



B/1998/23

**NEW ZEALAND HIGH COMMISSION**

TE AKA AORERE

SUVA

3 November 1998

Hon Colonel Paul Manueli  
Minister for Justice and Home Affairs  
Ministry of Home Affairs  
Government Buildings  
SUVA

Sir

**EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE REPUBLIC OF FIJI ISLANDS ON ARRANGEMENTS FOR THE VISIT BY A NEW ZEALAND DEFENCE FORCE CONTINGENT TO THE REPUBLIC OF THE FIJI ISLANDS FOR EXERCISE VEILIUTAKI**

I have the honour to refer to the talks held between officials from New Zealand and the Republic of the Fiji Islands concerning the visit of a New Zealand Defence Force Contingent to the Republic of the Fiji Islands for Exercise VEILIUTAKI to be held between 7 and 21 November 1998. The purpose of the exercise is to give New Zealand service personnel practice in independent low-level military operations in a tropical environment and to provide training assistance to the Republic of the Fiji Islands Military Forces (RFMF).

I now propose on behalf of the Government of New Zealand that agreement be reached between our two Governments relating to this exercise, on the following terms:

1. The Government of New Zealand shall send a Contingent of approximately 110 New Zealand Army personnel to the Republic of the Fiji Islands during the period of 7 - 21 November 1998 to take part in Exercise VEILIUTAKI. An advance party of approximately four New Zealand Army personnel will deploy by civilian aircraft to arrive in the Republic of the Fiji Islands no later than 2 November 1998. The main body will deploy to and from the Republic of the Fiji Islands by RNZAF Hercules C130 and Boeing 727 aircraft, arriving no later than 7 November 1998. The

main body will include: An Exercise Group (EX Gp) comprising approximately 110 combat and support personnel, who will conduct pre-exercise administration in Queen Elizabeth Barracks (QEB), a Field Training Exercise (FTX) in the Nabukavesi training area, based on company level operations in a tropical environment, and post exercise administration at QEB in Suva.

2. For the purposes of this Agreement and unless the context otherwise requires, the terms set out below shall have the following meanings:
  - a. “New Zealand Contingent” means those armed forces of New Zealand who will be visiting the Republic of the Fiji Islands for the purpose of taking part in Exercise VEILIUTAKI.
  - b. “New Zealand Service Authorities” means the authorities empowered by the law of New Zealand to exercise command or jurisdiction over the members of the New Zealand Contingent.
  - c. The “Republic of the Fiji Islands Authorities” means the authorities from time to time designated by the Government of the Republic of the Fiji Islands for the purpose of exercising the powers in relation to which the term is used.
  - d. “Training” means the conduct of individual and combined training between members of the New Zealand Defence Force and the RFMF in the Republic of the Fiji Islands.
  - e. “Materiel”, in relation to the New Zealand Contingent, means all items necessary for the equipment, maintenance, operation and support of the New Zealand Contingent.
3. The Government of the Republic of the Fiji Islands shall make available the following support to the New Zealand Contingent:
  - a. ~~Exercise participants as agreed to at the New Zealand Army to RFMF~~ planning conferences and exercise reconnaissance comprising:
    - (1) liaison staff for the New Zealand contingent;
    - (2) an infantry platoon from 3FIR to take part in the FTX
    - (3) a RFMF radio retransmission detachment.
  - b. A suitable post exercise area at QEB for tents, as agreed to at the planning conferences and exercise reconnaissance.

