

**AGREEMENT BETWEEN**  
**THE GOVERNMENT OF NEW ZEALAND**  
**AND**  
**THE GOVERNMENT OF AUSTRALIA**  
**CONCERNING THE STATUS OF THEIR FORCES**

THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF AUSTRALIA ("the Parties");

HAVING REGARD to the tradition of close and friendly relations between them;

DESIRING to define the status of the armed forces of one Party while in the territory of the other Party;

FURTHER DESIRING to make provision for the settlement of claims arising out of the presence of the armed forces of one Party while in the territory of the other Party;

HAVE AGREED as follows:

#### Article 1 Definitions

In this Agreement except where the contrary intention appears:

- (a) "Authorities of the Receiving State" means the authority or authorities from time to time authorised or designated under the law of the Receiving State or by the Government of the Receiving State for the purpose of exercising the powers or responsibilities in relation to which the expression is used;
- (b) "Authorities of the Sending State" means the authority or authorities from time to time authorised or designated under the law of the Sending State or by the Government of the Sending State for the purpose of exercising the powers or responsibilities in relation to which the expression is used and includes, where applicable, the Service Authorities of the Sending State;
- (c) "Civilian Component" means the civilian personnel accompanying a Visiting Force who are neither nationals of, nor ordinarily resident in, the Receiving State, but who are:
  - (i) employed by or in the service of the Visiting Force;
  - (ii) serving with an organisation that, with the approval of the Government of the Receiving State, is accompanying the Visiting Force; or
  - (iii) attached to or are accompanying the Visiting Force and, in accordance with the law of the Sending State, are subject to the Service Law of the Sending State;
- (d) "Dependant" means a person who:
  - (i) is not a member of a Visiting Force or of its Civilian Component;

- (ii) is neither a national of nor ordinarily resident in the Receiving State; and
- (iii) is accompanying a member of a Visiting Force or of its Civilian Component and is:
  - (A) the spouse of the member;
  - (B) wholly or mainly maintained by the member;
  - (C) in the custody, care or charge of the member; or
  - (D) one of the family of the member residing with the member;
- (e) "Member of a Visiting Force" includes a person who, in accordance with the law of the Sending State, is serving as a member of a Visiting Force, but does not include:
  - (i) any member of the armed forces of the Sending State who is temporarily attached to the armed forces of the Receiving State in accordance with the respective laws of the Parties; or
  - (ii) a person that the Parties mutually determine shall not be regarded as being a member of a Visiting Force for the purposes of this Agreement;
- (f) "Receiving State" means the State of the Party in whose territory a Visiting Force is located, whether it is stationed there or in transit;
- (g) "Sending State" means the State of the Party to which the Visiting Force belongs;
- (h) "Service Authorities of the Sending State" means the authorities empowered by the law of the Sending State to exercise command, control or jurisdiction over a member of a Visiting Force, or a member of its Civilian Component or a Dependant;
- (i) "Service Law" means the law of the Sending State governing the discipline of and the administration of justice within the armed forces of the Sending State; and
- (j) "Visiting Force" means any body, contingent or detachment of the armed forces of one Party, who, with the consent of the other Party, is present in the territory of the other Party, provided that the Parties may mutually determine that certain bodies, contingents or detachments shall not be regarded as constituting or being included in a Visiting Force for the purposes of this Agreement.

Article 2  
Respect for law

- (1) Except as otherwise provided in this Agreement or by operation of law, members of a Visiting Force and of its Civilian Component and Dependants shall be subject to the law of the Receiving State.
- (2) The Authorities of the Sending State shall take appropriate measures to ensure that members of a Visiting Force and of its Civilian Component and Dependants:
  - (a) respect the law of the Receiving State; and
  - (b) abstain from any activity inconsistent with this Agreement.

Article 3  
Carriage of arms

Members of a Visiting Force may possess and carry arms when they are authorised to do so by orders issued by the Service Authorities of the Sending State and in circumstances approved by the Authorities of the Receiving State.

