

Agreement

between

the Government of New Zealand

and

the Government of the Federal Republic of Germany

concerning

the Temporary Stay of Members

of the New Zealand Armed Forces

on the Territory of the Federal Republic of Germany
(German-New Zealand Visiting Forces Agreement)

The Government of New Zealand
and
the Government of the Federal Republic of Germany:

Endeavouring to regulate the preconditions and conditions for the temporary stay of members of the New Zealand armed forces in the Federal Republic of Germany,

Recognising that the Government of New Zealand permits the temporary stay of members of the German armed forces on its sovereign territory on comparable terms,

Assuming that the provisions of this Agreement do not affect the rights and obligations of the Parties resulting from agreements under international law on international courts, including the Rome Statute of the International Criminal Court, -

have agreed as follows:

Article 1

Subject of the Agreement

1. This Agreement regulates the entry and departure and the temporary stay of members of the New Zealand armed forces on the sovereign territory of the Federal Republic of Germany. The term “members of the armed forces” means the military personnel of New Zealand and the civilian component, who are not German citizens or stateless persons or nationals of any state entitled to reside in the Federal Republic of Germany.

2. Unless this Agreement stipulates otherwise, the entry and departure and temporary stays of members of the New Zealand armed forces are subject to the domestic laws and regulations of the Federal Republic of Germany.

Article 2

Type, Scope and Duration of Stay

1. Temporary stays in the sense of this Agreement are carried out for the purpose of exercises, the training of units and transit, as well as for the implementation of humanitarian actions and search and rescue operations under the responsibility of the competent authorities of the Federal Republic of Germany, with a scope of up to 1,500 members of the New Zealand armed forces and a duration of – as a rule – no more than 30 days.
2. For individual members of the armed forces providing liaison or advisory services, as well as for the purpose of training, stays of up to two years, with an extension option, shall be agreed.
3. Details on the type, scope and duration of a given stay shall be agreed between the competent authorities of the Parties.

Article 3

Conditions for Entry, Departure and Stay

1. The New Zealand armed forces and their members are within the framework of this Agreement in the case of article 2 paragraph 1 entitled to enter the sovereign territory of the

Federal Republic of Germany in land vehicles, vessels or aircraft, and to stay on or over this territory. For arms imported or brought in, the foreign trade and war weapons control licences required in accordance with the law of the Federal Republic of Germany are deemed to have been granted.

2. The members of the New Zealand armed forces shall during their stay on Federal territory have the right to possess and bear arms only in so far as this is indispensable for the official purpose of their stay. These members must have authorisation to possess and bear arms. Details shall be laid down in an arrangement. Members of the New Zealand armed forces shall be authorised to use arms within the limits imposed by the German law relating to the right of self-defence.
3. Members of the New Zealand armed forces in the case of article 2 paragraph 1 shall identify themselves, in particular when crossing the border, by way of:
 - a) a valid passport,
 - b) a recognised substitute for a passport, or
 - c) to the extent they belong to the military personnel; they are entered on a collective list; and the commander of their unit or formation can prove his identity according to sub-paragraph a) or b), by way of an official identification card with photograph.
4. Members of the New Zealand armed forces belonging to the military personnel shall have the right to wear uniform during their stay in the Federal Republic of Germany, except as otherwise provided in arrangements with the authorities of New Zealand.

5. The members of the New Zealand armed forces shall during their stay in the Federal Republic of Germany be exempt from the general obligation to register. This exemption does not extend to the special obligation to register in hotels, guest houses, hospitals, nursing homes, or similar establishments.

Article 4

Public Safety and Order

If the public safety or order of the Federal Republic of Germany is endangered by a member of the New Zealand armed forces, the Federal Republic of Germany may request the immediate removal of that member from its sovereign territory. The authorities of New Zealand shall comply with such removal requests.

Article 5

Public Health

1. The New Zealand armed forces are committed to the observation of international health regulations and the health laws and regulations of the Federal Republic of Germany. Upon entry, the submission of an official health certificate issued by the authorities of New Zealand may be requested, stating that the entering member of the armed forces does not suffer from infectious diseases. The competent military authorities of the Federal Republic of Germany shall inform the competent military authorities of New Zealand about applicable requirements no later than fifteen days before the planned entry.

