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Prime Minister's Department
Apia, Western Samoa

27 April 1988

His Excellency Mr R J Martin
New Zealand High Commissioner
Apia

Dear High Commissioner

I have the honour to reply to your Note dated 26 April 1988 regarding arrangements for Exercise Joint Venture 88, the text of which reads as follows:

"Dear Prime Minister

I have the honour to refer to the series of talks held between officials from New Zealand and Western Samoa beginning in December 1987 concerning the visit of contingents of the New Zealand Armed Forces to Western Samoa for Exercise Joint Venture 88 to be held between 22 April and 7 May 1988. The purpose of the Exercise, which will include a series of civic action tasks and the participation of the Western Samoa Police as requested by the Government of Western Samoa, is to give individual New Zealand Services experience in joint force operations in the South Pacific in order to enhance the preparedness of the New Zealand armed forces to meet urgent requests for assistance in the event of an emergency arising in the region.

I now propose on behalf of the Government of New Zealand that an agreement be reached between our two governments relating to this Exercise on the following terms:

1 The Government of New Zealand will send contingents of the New Zealand Armed Forces, comprising members of the Royal New Zealand Navy, the New Zealand Army and the Royal New Zealand Air Force, to Western Samoa between 22 April and 7 May 1988, to take part in Exercise Joint Venture 88, and will send a liaison officer to Western Samoa who will arrive on 17 April. The main exercise period will be between 24 April and 7 May.

2 For the purpose of this Agreement and unless the context otherwise requires the terms set out below shall have the following meanings:

"New Zealand contingents" means those bodies of New Zealand servicemen who will be visiting Western Samoa for the purpose of taking part in Exercise Joint Venture 88 in Western Samoa.

"New Zealand servicemen" means members and contingents of New Zealand's armed forces who are participating in Exercise Joint Venture 88.

"New Zealand Service authorities" means the authorities empowered by the law of New Zealand to exercise command or jurisdiction over members of its armed forces who are participating in Exercise Joint Venture 88 as part of New Zealand's visiting contingents.

3 The New Zealand contingents will be permitted to use Faleolo airport and adjacent areas for the exercise base camp for up to 240 personnel.

4 The New Zealand contingents will be permitted to use electricity, water supply and refuse disposal facilities at Faleolo and to dig for ablutions, swill pits etc at Faleolo.

5 The Government of Western Samoa will not levy landing charges against the Government of Western Samoa for the use of airport facilities in Western Samoa.

6a The Government of Western Samoa will facilitate the admission of New Zealand contingents for purposes of taking part in Exercise Joint Venture 88.

b The following documents will be required to be in the possession of members of New Zealand contingents for entry into Western Samoa for the purposes of taking part in Exercise Joint Venture 88:

(1) a personal identity card issued by the appropriate authority of the Government of New Zealand showing the full name, date of birth, rank and number, Service and photograph of the holder;

(2) an individual or collective movement order issued by an appropriate authority and certifying to the status of the individual or group as a member of a New Zealand contingent.

c Passports will not be required by members of a New Zealand contingent for entry into Western Samoa for purposes of taking part in Exercise Joint Venture 88.

7 All freight and exercise stores and equipment required by a New Zealand contingent will be given entry free of all duties and taxes by the Government of Western Samoa provided that a detailed list of New Zealand stores and equipment is forwarded to the Government of Western Samoa in advance of the proposed Exercise. Each New Zealand contingent will also provide to the Government of Western Samoa a list of weapons by type and serial number, which is also to be provided in advance of the proposed Exercise.

8 Each New Zealand contingent will be entitled while in Western Samoa to the enjoyment of duty free privileges through the New Zealand High Commission in Apia for petrol and alcohol and tobacco purchases.

9 Each New Zealand contingent will be permitted to take with it upon departure all equipment brought by it into Western Samoa for the purpose of Exercise Joint Venture 88 free from export duties and related charges and restrictions.

10 New Zealand servicemen with New Zealand drivers licences will be granted temporary Western Samoa drivers licences upon payment of the usual fee.

11 For the purpose of the command and control of members of the New Zealand contingencies, the Government of Western Samoa will allow the New Zealand contingents to establish HF stations at Faleolo and the New Zealand High Commission in Apia and to use certain VHF and UHF frequencies inside Western Samoa as may be agreed between the New Zealand contingents and the Government of Western Samoa.

12 New Zealand servicemen may wear uniform in performing official duties in Western Samoa.

13 New Zealand servicemen while in Western Samoa for purposes of Exercise Joint Venture 88 may possess and carry arms on condition that they are authorised to do so by their orders and provided that arrangements regarding the carrying of arms outside areas and facilities in use by the visiting contingent have been made between the appropriate authorities of the two Governments. No live ammunition will be used during Exercise Joint Venture 88.

14 The Government of Western Samoa will grant New Zealand servicemen exemption from departure tax.

15 The rights of the two Governments with respect to criminal and disciplinary jurisdiction over the New Zealand contingents will be as follows:

a The New Zealand Service authorities on behalf of the Government of New Zealand will have the right to exercise in the territory of Western Samoa all criminal and disciplinary jurisdiction conferred on them by the law of New Zealand over all New Zealand servicemen taking part in Exercise Joint Venture 88.

b The Government of Western Samoa will have jurisdiction over all New Zealand servicemen taking part in Exercise Joint Venture 88 with respect to offences committed in the territory of Western Samoa and punishable by the law of Western Samoa.

c The New Zealand Service authorities will have the right to exercise exclusive jurisdiction over New Zealand servicemen with respect to offences punishable by the law of New Zealand but not by the law of Western Samoa.