Article 4  
Criminal jurisdiction

- (1) Subject to the provisions of this Article:
  - (a) the Service Authorities of the Sending State shall have the right to exercise within the territory of the Receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the Sending State over members of a Visiting Force and of its Civilian Component and Dependants, who are subject to the Service Law of the Sending State; and
  - (b) the Authorities of the Receiving State shall have jurisdiction over members of a Visiting Force and of its Civilian Component and Dependants with respect to offences committed within the territory of the Receiving State and punishable by the law of the Receiving State.
- (2)
  - (a) The Service Authorities of the Sending State shall have the right to exercise exclusive jurisdiction over members of a Visiting Force and of its Civilian Component and Dependants, who are subject to the Service Law of the Sending State, with respect to offences punishable by the law of the Sending State but not by the law of the Receiving State.
  - (b) The Authorities of the Receiving State shall have the right to exercise exclusive jurisdiction over members of a Visiting Force and of its Civilian Component and Dependants with respect to offences punishable by the law of the Receiving State but not by the law of the Sending State.

(3) In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

- (a) the Service Authorities of the Sending State shall have the primary right to exercise jurisdiction over members of a Visiting Force and of its Civilian Component who are subject to the Service Law of the Sending State in relation to:
    - (i) offences solely against the security of the Sending State including acts of treason, sabotage, espionage or violation of any law for the protection of official information;
    - (ii) offences solely against the property of the Sending State;
    - (iii) offences solely against the person or property of another member of a Visiting Force or of its Civilian Component or a Dependant; and
    - (iv) offences arising out of any act or omission done in the performance of official duty;
  - (b) in the case of any other offence the Authorities of the Receiving State shall have the primary right to exercise jurisdiction;
  - (c) if the authorities of the Party having the primary right to exercise jurisdiction decide not to exercise jurisdiction, they shall notify the authorities of the other Party as soon as practicable; and
  - (d) the authorities of the Party having the primary right to exercise jurisdiction shall give sympathetic consideration to a request from the authorities of the other Party for a waiver of the Party's right to exercise jurisdiction in cases where the authorities of the other Party consider the exercise of jurisdiction by them to be of particular importance.
- (4) (a) The Appropriate Authorities of the Receiving State and the Service Authorities of the Sending State shall assist each other in the arrest of members of a Visiting Force and of its Civilian Component and Dependents in the territory of the Receiving State and in handing them over to the authorities of the Party which are to exercise jurisdiction in accordance with paragraphs (1), (2) and (3) of this Article.
- (b) The Appropriate Authorities of the Receiving State shall promptly notify the Service Authorities of the Sending State of the arrest of a member of a Visiting Force or of its Civilian Component or a Dependant.
- (c) The Appropriate Authorities of the Receiving State and the Service Authorities of the Sending State shall assist each other in carrying out all

necessary investigations into offences committed by members of a Visiting Force and of its Civilian Component and Dependants and in the collection and production of evidence to the authorities of the Party who are to exercise jurisdiction in accordance with paragraphs (1), (2) and (3) of this Article.

- (d) Where the Authorities of the Receiving State are to exercise jurisdiction over a member of a Visiting Force or of its Civilian Component or a Dependant, they shall give sympathetic consideration to a request from the Service Authorities of the Sending State that the Service Authorities of the Sending State be entrusted with that person's custody pending conclusion of all judicial proceedings. Upon request, the Service Authorities of the Sending State shall make available, for the purposes of investigation and trial, any person who is in their custody over whom the Authorities of the Receiving State are to exercise jurisdiction.
  - (e) The Service Authorities of the Sending State and the Authorities of the Receiving State shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.
  - (f) When a person has been tried in accordance with the provisions of this Article by the Service Authorities of the Sending State, he or she may not be tried again for substantially the same offence by the Authorities of the Receiving State.
  - (g) For the purposes of this paragraph, the expression "Appropriate Authorities of the Receiving State" means the service authorities of the Receiving State, and any authorities authorised by the law of the Receiving State and recognised by the Government of the Receiving State for the purposes of exercising the powers in relation to which the expression is used.
- (5) Whenever a member of a Visiting Force or of its Civilian Component or a Dependant is prosecuted or tried by the Authorities of the Receiving State, he or she shall be entitled to all generally accepted procedural safeguards.
- (6) The Service Authorities of the Sending State shall not carry out any sentence of death in the territory of the Receiving State.