2. The competent authorities of the armed forces of both Parties shall ensure the mutual facilitation of information exchange in accordance with paragraph 1.

3. The prevention and control of communicable diseases in humans, animals and plants as well as the control of organisms harmful to plants and plant products in the Federal Republic of Germany shall be governed by relevant German laws and regulations as well as the directly applicable EU regulations. Measures for epidemic control, epizootic disease control and food and drug laws and regulations relative to meat and poultry products, phyto-sanitary control measures with regard to plants, plant products and other objects, as well as measures under hygiene legislation, may be taken by the respective competent authorities of the Federal Republic of Germany, in so far as these do not conflict with international agreements.

Article 6

Criminal Jurisdiction, Disciplinary and Coercive Measures

1. The members of the New Zealand armed forces are with regard to criminal jurisdiction subject to the law of the Federal Republic of Germany.

2. The competent authorities of the Federal Republic of Germany shall waive the exercise of criminal jurisdiction, unless essential interests of the administration of justice in the Federal Republic of Germany make the exercise of criminal jurisdiction imperative.

3. Essential interests of the administration of justice may make the exercise of criminal jurisdiction imperative in the following cases in particular:
 - a) criminal offences of significance against the security of the Federal Republic of Germany,
 - b) criminal offences causing the death of a person, as well as serious crimes against the physical integrity and sexual self-determination of a person, in so far as these are not directed to a member of the New Zealand armed forces,
 - c) the preparation, the attempt of such criminal offences and the participation in them.
4. If the exercise of criminal jurisdiction is waived, the New Zealand armed forces shall remove the suspect without delay from the sovereign territory of the Federal Republic of Germany.=
5. If the suspect has returned to New Zealand, New Zealand shall upon request of the Federal Republic of Germany submit the case to the competent authorities, for the purpose of a decision on the initiation of criminal proceedings.
6. The competent courts and authorities of both Parties shall render each other legal assistance, within the limits imposed by their domestic law, in order to support criminal proceedings. If the competent authorities of the Federal Republic of Germany do not

waive the exercise of criminal jurisdiction, New Zealand shall use its influence, within the bounds of its legal system, to induce members of its armed forces suspected of having committed a penal act during their stay in the Federal Republic of Germany to submit to the courts and authorities of the Federal Republic of Germany, in so far as they are obliged to do so in accordance with the law of the Federal Republic of Germany.

7. The courts and authorities of the Federal Republic of Germany shall have the right to order and carry out, to the extent that their jurisdiction and powers allow, coercive measures against members of the New Zealand armed forces during their stay in the Federal Republic of Germany.
8. If a member of the New Zealand armed forces is temporarily detained by authorities of the Federal Republic of Germany, or if other coercive measures are applied that result in deprivation of liberty, the competent authority of the Federal Republic of Germany shall notify without delay the liaison officer of New Zealand's armed forces in the Federal Republic of Germany. The notification shall identify the court or authority which has jurisdiction over further proceedings.
9. Authorities or senior officers designated by the Government of New Zealand, shall have the right, within the Federal Republic of Germany, to take necessary disciplinary measures against members of their armed forces to maintain order and discipline, within the authority conferred upon them under

New Zealand law. They shall have no disciplinary power over members of the armed forces of another state.

10. Disciplinary measures that violate human dignity may be neither imposed nor executed in the Federal Republic of Germany.

Article 7

Telecommunications

1. The use of telecommunications services offered publicly in the Federal Republic of Germany shall be subject to both general laws and regulations of the Federal Republic of Germany and the respective terms of business of the supplier of services; this applies in particular to the way in which payments due are calculated and invoices prepared and settled.
2. The members of the New Zealand armed forces may, in so far as this is necessary to achieve the purpose of their stay, set up and operate temporary telecommunications facilities, including radio systems, subject to approval by the competent authorities of the Federal Republic of Germany.
3. Radio systems and telecommunications facilities of the New Zealand armed forces which are to be operated or plugged into connections or transmission lines of the public telecommunications networks on the sovereign territory of the Federal Republic of Germany must fulfil the basic technical requirements, as generally applicable to radio

systems or telecommunications facilities pursuant to the law of the Federal Republic of Germany. The fulfilment of these requirements must be proven by means of a conformity assessment, and the facilities have to be labelled accordingly.