- c. Accommodation and rations as agreed to at the planning conferences and exercise reconnaissance.
  - d. Transport as agreed to at the planning conferences and exercise reconnaissance.
  - e. Access to training areas in order to conduct the exercise, as agreed to at the planning conferences and exercise reconnaissance. Use of the training areas shall be in accordance with the regulations laid down by the Government of the Republic of the Fiji Islands.
  - f. An area within QEB for the logistic support throughout Exercise VEILIUTAKI. This will include suitable storage areas including armouries, ammunition areas, a medical area and general storage facilities, as agreed to at the planning conferences and exercise reconnaissance.
  - g. Communications including radio frequencies and access to telephones, as agreed to at the planning conferences and exercise reconnaissance.
4. The New Zealand Government shall make available the following support to the RFMF:
- (1) A New Zealand Army armourer and vehicle mechanic to support the deployment and assist the RFMF with weapon and vehicle maintenance during the FTX;
  - (2) Two New Zealand Army cooks to provide refresher training for RFMF personnel, whilst FTX is underway.
5. The Government of the Republic of the Fiji Islands shall not levy any charges against the Government of New Zealand for the use of Fijian transport, accommodation, airport facilities, military or civil facilities, or land, in connection with the conduct of Exercise VEILIUTAKI.
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6. The Republic of the Fiji Islands Authorities shall facilitate the entry and departure of the New Zealand Contingent by permitting members of the New Zealand Contingent to enter and depart from the Republic of the Fiji Islands on the basis of:
- a. A personal identity card issued by the New Zealand Service Authorities showing the full name, date of birth, rank and number, service and photograph of the holder.
  - b. An individual or collective movement order issued by the New Zealand Service Authorities certifying to the status of the individual or group as a member of the New Zealand Contingent.

7. Passports shall not be required by members of the New Zealand Contingent for entry into the Republic of the Fiji Islands. The Government of the Republic of the Fiji Islands shall grant all members of the New Zealand Contingent exemption from departure tax.
8. The Government of New Zealand shall supply all combat rations and ammunition for the New Zealand Contingent. Contracts will be established for the procurement of fresh rations on arrival of the Advance Party in Fiji. The Exercise Group will be using blank ammunition and pyrotechnics during Exercise VEILIUTAKI.
9. The New Zealand Contingent may import free of duty Materiel for its exclusive use or consumption, provided that a detailed list of the Materiel is forwarded to the Republic of the Fiji Islands Authorities in advance of Exercise VEILIUTAKI. Official documents of the New Zealand Contingent shall not be subject to customs inspection. The New Zealand Contingent shall provide to the Republic of the Fiji Islands Authorities a list of weapons by type and serial number prior to the commencement of the exercise.
10. Materiel imported free of duty under clause 8 may be re-exported freely.
11. The Republic of the Fiji Islands Authorities shall accept as valid, without a driving test or fee, a current driving permit of licence issued by the New Zealand Service Authorities, to a member of the New Zealand Contingent for the purpose of driving in the course of his or her duty.
12. The New Zealand Contingent shall provide their own Combat Ration Packs which shall comply with the agricultural requirements of the Republic of the Fiji Islands.
13. For the purpose of the command and control of the New Zealand Contingent, the Government of the Republic of the Fiji Islands shall permit the New Zealand Contingent to establish and operate High Frequency and Very High Frequency radio stations, using frequencies approved and registered by the Republic of the Fiji Islands Authorities.
14. Members of the New Zealand Contingent may wear uniform when on official duty in the Republic of the Fiji Islands.
15. When authorised to do so by their orders, members of the New Zealand Contingent may possess and carry arms:
  - a. within exercise areas and facilities in use by the New Zealand Contingent for the purpose of Training;

- b. outside such areas, subject to the approval of the Republic of the Fiji Islands Authorities.

16. The rights of the two Governments with respect to criminal and disciplinary jurisdiction over the New Zealand Contingent shall be as follows:

- a. The New Zealand Service Authorities shall have the right to exercise within the territory of the Republic of the Fiji Islands, all criminal and disciplinary jurisdiction conferred on them by the law of New Zealand over the members of the New Zealand Contingent, and exclusive jurisdiction over the members of the New Zealand Contingent with respect to offences punishable by the law of New Zealand but not by the law of the Republic of the Fiji Islands.
- b. The Republic of the Fiji Islands Authorities shall have the right to exercise jurisdiction over the members of the New Zealand Contingent with respect to offences committed within the territory of the Republic of the Fiji Islands and punishable by the law of the Republic of the Fiji Islands, and the right to exercise exclusive jurisdiction over the members of the New Zealand Contingent with respect to offences punishable by the law of the Republic of the Fiji Islands but not by the law of New Zealand.
- c. In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:
  - (1) The New Zealand Service Authorities shall have the primary right to exercise jurisdiction over members of the New Zealand Contingent in relation to:
    - (a) offences against the security of New Zealand; including acts of treason, sabotage, espionage or violation of any law relating to the protection of the official information of New Zealand;
    - (b) offences solely against the property of New Zealand;
    - (c) offences solely against the person or property of another member of the New Zealand Contingent;
    - (d) offences arising out of any act or omission done in the performance of an official duty;
  - (2) In the case of any other offences committed within the territory of the Republic of the Fiji Islands, the Republic of the Fiji Islands Authorities shall have the primary right to exercise jurisdiction.

- (3) If the authorities having the primary right to exercise jurisdiction decide not to do so, they shall notify the other authorities as soon as practicable.
  - (4) The authorities having the primary right of jurisdiction shall give sympathetic consideration to a request from the other authorities for a waiver of their right where those other authorities consider such a waiver to be of particular importance.
  - (5) Where the Republic of the Fiji Islands Authorities have primary right of jurisdiction they shall give sympathetic consideration to a request from the New Zealand Service Authorities for a waiver of that right where suitable punishment can be imposed under the Service law of New Zealand.
  - (6) The foregoing paragraphs shall not confer any right on the New Zealand Service Authorities to exercise jurisdiction over persons who are nationals of or ordinarily resident in the Republic of the Fiji Islands, unless they are part of the New Zealand Contingent.
- d. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall assist each other in arresting members of the New Zealand Contingent, where such arrest is necessary to allow the exercise of jurisdiction provided for in the above paragraphs and, subject to paragraphs e and f of this clause, in handing them over to the Authorities which are to exercise jurisdiction in accordance with the above paragraphs.
  - e. The Republic of the Fiji Islands Authorities shall promptly notify the New Zealand Service Authorities of the arrest of any member of the New Zealand Contingent.
  - f. Where the Republic of the Fiji Islands Authorities have arrested a member of the New Zealand Contingent taking part in Exercise VEILIUTAKI, the Republic of the Fiji Islands Authorities shall if so requested release him or her to the custody of the New Zealand Service Authorities in the Republic of the Fiji Islands pending completion of trial proceedings provided that he or she shall, on request, be made available to the Republic of the Fiji Islands Authorities.
  - g. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall assist each other in the carrying out of all necessary investigations into offences committed by members of the New Zealand Contingent and in the collection and production of evidence relating to an offence.

- h. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall notify each other of the disposal of all cases in which there are concurrent rights to exercise jurisdiction.
- i. Where an accused has been tried in accordance with the preceding clauses by the New Zealand Service Authorities or by a Republic of the Fiji Islands court, and has been convicted or acquitted (which expressions shall include any other final disposal of a charge), he or she may not be tried again for the same or substantially the same offence by either Government: this clause shall not prevent the New Zealand Service Authorities from trying or dealing with a member of the New Zealand Contingent for any violation of rules of discipline arising from an act or omission which constituted an offence for which he or she was tried under the Republic of the Fiji Islands law.
- j. Where a member of the New Zealand Contingent is prosecuted under the jurisdiction of the Republic of the Fiji Islands he or she shall be entitled to be tried in accordance with generally accepted standards for criminal procedure, including but not limited to, the right:
- (1) to be tried without undue delay;
  - (2) if he or she considers it necessary, to have the services of a competent interpreter;
  - (3) to communicate with a representative of New Zealand, and, where the rules of the court permit,
  - (4) to be presumed innocent until proven guilty according to law;
  - (5) to have legal representation of his or her own choice for his or her defence or to have free or assisted legal representation under the conditions prevailing for the time being in the part of the Republic of the Fiji Islands in which he or she is being prosecuted; and
  - (6) to be present at the trial and to present a defence.
- k. The New Zealand Service Authorities shall notify the Republic of the Fiji Islands Authorities if any member of the New Zealand Contingent absents himself or herself without approved leave for more than 48 hours.
17. Each Government shall waive any claim against the other for:

- a. damage to, or loss of, property owned or used by its armed forces arising out of an act or omission of any member of, or other person in the service of, the armed forces of the other state done in the performance of official duty:
- b. damages for personal injury or death suffered by:
  - (1) a member or other person in the service of the Republic of the Fiji Islands Military Forces; or
  - (2) a member of the New Zealand Contingent while on official duty in the Republic of the Fiji Islands.