#### Article 5 Claims

- (1) Each Party waives any claim against the other Party in respect of:
  - (a) loss of, or damage to (including loss of the use of) property owned by a Party and used by its armed forces;

- (b) maritime salvage of any vessel or cargo owned by a Party and used by its armed forces; and
- (c) personal injury or death suffered by any member of, or other person in the service of, a Party's armed forces,

which arises out of any act or omission, in the territory of a Party or in connection with activities mutually arranged between the Parties in the territory of a Party, by a member of, or other person in the service of, the armed forces of the other Party, in the performance of official duties by that member or person.

(2) A claim by one Party against the other Party in respect of:

- (a) loss of, or damage to (including loss of the use of) property owned by a Party, but not used by its armed forces; and
- (b) maritime salvage of any vessel or cargo owned by a Party, but not used by its armed forces,

which arises out of any act or omission, in the territory of one Party or in connection with activities mutually arranged between the Parties in the territory of one Party, by a member of, or other person in the service of, the armed forces of the other Party, in the performance of official duties by that member or person shall be settled in accordance with paragraph (3).

(3) A claim under paragraph (2) shall be settled in accordance with the following provisions:

- (a) where one Party is solely liable for the loss or damage that Party shall meet the costs of the claim in full;
- (b) where the Parties are jointly liable for the loss or damage:
  - (i) where it is possible to apportion liability between the Parties, each Party shall meet the portion of the costs of the claim corresponding to the degree of the Party's liability; or
  - (ii) where it is not possible to apportion liability between the Parties, the costs of the claim shall be borne equally by the Parties; and
- (c) if:
  - (i) the Parties cannot mutually determine liability or the quantum of damages;
  - (ii) settlement has not been reached within six months of the claim being made; or

(iii) the Parties mutually determine,

the matter may, at the request of either Party, be referred to a single arbitrator, mutually determined by the Parties, who holds or has held high judicial office in the Receiving State, and the arbitrator's decision on the matter shall be final and binding on the Parties. The remuneration of the arbitrator shall be mutually determined by the Parties and shall together with the necessary costs incidental to the arbitrator's performance of his or her duties be borne equally by the Parties.

(4) For the purposes of paragraphs (1) and (2) of this Article, the expression "owned by a Party" includes:

- (a) in the case of a vessel, a vessel on bare boat charter to the relevant Party or requisitioned by it on bare boat terms or seized by it in prize;
- (b) in the case of a vehicle or an aircraft, a vehicle or an aircraft on hire or charter to the relevant Party except to the extent that the risk of loss or liability is borne by a third party; and
- (c) in the case of any other property, property hired by the relevant Party except to the extent that the risk of loss or damage is borne by a third party.

(5) A claim by a third party in respect of the death of or bodily injury to any person or damage to any property which arises out of any act or omission in the territory of the Receiving State by a member of a Visiting Force or of its Civilian Component in the performance of official duties shall be dealt with by the Authorities of the Receiving State in accordance with the following provisions, unless it is mutually determined by the Parties that the claim shall be dealt with by the Authorities of the Sending State:

- (a) the claim shall be filed, considered and settled or adjudicated in accordance with the law of the Receiving State applicable to claims arising from the activities of its own armed forces;
- (b) the Authorities of the Receiving State shall notify the Service Authorities of the Sending State of the particulars of the claim and shall keep the Service Authorities of the Sending State informed of its dealings with the claim;
- (c) the Authorities of the Receiving State shall observe the reasonable instructions of the Service Authorities of the Sending State as to the defence or settlement of the claim;
- (d) the Authorities of the Receiving State shall not settle the claim without the prior consent of the Authorities of the Sending State, which shall not be unreasonably withheld;



