supply

| Agreement/Extension | Date |
|--|---|
| Memorandum of Agreement concerning an Oil Supply Arrangement (entered into force) | November 25, 1979 (to last for fifteen years until 11/25/1994) |
| Date of First Extension | November 13, 1994 (extended for another ten years until 11/25/2004) |
| Date of Second Extension | November 23, 2004 (extended for another ten years until 11/25/2014) |
| Current Expiration | November 25, 2014 |
| | |
| Contingency Implementing Agreement (entered into force) | October 17, 1980 |
| Amended | June 21 and 27 1995 |

Source: Treaties and International Agreements Online, Oceana

⁹ See, Agreement Between the United States of America and Israel Extending the Memorandum of Agreement of June 12, 1979, as Amended and Extended, Concerning an Oil Supply Arrangement. Effectuated by Exchange of Notes at Tel Aviv and Jerusalem, November 23, 2004. Entered into Force November 23, 2004.

¹⁰ TIAS 12670.

Appendix.

Memorandum of Agreement between the Governments of the United States of America and Israel - Oil

(March 26, 1979)

The oil supply arrangement of September 1, 1975, between the Governments of the United States and Israel, annexed hereto, remains in effect. A memorandum of agreement shall be agreed upon and concluded to provide an oil supply arrangement for a total of 15 years, including the 5 years provided in the September 1, 1975 arrangement.

The memorandum of agreement, including the commencement of this arrangement and pricing provisions, will be mutually agreed upon by the parties within sixty days following the entry into force of the Treaty of Peace between Egypt and Israel.

It is the intention of the parties that prices paid by Israel for oil provided by the United States hereunder shall be comparable to world market prices current at the time of transfer, and that in any event the United States will be reimbursed by Israel for the costs incurred by the United States in providing oil to Israel hereunder.

Experts provided for in the September 1, 1975 arrangement will meet on request to discuss matters arising under this relationship.

The United States administration undertakes to seek promptly additional statutory authorization that may be necessary for full implementation of this arrangement.

M. Dayan

For the Government of Israel

Cyrus R. Vance

For the Government of the United States

Annex to the Memorandum of Agreement concerning Oil

ANNEX

Israel will make its own independent arrangements for oil supply to meet its requirements through normal procedures. In the event Israel is unable to secure its needs in this way, the United States Government, upon notification of this fact by the Government of Israel, will act as follows for five years, at the end of which period either side can terminate this arrangement on one-year's notice.

(a) If the oil Israel needs to meet all its normal requirements for domestic consumption is unavailable for purchase in circumstances where no quantitative restrictions exist on the ability of the United States to procure oil to meet its normal requirements, the United States Government will promptly make oil available for purchase by Israel to meet all of the aforementioned normal requirements of Israel. If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

(b) If the oil Israel needs to meet all of its normal requirements for domestic consumption is unavailable for purchase in circumstances where quantitative restrictions through embargo or otherwise also prevent the United States from procuring oil to meet its normal requirements, the United States Government will promptly make oil available for purchase by Israel in accordance with the International Energy Agency conservation and allocation formula, as applied by the United States Government, in order to meet Israel's essential requirements. If Israel is unable to secure the necessary means to transport such oil to Israel, the United States Government will make every effort to help Israel secure the necessary means of transport.

Israeli and United States experts will meet annually or more frequently at the request of either party, to review Israel's continuing oil requirement.

Appendix A.

Contingency implementing arrangements relating to the memorandum of agreement of June 22, 1979.

Signed at Washington October 17, 1980;

Entered into force October 17, 1980.

With related letter.

CONTINGENCY IMPLEMENTING ARRANGEMENTS FOR THE MEMORANDUM
OF AGREEMENT OF JUNE 22, 1979 n1 BETWEEN THE UNITED STATES AND
ISRAEL

n1 TIAS 9533; 30 UST 5989.