18. The two Governments shall consult on the settlement of claims by one against the other arising out of damage to or loss of State property other than property owned or used by their armed forces, arising out of an act or omission of any member or other person in the service of the armed forces of the other State done in the performance of official duty where such damage or loss has occurred in the course of Exercise VEILIUTAKI.

19. Except in the case of claims arising under clause 16 of this Agreement, any claim:

- a. made by, or on behalf of, a third party in the Republic of the Fiji Islands, arising out of an act or omission of a member of the New Zealand Contingent done in the performance of official duty:
  - (1) personal injury to or death of a third party, or
  - (2) damage to or loss of property of any third party in the Republic of the Fiji Islands, or
- b. made by, or on behalf of, a member of the New Zealand Contingent in respect of any act or omission of a third party in the Republic of the Fiji Islands which results in:
  - (1) personal injury to, or death of, any member; or
  - (2) damage to, or loss of, the property of a member;

shall be dealt with by the Republic of the Fiji Islands in accordance with the procedure in clause 20 of this Agreement.

20. The procedure for settling the third party claims referred to in clause 17 of this Agreement shall be as follows:



a. Claims shall be filed, considered and settled or adjudicated in accordance with the law of the Republic of the Fiji Islands.

b. Where:

(1) liability to pay compensation is established in accordance with the law of the Republic of the Fiji Islands; or

(2) it is acknowledged that liability to pay compensation would be established in accordance with the law of the Republic of the Fiji Islands;

The Republic of the Fiji Islands shall settle such claims by paying such reasonable compensation as the claimant is entitled to under the law of the Republic of the Fiji Islands. Such payment shall be binding and conclusive discharge of the claim.

c. Where compensation has been paid, or is to be paid under the terms of this Agreement, the Republic of the Fiji Islands shall communicate the amount of compensation to the Government of New Zealand together with full particulars of the basis for such compensation, and a proposed distribution in accordance with clause 20(d) of this Agreement.

d. The cost incurred in satisfying third party claims shall be distributed in the proportion of 25 percent chargeable to the Republic of the Fiji Islands and 75 percent chargeable to the Government of New Zealand.

e. Where any other party is jointly responsible for any act or omission giving rise to a third party claim, the following procedures shall apply:

(1) The amount of compensation reimbursed to the Republic of the Fiji Islands by the Government of New Zealand under the provisions of this Agreement shall be reduced by an amount proportionate to the degree of responsibility of the other party for any such act or omission.

(2) If it is not possible to attribute responsibility specifically as between the third party and the other party, the amount of compensation reimbursed to the Republic of the Fiji Islands by New Zealand shall be reduced by 50 per cent.

f. This clause shall not apply to:

(1) contractual claims against a member of the New Zealand Contingent in their private capacity which will be subject to the normal legal processes of the Republic of the Fiji Islands; or

- (2) claims arising out of the use of any vehicle of the New Zealand Contingent which is covered by an insurance policy taken out in accordance with the law of the Republic of the Fiji Islands.

21. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall cooperate in the procurement of evidence for a fair hearing and disposal of claims.

22. The Government of New Zealand shall take appropriate measures to ensure that the New Zealand Contingent:

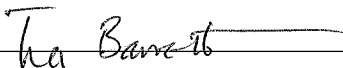
- a. respect the laws and regulations of the Republic of the Fiji Islands;
- b. refrain from any activity inconsistent with the spirit of this Agreement; and
- c. refrain from abusing any privileges granted under this Agreement.