- (e) the cost incurred in satisfying the claim, including the reasonable costs of the Authorities of the Receiving State in dealing with the claim, shall be apportioned between the Parties, as follows:
    - (i) where the Sending State is solely liable in respect of the claim the Sending State shall meet the costs of the claim in full; and
    - (ii) where the Parties are jointly liable in respect of the claim or it is not possible to attribute liability in respect of the claim specifically to either Party, the costs of the claim shall be borne equally by the Parties;
  - (f) the Service Authorities of the Sending State shall reimburse the Authorities of the Receiving State the costs incurred in satisfying the claim, including the reasonable costs of the Authorities of the Receiving State in dealing with the claim, in the currency of the Receiving State within sixty days of the date of settlement or determination by adjudication of the claim; and
  - (g) payment of an amount in satisfaction of the claim by the Authorities of the Receiving State, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the Receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive discharge of the claim.
- (6) The Service Authorities of the Sending State shall, at the request of the Authorities of the Receiving State, afford all necessary assistance to the Authorities of the Receiving State to take possession of any property of a member of a Visiting Force or of its Civilian Component or a Dependant which is subject to compulsory execution under the law of the Receiving State and which is within an area occupied by the Visiting Force or its Civilian Component.
- (7) The Service Authorities of the Sending State and the Authorities of the Receiving State shall co-operate in the collection and production of evidence for the purpose of ensuring a fair hearing and disposing of claims in accordance with this Article.
- (8) The Government of the Sending State shall not claim immunity from the civil jurisdiction of the courts of the Receiving State in respect of any act or omission in the territory of the Receiving State by a member of a Visiting Force or of its Civilian Component in the performance of official duty.

#### Article 6 Entry and departure

- (1) The Authorities of the Receiving State shall facilitate the entry of members of a Visiting Force and of its Civilian Component and Dependents into, and their departure from, the Receiving State.

(2) Subject to compliance with the formalities established by the Authorities of the Receiving State relating to entry and departure, members of a Visiting Force and of its Civilian Component and Dependants shall be exempt from any requirement to apply for a visa or entry permit on entering and departing the Receiving State.

(3) The Authorities of the Receiving State shall permit members of a Visiting Force to enter into or depart from the Receiving State on official duty, on the basis of:

- (a) a personal identity card issued by the Service Authorities of the Sending State showing full name, date of birth, rank and service number, service and photograph;
- (b) an individual or collective travel document issued by the Service Authorities of the Sending State identifying the individual or group as a member or members of a Visiting Force, and authorising the travel; and
- (c) if applicable, such documents as may be issued by the Authorities of the Sending State in satisfaction of the national health and quarantine requirements of the Receiving State.

(4) The Authorities of the Receiving State shall permit a member of a Civilian Component or a Dependant to enter into or depart from the Receiving State if it is satisfied the member of a Civilian Component or Dependant is in possession of:

- (a) a valid passport; and
- (b) a certificate issued by the Authorities of the Sending State certifying that the holder is a member of a Civilian Component or a Dependant.

(5) Nothing in this Agreement shall confer upon any member of a Visiting Force or of its Civilian Component or a Dependant any right to permanent residence or domicile in the Receiving State.

(6) If any person, other than a national of, or a person otherwise entitled to remain in, the Receiving State ceases to be a member of a Visiting Force or of its Civilian Component or a Dependant, the Authorities of the Sending State shall:

- (a) promptly inform the Authorities of the Receiving State, giving such reasonable particulars as they may require;
- (b) promptly take reasonable steps to effect the departure of that person from the territory of the Receiving State if so required by the Authorities of the Receiving State; and
- (c) meet any reasonable costs incurred by the Authorities of the Receiving State in removing that person from the territory of the Receiving State.

(7) If the removal from the Receiving State of a member of a Visiting Force or of its Civilian Component or a Dependant is:

- (a) requested by the Authorities of the Receiving State; or
- (b) required by the law of the Receiving State,

the Service Authorities of the Sending State shall:

- (c) promptly take reasonable steps to effect the departure of that person from the territory of the Receiving State; and
- (d) meet any reasonable costs incurred by the Authorities of the Receiving State in removing that person from the territory of the Receiving State.