TEXT:

1. This agreement is to specify the conditions for the activation of the June 22, 1979, Memorandum of Agreement (MOA) between the United States and Israel on oil supply and the means by which the MOA would be implemented.
2. Pursuant to paragraph 1 of the MOA, Israel may give notification to the United States Department of State (Bureau of Near Eastern and South Asian Affairs). The notification is to include the information Israel deems necessary to substantiate its view that it is unable to secure its needs, or some part thereof, through normal procedures. Supporting documentation is to be provided on request. Consultations between the United States and Israel would then take place as soon as possible, and in no event later than two weeks following notification, to confirm that Israel is unable to supply its requirements by normal procedures. [*2] Upon this confirmation, implementation would proceed, Israel's supply right and allocation right would be established and the United States would make oil available to Israel as soon as practicable after notification. The United States will make every effort to ensure that this period is less than 60 days.
3. Absent a shortfall in the amount of oil physically available to Israel on the world market, the MOA could be activated when Israel:
 - (a) is paying for all its imported oil an average price higher than the average cost of the most expensive 20% of crude oil imported into the United States; and
 - (b) has to buy at least 60% of its oil through short-term, indirect purchases. The time period for measurement of these factors would be the 90 days preceding notification.
4. If Israel were to lose one of its two existing main sources of long-term supply (or a replacement source providing 22% or more of Israel's oil imports), notwithstanding Israel's reasonable efforts to retain said sources of supply, without immediately replacing it with an equivalent source, the MOA could be activated immediately. Israel's allocation right during activation pursuant to this paragraph would [*3] be equal to 120 days of supply from the lost main source, following which the MOA would be deactivated unless the conditions of paragraph 3 have been met. The United States and Israel would seek to measure

the factors for an activation under paragraph 3 without including oil which may be made available from the United States pursuant to this paragraph. If this paragraph is activated under section 1(b) of the MOA, Israel's allocation right would be adjusted in accordance with paragraphs 6 and 7 hereof.

5. Israel's shortfall and supply right under section 1(a) of the MOA would be determined by comparing actual and expected deliveries of oil secured through normal procedures with current normal domestic requirements. The allocation right as determined pursuant to the above should include such oil as may be necessary to maintain its reserves at a level of six months of consumption.

6. Under section 1(b), if the IEA n1 General Trigger emergency procedures have not been activated, Israel would sustain from its consumption a reduction in its oil supplies up to a level of 7% in accordance with applicable IEA Selective Trigger Rules. The United States would thereafter meet any shortfall in [*4] Israel's normal requirements. Should the IEA General Trigger emergency procedures be activated, the U.S. Government would make oil available for purchase by Israel in accordance with the IEA General Allocation formula. The formula requires:

- (a) demand restraint measures which reduce consumption by 7% or 10% depending on the loss of supplies in the IEA area; and
- (b) a proportional drawdown of stocks after imposition of the demand restraint measures.

n1 International Energy Agency.

The United States will keep Israel informed of any changes in the IEA emergency measures and procedures relevant to the MOA and any interpretations thereof.

7. Once the General Trigger is activated, demand restraint for Israel would be calculated using the same base period as that used by IEA countries. The Emergency Reserve Drawdown Obligation (ERDO) for Israel would be calculated using the IEA formula as if Israel has the same reserve obligation as a member nation. The IEA currently requires an emergency reserve commitment for each [*5] country equivalent to 90 days of imports for domestic consumption. On this basis, an ERDO would be calculated for Israel and, in turn, a supply right derived. Israel's allocation right would be calculated by subtracting available supplies from its supply right. The allocation right would determine the amount of oil to be supplied to Israel under the MOA. The initial supply right would be calculated as of the date of notification under the MOA.

8. After activation, United States and Israeli experts would meet every three months, or more often on request, to review Israel's oil supply situation and its attempts to obtain oil and to adjust Israel's allocation right accordingly. Israel's allocation right would be adjusted to the extent oil is available to Israel under normal procedures. Israel would continue to make its best efforts to secure oil independently in such manner as to reduce or eliminate its dependency on oil made available by the United States under the MOA. When Israel's allocation right is reduced or eliminated, the United States would take appropriate measures to adjust or end its arrangements for oil supply to Israel in an orderly fashion.

9. Although the actual sequence [*6] and methods of supply would depend on the conditions existing at the time, the United States affirms that, in its current judgment, the following options are the most practical means of supplying oil to Israel pursuant to sections 1(a) and 1(b) of the MOA:

- (a) The United States would first try to use its good offices with other nations and with private companies to arrange for alternative foreign sources of supply for sales to Israel. Price and other terms would be worked out between the supplier and Israel.