4. The members of the New Zealand armed forces shall use in the Federal Republic of Germany only the radio frequencies assigned to them by the responsible authorities of the Federal Republic of Germany. Due to the necessary national and international coordination of the use of radio frequencies, the respective application for assignment of radio frequencies shall be made no later than 60 days before the planned use. At the end of the stay, the radio frequencies shall return to the competent authorities of the Federal Republic of Germany.

5. The members of the New Zealand armed forces shall take all necessary measures to avoid interference to telecommunication networks in the Federal Republic of Germany by their own telecommunications or other electrical installations. Where radio stations of the New Zealand armed forces cause harmful radio interference with radio stations outside the Federal Republic of Germany, or suffer harmful interference from such stations, the competent authorities of the Federal Republic of Germany shall proceed in accordance with the provisions of the Constitution and Convention of the International Telecommunication Union as amended, and the Radio Regulations. The competent authorities of the Federal Republic of Germany shall, in the framework of the applicable laws and regulations, take all

measures necessary to avoid interference with telecommunications facilities of the New Zealand armed forces by telecommunications or other electrical installations of the Federal Republic of Germany. In the event of electro-magnetic interference, the German laws and regulations on the electro-magnetic compatibility of equipment shall be applied. Should this result in the need to take the source of interference out of service, this shall be done by the New Zealand armed forces without delay.

Article 8

Environmental Protection

1. The New Zealand armed forces recognise and acknowledge the importance of environmental protection in the context of their activities in the Federal Republic of Germany. The members of the New Zealand armed forces shall respect the laws and regulations of the Federal Republic of Germany for the protection of the environment.
2. The competent authorities of both Parties shall cooperate closely on all matters of environmental protection, in particular when preparing exercises.
3. In addition to complying with the environmental laws and regulations of the Federal Republic of Germany, negative impacts on the environment are to be avoided, and where negative impacts are unavoidable, appropriate measures are to be taken to offset them.
4. For the transport of weapons, heavy equipment or hazardous material, precedence is given to rail and water transport. The routes

and means of transport shall be agreed between the Federal Ministry of Defence of the Federal Republic of Germany and the New Zealand Defence Force, in consultation with the competent authorities of the Federal Republic of Germany.

5. The members of the New Zealand armed forces shall for the operation of their aircraft, vessels and vehicles in the Federal Republic of Germany use only fuels, lubricants and additives, which are low-pollutant in accordance with the laws and regulations of the Federal Republic of Germany, in so far as such use is compatible with the technical requirements of these aircrafts, vessels and vehicles. With respect to passenger and commercial vehicles, the laws and regulations of the Federal Republic of Germany for the limitation of noise and exhaust gas emissions shall be observed, to the extent that this is not unreasonably burdensome.
6. When using training facilities, the members of the New Zealand armed forces shall observe the applicable rules for their use, in particular the safety provisions, fire protection provisions and the provisions for the protection of the environment. The same applies to compliance with the German armed forces' service regulations for exercises. The Federal Ministry of Defence of the Federal Republic of Germany and the New Zealand Defence Force shall, in accordance with their respective responsibilities, issue specific rules for night firing and firing sessions on Saturdays, Sundays, and public holidays.

7. The members of the New Zealand armed forces shall respect the laws and regulations of the Federal Republic of Germany concerning the environmentally-sound recycling or other disposal of waste. The disposal of non-expended munitions by detonation or incineration at facilities not approved for this purpose is not permitted.