(8) The Service Authorities of the Sending State shall inform the Authorities of the Receiving State, giving such reasonable particulars as may be required, of any members of a Visiting Force who, after having been admitted to the Receiving State, absent themselves for a period in excess of forty-eight hours, otherwise than on approved leave.

#### Article 7 Importation and exportation

(1) In this Article:

- (a) "Duty" means a tax (including sales tax, customs duty, excise duty or excise equivalent duty and goods and services tax), fee, charge or levy imposed on the Import or Export of Goods by the Authorities of the Receiving State, except fees, charges or levies for services rendered;
- (b) "Export" in relation to Goods, means the transportation of the Goods from the territory of the Receiving State to a point outside the territory of the Receiving State;
- (c) "Goods" means any moveable tangible property, but does not include money; and
- (d) "Import" in relation to Goods, means the transportation of the Goods to the territory of the Receiving State from a point outside the territory of the Receiving State.

(2) Official documents under official seal comprising the official communications between the Authorities of the Sending State and a Visiting Force shall not be subject to customs inspection. The package shall be accompanied by a certificate which states

that only official documents are enclosed. Samples of the official seals shall be lodged with the Authorities of the Receiving State.

(3) A Visiting Force may Import free of Duty any Goods for the exclusive and official use by the Visiting Force or its Civilian Component. Goods which have been Imported free of Duty under this paragraph may be freely Exported.

(4) Subject to the approval of the Authorities of the Receiving State, Goods which have been Imported free of Duty under paragraph (3) of this Article may be disposed of in the Receiving State whether by sale or otherwise, provided that:

- (a) before doing so the Authorities of the Sending State shall first offer them for sale at a reasonable price having regard to their condition and other relevant circumstances to the Government of the Receiving State unless the latter shall have indicated that it is not interested in their acquisition; and
- (b) in so disposing of the Goods the Authorities of the Sending State shall be liable to pay any Duties which, but for paragraph (3) of this Article, would be payable on such Goods if they were Imported at the date of their disposal.

(5) A member of a Visiting Force or of its Civilian Component or a Dependant may Import free of Duty Goods being personal effects, furniture and household goods (other than motor vehicles, cigarettes, cigars, tobacco and spirituous liquors), provided that such Goods:

- (a) are Imported at the time of first arrival of the member to take up service in the Receiving State or within six months thereafter or, in the case of a Dependant, at the time of first arrival of the Dependant to join the member or within six months thereafter; and
- (b) remain in the use, ownership and possession of that member or Dependant.

(6) A member of a Visiting Force or of its Civilian Component may Import into the Receiving State one motor vehicle free of Duty provided that:

- (a) the vehicle remains in the use, ownership and possession of:
  - (i) that member; or
  - (ii) with the express approval of the Authorities of the Receiving State, of another member;

during the period of two years immediately after the date of its Import; and

- (b) unless the Authorities of the Receiving State otherwise consent, where the vehicle was not in the use, ownership or possession of the member during

the period of at least three months immediately preceding his or her first departure for the Receiving State, the vehicle is Exported within two years from the date of Import by that member or, if the vehicle has been transferred to another member in accordance with sub paragraph 6(a)(ii), by that other member.

- (7) A member of a Visiting Force or of its Civilian Component shall be accorded such privileges in respect of the purchase of cigarettes, cigars, tobacco and spirituous liquors as may be mutually determined by the Parties.
- (8) Goods which have been Imported free of Duty under paragraphs (5) or (6) of this Article:
- (a) may be Exported free of Duty; and
  - (b) may not be disposed of in the Receiving State, whether by sale or otherwise, without the express approval of the Authorities of the Receiving State.
- (9) The Authorities of the Receiving State may require a member of a Visiting Force or of its Civilian Component or a Dependant to provide security or undertakings for, or verification of, compliance with the provisions of paragraphs (5), (6) and (8) of this Article.

#### Article 8 Personal taxation

- (1) Other than for taxes and duties for which provision is made under this Agreement, the liability for taxes or duties of a member of a Visiting Force or of its Civilian Component or a Dependant shall be governed by any agreement between the Parties in relation to such taxes or duties that has been implemented from time to time under the law of both countries.
- (2) Without prejudice to paragraph (1), the Parties acknowledge the applicability of the Agreement between the Government of Australia and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income done at Melbourne on 27 January 1995.