23. Except as provided in this Agreement no claim for immunity by a member of the New Zealand Contingent based on his or her status as a servant or employee of New Zealand may, in respect of any claim, proceeding or action, be raised in a court of the Republic of the Fiji Islands.

24. Any matter not covered by this Agreement shall be the subject of mutually acceptable arrangements made from time to time between the parties.

If the foregoing is acceptable to the Government of the Republic of the Fiji Islands, I have the honour to propose that this letter, 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.

Accept, Sir, the renewed assurances of my highest consideration.



Tia Barrett  
High Commissioner



OFFICE OF THE  
MINISTER FOR JUSTICE AND HOME AFFAIRS

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3 November 1998

HE Mr Tia Barrett  
New Zealand High Commissioner  
New Zealand High Commission  
PO Box 1378  
SUVA

Sir

I have the honour to acknowledge receipt of your letter dated 3 November 1998, which reads:

“Sir

**EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF THE REPUBLIC OF FIJI ISLANDS ON ARRANGEMENTS FOR THE VISIT BY A NEW ZEALAND DEFENCE FORCE CONTINGENT TO THE REPUBLIC OF THE FIJI ISLANDS FOR EXERCISE VEILIUTAKI**

I have the honour to refer to the talks held between officials from New Zealand and the Republic of the Fiji Islands concerning the visit of a New Zealand Defence Force Contingent to the Republic of the Fiji Islands for Exercise VEILIUTAKI to be held between 7 and 21 November 1998. The purpose of the exercise is to give New Zealand service personnel practice in independent low-level military operations in a tropical environment and to provide training assistance to the Republic of the Fiji Islands Military Forces (RFMF).

I now propose on behalf of the Government of New Zealand that agreement be reached between our two Governments relating to this exercise, on the following terms:

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The main body will deploy to and from the Republic of the Fiji Islands by RNZAF Hercules C130 and Boeing 727 aircraft, arriving no later than 7 November 1998. The main body will include: An Exercise Group (EX Gp) comprising approximately 110 combat and support personnel, who will conduct pre-exercise administration in Queen Elizabeth Barracks (QEB), a Field Training Exercise (FTX) in the Nabukavesi training area, based on company level operations in a tropical environment, and post exercise administration at QEB in Suva.

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- c. The "Republic of the Fiji Islands Authorities" means the authorities from time to time designated by the Government of the Republic of the Fiji Islands for the purpose of exercising the powers in relation to which the term is used.
- d. "Training" means the conduct of individual and combined training between members of the New Zealand Defence Force and the RFMF in the Republic of the Fiji Islands.
- e. "Materiel", in relation to the New Zealand Contingent, means all items necessary for the equipment, maintenance, operation and support of the New Zealand Contingent.

3. The Government of the Republic of the Fiji Islands shall make available the following support to the New Zealand Contingent:

- a. Exercise participants as agreed to at the New Zealand Army to RFMF planning conferences and exercise reconnaissance comprising:
  - (1) liaison staff for the New Zealand contingent;
  - (2) an infantry platoon from 3FIR to take part in the FTX
  - (3) a RFMF radio retransmission detachment.
- b. A suitable post exercise area at QEB for tents, as agreed to at the planning conferences and exercise reconnaissance.

- c. Accommodation and rations as agreed to at the planning conferences and exercise reconnaissance.
  - d. Transport as agreed to at the planning conferences and exercise reconnaissance.
  - e. Access to training areas in order to conduct the exercise, as agreed to at the planning conferences and exercise reconnaissance. Use of the training areas shall be in accordance with the regulations laid down by the Government of the Republic of the Fiji Islands.
  - f. An area within QEB for the logistic support throughout Exercise VEILIUTAKI. This will include suitable storage areas including armouries, ammunition areas, a medical area and general storage facilities, as agreed to at the planning conferences and exercise reconnaissance.
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  - (2) Two New Zealand Army cooks to provide refresher training for RFMF personnel, whilst FTX is underway.
5. The Government of the Republic of the Fiji Islands shall not levy any charges against the Government of New Zealand for the use of Fijian transport, accommodation, airport facilities, military or civil facilities, or land, in connection with the conduct of Exercise VEILIUTAKI.
6. The Republic of the Fiji Islands Authorities shall facilitate the entry and departure of the New Zealand Contingent by permitting members of the New Zealand Contingent to enter and depart from the Republic of the Fiji Islands on the basis of:
- a. A personal identity card issued by the New Zealand Service Authorities showing the full name, date of birth, rank and number, service and photograph of the holder.