(b) If option A is not sufficient, the United States could attempt to buy oil on the world market for resale to Israel at cost. The United States would seek the most reasonably priced oil available.

(c) If there is no other more suitable alternative, the United States currently foresees fulfilling its obligation under the MOA by making oil available to Israel through swaps or direct sale of domestically produced oil.

10. In any of these arrangements the United States will, to the extent possible, take into account the types of crude oil most suitable to meet Israel's requirement as well as commercial and logistic considerations. It is recognized that the API mix of the [*7] oil supplies could cause slight variations in the total amount of oil required.

11. Under the terms of the MOA, the price paid for oil supplied by the United States shall be comparable to world market prices current at the time of transfer. Israel will, in any event, reimburse the United States for the costs incurred by the United States in providing oil to Israel hereunder. If the United States provides domestic oil to Israel, the price charged would be acquisition cost or the replacement cost, whichever is higher. Replacement cost means the actual cost to the U.S. refiners of replacing oil sold to Israel; if this cannot be precisely determined, replacement cost will be considered to be equivalent to the average cost (C.I.F.) to U.S. refiners of the most expensive 10% of similar quality crude oil imported into the United States.

12. The U.S. Government would make all necessary arrangements with appropriate U.S. agencies and relevant suppliers to implement fully the U.S. commitment to make oil available for purchase by Israel.

13. The United States would keep Israel informed of the progress toward making oil available to Israel. The United States would inform Israel of the arrangements [*8] it has made as soon as possible with the objective of enabling Israel to have a ship or ships ready to load when and where the oil becomes available.

14. Arrangements would be made for appropriate participation of United States flag carriers in the transportation of oil from the United States under paragraph 9(c) above. If Israel is unable to secure the necessary means to transport to Israel oil made available pursuant to the MOA, the United States Government would make every effort to help Israel secure the necessary means of transport.

15. In the event of war or damage to Israel's refining capacity or storage installations, to adjust for variations of API gravity crude oil, or for other reasons, Israel may require refined petroleum products. In that event, the United States and Israeli Governments would promptly consult as to the means by which Israel might acquire and transport such products.

16. With regard to security arrangements, the United States and Israel will be prepared to take security precautions normal in such circumstances in their own ports for ships controlled by the other. It is assumed that Israel will work out security arrangements with third country officials [*9] to the extent that third country ports might be involved in the Israeli supply line.

17. Quarterly or more frequently upon United States request, Israel shall inform the United States of the quantity, quality, price and other relevant conditions of oil imports into Israel, Israel's requirement for the preceding 3-month period and its forecast for imports and requirements for the next 6-month period.

18. United States and Israeli experts will meet annually or more frequently at the request of either party to review Israel's oil situation in light of prevailing market conditions and to review and if necessary, further develop or modify these contingency implementing arrangements by mutual agreement.

19. These arrangements shall be subject to and interpreted and applied in accordance with the MOA, including paragraph 4 thereof.

20. These arrangements shall apply for an initial period of five years and shall continue to apply for additional periods of three years for the duration of the MOA, unless suspended by either party at the expiry of any period upon written notice at least 6 months prior thereto. Suspension of these arrangements shall in no way affect the continued validity of [*10] the MOA. In the event of suspension, both parties will make every effort to reach renewed agreement on contingency implementing arrangements.

DONE in duplicate, at Washington this seventeenth day of October, 1980.

[RELATED LETTER]

EMBASSY OF ISRAEL

WASHINGTON. D.C.

[FOREIGN LANGUAGE TEXT OMITTED]

October 17, 1980

Ambassador Deane R. Hinton

Assistant Secretary for Economic Affairs

Department of State

Washington, D.C.

Dear Deane,

With reference to paragraph 17 of the agreement on the Contingency Implementing Arrangements for the MOA of June 22, 1979, we hereby confirm that the data referred to in the above mentioned paragraph shall include the figure of the total quantity of Israel's oil reserves. The parties are to agree on the method by which this information will be transferred and stored.

Sincerely,

SIGNATORIES:

Edmund S. Muskie.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF ISRAEL:

Yitzhak Modai.

Dan Halperin

Minister (Economic Affairs)