#### Article 9 Foreign exchange control

- (1) Subject to paragraph (2) of this Article, members of a Visiting Force and of its Civilian Component and Dependents shall remain subject to the foreign exchange regulations of the Sending State and shall also be subject to the foreign exchange regulations of the Receiving State.

(2) The Government of the Receiving State shall freely permit the remittance into and out of the Receiving State of:

- (a) any official funds of a Visiting Force; and
- (b) any funds derived by a member of a Visiting Force or of its Civilian Component or a Dependant from:
  - (i) service with or employment by a Visiting Force; or
  - (ii) sources outside the Receiving State subject to any law or policies of the Sending State.

#### Article 10 Security

(1) The Government of the Receiving State shall cooperate with the Service Authorities of the Sending State in taking such steps as may from time to time be necessary to ensure the security of:

- (a) the installations, vessels, aircraft, materiel and official information of a Visiting Force; and
- (b) the members of a Visiting Force and of its Civilian Component and Dependents, and their property.

(2) The Service Authorities of the Sending State shall have the right to maintain military police for the maintenance of good order and discipline within the Visiting Force and, if empowered by the law of the Sending State to do so, the Civilian Component and Dependents. Such military police may, with the consent of and in liaison with the Authorities of the Receiving State, be employed outside the installations occupied by the Visiting Force in so far as such employment is necessary to maintain good order and discipline among the members of the Visiting Force and, if empowered by the law of the Sending State to do so, the Civilian Component and Dependents.

#### Article 11 Driving licences and official vehicles

(1) The Authorities of the Receiving State shall accept as valid, without a driving test or fee, the driving permit or licence issued by the Service Authorities of the Sending State to a member of a Visiting Force for the purpose of driving Official Vehicles in the course of his or her official duty.

(2) Official Vehicles of a Visiting Force, excluding vehicles hired in the Receiving State, shall carry, in addition to their registration number issued by the Authorities of

the Sending State, a distinctive nationality mark but shall not be required to be registered by the Authorities of the Receiving State.

(3) For the purposes of this Article, the expression "Official Vehicle" means a vehicle, including a hired vehicle, which is exclusively in the service of a Visiting Force.

#### Article 12 Communications

A Visiting Force may, in accordance with arrangements with the Authorities of the Receiving State, operate communications systems for official communications. The operation of such systems shall not be exercised in a manner likely to interfere with communication systems operated by public utilities in the Receiving State or licensed by the Authorities of the Receiving State.

#### Article 13 Resolution of disputes

Any disputes between the Parties on the interpretation or application of this Agreement shall be resolved by consultation and negotiation and shall not be referred to any third party or tribunal.

#### Article 14 Amendment

This Agreement may be amended by mutual agreement of the Parties in writing.

#### Article 15 Entry into force and duration

This Agreement shall enter into force on an exchange of notes confirming that each Party has completed its domestic requirements for the entry into force of this Agreement. It shall remain in force until 180 days after one Party gives the other notice in writing of its intention to terminate this Agreement.

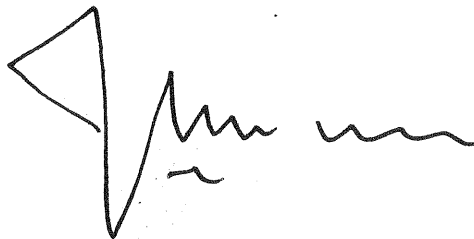
IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed this Agreement.

DONE at Melbourne in duplicate this twenty-ninth day of October, one thousand nine hundred and ninety-eight.

FOR THE GOVERNMENT OF  
NEW ZEALAND:

A handwritten signature in black ink, consisting of a large loop at the top and several vertical strokes below.

FOR THE GOVERNMENT OF  
AUSTRALIA:

A handwritten signature in black ink, starting with a large triangle and followed by several wavy horizontal lines.