b. An individual or collective movement order issued by the New Zealand Service Authorities certifying to the status of the individual or group as a member of the New Zealand Contingent.

7. Passports shall not be required by members of the New Zealand Contingent for entry into the Republic of the Fiji Islands. The Government of the Republic of the Fiji Islands shall grant all members of the New Zealand Contingent exemption from departure tax.

8. The Government of New Zealand shall supply all combat rations and ammunition for the New Zealand Contingent. Contracts will be established for the procurement of fresh rations on arrival of the Advance Party in Fiji. The Exercise Group will be using blank ammunition and pyrotechnics during Exercise VEILIUTAKI.

9. The New Zealand Contingent may import free of duty Materiel for its exclusive use or consumption, provided that a detailed list of the Materiel is forwarded to the Republic of the Fiji Islands Authorities in advance of Exercise VEILIUTAKI. Official documents of the New Zealand Contingent shall not be subject to customs inspection. The New Zealand Contingent shall provide to the Republic of the Fiji Islands Authorities a list of weapons by type and serial number prior to the commencement of the exercise.

10. Materiel imported free of duty under clause 8 may be re-exported freely.

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12. The New Zealand Contingent shall provide their own Combat Ration Packs which shall comply with the agricultural requirements of the Republic of the Fiji Islands.

13. For the purpose of the command and control of the New Zealand Contingent, the Government of the Republic of the Fiji Islands shall permit the New Zealand Contingent to establish and operate High Frequency and Very High Frequency radio stations, using frequencies approved and registered by the Republic of the Fiji Islands Authorities.

14. Members of the New Zealand Contingent may wear uniform when on official duty in the Republic of the Fiji Islands.

15. When authorised to do so by their orders, members of the New Zealand Contingent may possess and carry arms:

- a. within exercise areas and facilities in use by the New Zealand Contingent for the purpose of Training;
- b. outside such areas, subject to the approval of the Republic of the Fiji Islands Authorities.

16. The rights of the two Governments with respect to criminal and disciplinary jurisdiction over the New Zealand Contingent shall be as follows:

- a. The New Zealand Service Authorities shall have the right to exercise within the territory of the Republic of the Fiji Islands, all criminal and disciplinary jurisdiction conferred on them by the law of New Zealand over the members of the New Zealand Contingent, and exclusive jurisdiction over the members of the New Zealand Contingent with respect to offences punishable by the law of New Zealand but not by the law of the Republic of the Fiji Islands.
- b. The Republic of the Fiji Islands Authorities shall have the right to exercise jurisdiction over the members of the New Zealand Contingent with respect to offences committed within the territory of the Republic of the Fiji Islands and punishable by the law of the Republic of the Fiji Islands, and the right to exercise exclusive jurisdiction over the members of the New Zealand Contingent with respect to offences punishable by the law of the Republic of the Fiji Islands but not by the law of New Zealand.
- c. In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:
  - (1) The New Zealand Service Authorities shall have the primary right to exercise jurisdiction over members of the New Zealand Contingent in relation to:
    - (a) offences against the security of New Zealand; including acts of treason, sabotage, espionage or violation of any law relating to the protection of the official information of New Zealand;
    - (b) offences solely against the property of New Zealand;
    - (c) offences solely against the person or property of another member of the New Zealand Contingent;
    - (d) offences arising out of any act or omission done in the performance of an official duty;

