

EXHIBIT H



STATE OF ISRAEL

No. 1

The Embassy of Israel presents its compliments to the State Department of the United States of America, and wishes to draw the State Department's attention to a lawsuit filed on October 16, 2015 in the U.S. District Court for the Central District of California against Israel's former Prime Minister and Defense Minister Mr. Ehud Barak, *Dogan v. Barak*, No. 15-cv-8130 (C.D. Cal. filed Oct. 16, 2015). Given the circumstances of the case, as detailed below, the Government of Israel respectfully requests that the United States Government submit to the court a suggestion of immunity on behalf of Mr. Barak because all of the actions of Mr. Barak at issue in the lawsuit were performed exclusively in his official capacity as Israel's Minister of Defense.

This lawsuit relates to the events of May 31, 2010, when Israeli Defense Forces intercepted six vessels unlawfully attempting to break Israel's naval blockade of the Gaza Strip. Although five of the six vessels were intercepted peacefully and without incident, Israeli Defense Forces faced armed, organized, and premeditated violence when boarding the *Mavi Marmara*. Two Israeli soldiers were shot, one was stabbed, and others were injured as they were ambushed with clubs, knives, axes, and heavy objects. They were in mortal danger and had to act accordingly in self-defense.

The suit was commenced by two non-citizens of the United States personally and on behalf of their son, who according to the complaint was a United States citizen who died on the *Mavi Marmara* during the interception. The lawsuit asserts putative causes of action under the U.S. Alien Tort Claims Act, 28 U.S.C. § 1350; the U.S. Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 note), and the U.S. Anti-Terrorism Act, 18 U.S.C. § 2333.

The plaintiffs are attempting to sue Mr. Barak for actions undertaken in his role as Israel's Minister of Defense in the operation to intercept the vessels. As the complaint alleges, all of the actions of Mr. Barak at issue in the lawsuit were performed exclusively in his official capacity as Israel's Minister of Defense. The complaint itself acknowledges that Mr. Barak "held the position of Minister of Defense during the planning of the IDF operation," and the suit seeks to impose liability for alleged harms "inflicted by and/or at the instigation, under the control or authority, or with the consent or acquiescence of Defendant Barak in his *official capacity* as Minister of Defense."

The lawsuit raises significant concern because it seeks to hold a former Defense Minister of the State of Israel personally liable for an authorized military action taken by the State of Israel. Although brought against Mr. Barak personally, the lawsuit challenges the legality under international and United States law of actions taken by the Government of the State of Israel by its agents, and is in essence a suit filed against the State of Israel itself. As such, the suit appears



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to be part of an orchestrated and politically motivated effort to invoke and abuse the judicial processes of other nations, including of the United States, to achieve political ends antagonistic to the interests of the State of Israel.

Taking into account the abovementioned circumstances and the United States Government's past practice regarding the submission of suggestions of immunity on behalf of foreign officials in lawsuits relating to their official acts, the Government of Israel respectfully requests that the United States Government promptly submit a suggestion of immunity in this *Dogan v. Barak* lawsuit.

The Embassy of Israel avails itself of this opportunity to renew to the State Department of the United States of America the assurances of its highest consideration.

Washington, DC, December 31st, 2015

The State Department

Washington, DC