d The Government of Western Samoa will have the right to exercise exclusive jurisdiction over all New Zealand servicemen taking part in Exercise Joint Venture 88 with respect to offences punishable by the law of Western Samoa but not by the law of New Zealand.

e In the cases where the right to exercise jurisdiction is concurrent the following rules will apply:

(1) the New Zealand Service authorities will have the primary right to exercise jurisdiction over New Zealand servicemen in relation to:

(a) offences solely against the property or security of New Zealand;

(b) offences solely against the person or property of a New Zealand serviceman or servicemen taking part in Exercise Joint Venture 88;

(c) offences arising out of any act or omission done in the performance of official duty;

f If the Government having the primary right to exercise jurisdiction under the foregoing paragraphs decides not to exercise jurisdiction, it will notify the other Government as soon as practicable: the Government having primary jurisdiction will give sympathetic consideration to a request from the other Government for waiver of jurisdiction.

g The foregoing paragraphs will not confer on the New Zealand Service authorities any right to exercise jurisdiction over persons who are nationals of or ordinarily resident in Western Samoa unless they are New Zealand servicemen taking part in Exercise Joint Venture 88.

h The New Zealand Service authorities and the Government of Western Samoa will assist each other in the arrest of New Zealand servicemen taking part in Exercise Joint Venture 88 and, subject to paragraphs i and j above of this clause, in handing them over to the Government which is to exercise jurisdiction in accordance with the above paragraphs.

i The Government of Western Samoa will notify promptly the New Zealand Service authorities of the arrest of any

New Zealand servicemen taking part in Exercise Joint Venture 88.

j Where the Government of Western Samoa has arrested a New Zealand serviceman taking part in Exercise Joint Venture 88 the Government of Western Samoa will if so requested release him to the custody of the New Zealand Service authorities in Western Samoa pending completion of trial proceedings provided that he will, on request, be made available to the Government of Western Samoa.

k The New Zealand Service authorities and the Government of Western Samoa will in all cases, including those giving rise to concurrent jurisdiction, assist each other in the carrying out of all necessary investigations into offences and in the collection and production of evidence, including the seizure of and, in appropriate cases, the handing over of objects in connection with an offence. The handing over of such objects, however, may be made subject to their return within any reasonable time specified by the Government delivering them.

l The New Zealand Service authorities and the Government of Western Samoa will notify each other of the disposal of all cases in which there are concurrent rights to exercise criminal jurisdiction.

m Where an accused has been tried in accordance with the preceding paragraphs by the New Zealand Service authorities or by the Government of Western Samoa, and has been convicted or acquitted (which expressions will include any other final disposal of a charge) he may not be tried again for the same or substantially the same offence by either Government: this paragraph will not prevent the New Zealand Service authorities from trying a New Zealand service-

man for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the Government of Western Samoa.

n In addition to the provision of any agreement entered into between New Zealand and Western Samoa concerning the return of prisoners from one country to the other, where a New Zealand serviceman taking part in Exercise Joint Venture 88 has been sentenced under the law of Western Samoa to a term of imprisonment and he makes a request, which is supported by the Government of New Zealand, that his term of imprisonment be served in New Zealand, his request will be given sympathetic consideration by the Government of Western Samoa.

16a The two Governments will consult on the settlement of claims by one against the other arising from the loss of or damage to property owned or being used by one of them and caused by an act or omission of a member of the armed forces of the other in the performance of official duty where such damage or loss has occurred in the course of Exercise Joint Venture 88, due regard being had in the settlement of such claims and in the determination of appropriate compensation payable to the criteria set out in paragraph b for the settlement of claims against the Government of New Zealand by third parties.

b The Government of New Zealand will pay just and reasonable compensation in accordance with the law of Western Samoa for meritorious claims by third parties in respect of loss of life or injury to such third parties or loss of property or damage to property belonging to such third parties where such damage or loss is caused by the act or omission (done in the performance of official duty) of a New Zealand serviceman or servicemen while in Western Samoa for purposes of Exercise Joint Venture 88 and where the Government of Western Samoa, after investigation, certify the claims.

(1) as having been submitted in good faith, within three months of the act of omission,

(2) as being reasonable in nature, and

(3) where they relate property damage, as seeking sums which reflect accurately the current market prices for returning the damaged property to the condition it was in before such damage, and

(4) where they relate to loss of property, as seeking sums which reflect accurately the value of such property immediately prior to such loss.

17 The Government of New Zealand will take measures to ensure that members of their visiting contingents are aware of their duty and observe the laws and regulations of Western Samoa.

18 This agreement shall not extend to the Cook Islands, Niue or Tokelau.

If the foregoing is acceptable to the Government of Western Samoa, I have the honour to propose that this Note, together with your reply to that effect, shall constitute an Agreement between our two Governments which shall enter into effect on the date of your reply.

Yours sincerely"

I have the honour to confirm that the above arrangements are acceptable to my Government, and that your Note and

this reply shall therefore constitute an agreement between our two Governments which shall enter into force from the date of this reply.

Yours sincerely



Tofilau Eti Alesana

Prime Minister and Minister of Foreign Affairs

26/5/88

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT
BETWEEN THE GOVERNMENT OF NEW ZEALAND AND
THE GOVERNMENT OF WESTERN SAMOA ON ARRANGE-
MENTS FOR VISITS BY CONTINGENTS OF NEW
ZEALAND'S ARMED FORCES TO WESTERN SAMOA
FOR EXERCISE JOINT VENTURE 88.

Apia 26 and 27 April 1988



New Zealand High Commission
Apia, 26 April 1988

Hon Tofilau Eti Alesana
Prime Minister and Minister of
Foreign Affairs
Government of Western Samoa
Apia

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R J Martin

High Commissioner