- (2) In the case of any other offences committed within the territory of the Republic of the Fiji Islands, the Republic of the Fiji Islands Authorities shall have the primary right to exercise jurisdiction.
  - (3) If the authorities having the primary right to exercise jurisdiction decide not to do so, they shall notify the other authorities as soon as practicable.
  - (4) The authorities having the primary right of jurisdiction shall give sympathetic consideration to a request from the other authorities for a waiver of their right where those other authorities consider such a waiver to be of particular importance.
  - (5) Where the Republic of the Fiji Islands Authorities have primary right of jurisdiction they shall give sympathetic consideration to a request from the New Zealand Service Authorities for a waiver of that right where suitable punishment can be imposed under the Service law of New Zealand.
  - (6) The foregoing paragraphs shall not confer any right on the New Zealand Service Authorities to exercise jurisdiction over persons who are nationals of or ordinarily resident in the Republic of the Fiji Islands, unless they are part of the New Zealand Contingent.
- d. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall assist each other in arresting members of the New Zealand Contingent, where such arrest is necessary to allow the exercise of jurisdiction provided for in the above paragraphs and, subject to paragraphs e and f of this clause, in handing them over to the Authorities which are to exercise jurisdiction in accordance with the above paragraphs.
- e. The Republic of the Fiji Islands Authorities shall promptly notify the New Zealand Service Authorities of the arrest of any member of the New Zealand Contingent.
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- f. Where the Republic of the Fiji Islands Authorities have arrested a member of the New Zealand Contingent taking part in Exercise VEILIUTAKI, the Republic of the Fiji Islands Authorities shall if so requested release him or her to the custody of the New Zealand Service Authorities in the Republic of the Fiji Islands pending completion of trial proceedings provided that he or she shall, on request, be made available to the Republic of the Fiji Islands Authorities.
- g. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall assist each other in the carrying out of all necessary investigations into offences committed by members of the New Zealand



Contingent and in the collection and production of evidence relating to an offence.

- h. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall notify each other of the disposal of all cases in which there are concurrent rights to exercise jurisdiction.
  - i. Where an accused has been tried in accordance with the preceding clauses by the New Zealand Service Authorities or by a Republic of the Fiji Islands court, and has been convicted or acquitted (which expressions shall include any other final disposal of a charge), he or she may not be tried again for the same or substantially the same offence by either Government: this clause shall not prevent the New Zealand Service Authorities from trying or dealing with a member of the New Zealand Contingent for any violation of rules of discipline arising from an act or omission which constituted an offence for which he or she was tried under the Republic of the Fiji Islands law.
  - j. Where a member of the New Zealand Contingent is prosecuted under the jurisdiction of the Republic of the Fiji Islands he or she shall be entitled to be tried in accordance with generally accepted standards for criminal procedure, including but not limited to, the right:
    - (1) to be tried without undue delay;
    - (2) if he or she considers it necessary, to have the services of a competent interpreter;
    - (3) to communicate with a representative of New Zealand, and, where the rules of the court permit,
    - (4) to be presumed innocent until proven guilty according to law;
    - (5) to have legal representation of his or her own choice for his or her defence or to have free or assisted legal representation under the conditions prevailing for the time being in the part of the Republic of the Fiji Islands in which he or she is being prosecuted; and
    - (6) to be present at the trial and to present a defence.
  - k. The New Zealand Service Authorities shall notify the Republic of the Fiji Islands Authorities if any member of the New Zealand Contingent absents himself or herself without approved leave for more than 48 hours.
17. Each Government shall waive any claim against the other for:

- a. damage to, or loss of, property owned or used by its armed forces arising out of an act or omission of any member of, or other person in the service of, the armed forces of the other state done in the performance of official duty:
- b. damages for personal injury or death suffered by:
  - (1) a member or other person in the service of the Republic of the Fiji Islands Military Forces; or
  - (2) a member of the New Zealand Contingent while on official duty in the Republic of the Fiji Islands.

18. The two Governments shall consult on the settlement of claims by one against the other arising out of damage to or loss of State property other than property owned or used by their armed forces, arising out of an act or omission of any member or other person in the service of the armed forces of the other State done in the performance of official duty where such damage or loss has occurred in the course of Exercise VEILIUTAKI.

19. Except in the case of claims arising under clause 16 of this Agreement, any claim:

- a. made by, or on behalf of, a third party in the Republic of the Fiji Islands, arising out of an act or omission of a member of the New Zealand Contingent done in the performance of official duty:
  - (1) personal injury to or death of a third party, or
  - (2) damage to or loss of property of any third party in the Republic of the Fiji Islands, or
- b. ~~made by, or on behalf of, a member of the New Zealand Contingent in respect~~ of any act or omission of a third party in the Republic of the Fiji Islands which results in:
  - (1) personal injury to, or death of, any member; or
  - (2) damage to, or loss of, the property of a member;

shall be dealt with by the Republic of the Fiji Islands in accordance with the procedure in clause 20 of this Agreement.

20. The procedure for settling the third party claims referred to in clause 17 of this Agreement shall be as follows:

a. Claims shall be filed, considered and settled or adjudicated in accordance with the law of the Republic of the Fiji Islands.

b. Where:

(1) liability to pay compensation is established in accordance with the law of the Republic of the Fiji Islands; or

(2) it is acknowledged that liability to pay compensation would be established in accordance with the law of the Republic of the Fiji Islands;

The Republic of the Fiji Islands shall settle such claims by paying such reasonable compensation as the claimant is entitled to under the law of the Republic of the Fiji Islands. Such payment shall be binding and conclusive discharge of the claim.

c. Where compensation has been paid, or is to be paid under the terms of this Agreement, the Republic of the Fiji Islands shall communicate the amount of compensation to the Government of New Zealand together with full particulars of the basis for such compensation, and a proposed distribution in accordance with clause 20(d) of this Agreement.

d. The cost incurred in satisfying third party claims shall be distributed in the proportion of 25 percent chargeable to the Republic of the Fiji Islands and 75 percent chargeable to the Government of New Zealand.

e. Where any other party is jointly responsible for any act or omission giving rise to a third party claim, the following procedures shall apply:

(1) The amount of compensation reimbursed to the Republic of the Fiji Islands by the Government of New Zealand under the provisions of this Agreement shall be reduced by an amount proportionate to the degree of responsibility of the other party for any such act or omission.

(2) If it is not possible to attribute responsibility specifically as between the third party and the other party, the amount of compensation reimbursed to the Republic of the Fiji Islands by New Zealand shall be reduced by 50 per cent.

f. This clause shall not apply to:

(1) contractual claims against a member of the New Zealand Contingent in their private capacity which will be subject to the normal legal processes of the Republic of the Fiji Islands; or

- (2) claims arising out of the use of any vehicle of the New Zealand Contingent which is covered by an insurance policy taken out in accordance with the law of the Republic of the Fiji Islands.

21. The New Zealand Service Authorities and the Republic of the Fiji Islands Authorities shall cooperate in the procurement of evidence for a fair hearing and disposal of claims.

22. The Government of New Zealand shall take appropriate measures to ensure that the New Zealand Contingent:

- a. respect the laws and regulations of the Republic of the Fiji Islands;
- b. refrain from any activity inconsistent with the spirit of this Agreement; and
- c. refrain from abusing any privileges granted under this Agreement.

23. Except as provided in this Agreement no claim for immunity by a member of the New Zealand Contingent based on his or her status as a servant or employee of New Zealand may, in respect of any claim, proceeding or action, be raised in a court of the Republic of the Fiji Islands.

24. Any matter not covered by this Agreement shall be the subject of mutually acceptable arrangements made from time to time between the parties.

If the foregoing is acceptable to the Government of the Republic of the Fiji Islands, I have the honour to propose that this letter, 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.

Accept, Sir, the renewed assurances of my highest consideration.

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Tia Barrett  
High Commissioner"

I have the honour to confirm that the above proposal is acceptable to the Government of the Fiji Islands and that your letter, together with this reply, shall constitute an agreement between our two governments which shall be entered into force on the date of this reply.



Hon Colonel Paul Manuelli  
Minister for Justice and Home Affairs