Article 9

Operation of Vehicles of the New Zealand Armed Forces and Use of Air Fields in the Federal Republic of Germany

1. Motor vehicles and trailers of the New Zealand armed forces shall be registered and licensed for transport by the competent authority of New Zealand. These vehicles shall carry a number plate and a clear nationality mark.
2. Transports and movements by members of the New Zealand armed forces, within the limits imposed by domestic laws and regulations of the Federal Republic of Germany and effective treaties under international law to which both Parties to this Agreement are party, as well as the related technical arrangements and procedures shall be deemed to have been approved. Where special or exceptional authorisations and exemptions for the transport of hazardous material are required for military movements and transports, these will be dealt with by the competent authorities of the Federal Republic of Germany.

3. The military authorities of the Federal Republic of Germany shall ensure that the military interests of New Zealand in traffic matters are represented to civilian authorities and enterprises.
4. Members of the New Zealand armed forces shall be subject to the traffic laws and regulations of the Federal Republic of Germany, including the laws and regulations concerning the conduct at the scene of an accident and the laws and regulations on the transport of hazardous material. Compliance with such laws and regulations shall be monitored by the competent authorities of the Federal Republic of Germany. This monitoring may be conducted jointly with the competent authorities of New Zealand.
5. The New Zealand armed forces shall observe basic transportation safety laws and regulations of the Federal Republic of Germany; within the limits imposed by these laws and regulations, members of the armed forces may apply their own internal standards to the design, construction and equipment of motor vehicles, trailers, inland water craft and aircraft. The authorities of both Parties shall cooperate closely on the implementation of these provisions.
6. The transport of vehicles and trailers whose dimensions, axle loads, total weight or total number exceed limitations under the road traffic law of the Federal Republic of Germany shall, with the exception of emergencies, only be carried out with the permission of the competent authorities of the Federal Republic of Germany. Outside training areas tracked vehicles shall generally be moved on rails or, where necessary, on low-loaders. The use of tracked vehicles without chain track upholstery on public roads and paths is not permitted.

7. Except in emergencies, members of the New Zealand armed forces may operate military aircraft at civilian airfields in the Federal Republic of Germany only with the permission of the competent authorities, issued in accordance with the applicable provisions.
8. The competent authorities of both Parties shall coordinate all air traffic control systems that they set up and operate, as well as the associated telecommunications systems, where this is necessary to ensure the safety of air traffic and to achieve the purpose of the stay of the members of their armed forces.
9. New Zealand shall not be obligated to take out third party liability insurance for its service vehicles, military aircraft and vessels or for the carrying of weapons. New Zealand itself shall assume the resulting risks.
10. Driving licences or other permits issued to the members of New Zealand's armed forces by a New Zealand authority, authorising the operation of service vehicles, vessels and aircraft, shall also be valid for the operation of such vehicles, vessels or aircraft on the sovereign territory of the Federal Republic of Germany. They must be carried together with a German translation.
11. The New Zealand authorities shall issue a certificate in the German language stating that the holder of such a driving licence or permit is a member of the New Zealand armed forces, and that the driving licence or permit is valid. This certificate is to be carried together with the foreign driving licence or permit. This paragraph shall also apply

to certificates of competence granted in New Zealand to operate or handle military watercraft.

12. Driving licences for service vehicles shall also authorise, to the extent that this is permissible under New Zealand law, the operation of corresponding private vehicles. A certificate to this effect, together with a German translation, must always be carried when driving private motor vehicles.

Article 10

Settlement of Damages

1. New Zealand shall in relation to the Federal Republic of Germany be liable for all damage to the Federal Republic of Germany or to third parties on Federal territory caused by official acts or omissions of members of its armed forces, or other acts, omissions or occurrences for which the New Zealand armed forces are legally responsible. Third parties shall include other territorial units under public law, such as federal states and municipalities.
2. Third party claims for damages shall be settled by the Federal Republic of Germany on behalf of New Zealand. They shall be limited to payment of pecuniary compensation.
3. The Parties shall communicate to each other the competent authorities for the settlement of damages. These authorities shall cooperate in good faith. They shall provide every possible support to

each other, to ensure the observation of rulings and administrative acts of the courts and authorities of the Federal Republic of Germany in connection to the duties of the members of the armed forces of both Parties under civil law.

4. The liability of New Zealand according to paragraph 1 shall be governed by those provisions of the law of the Federal Republic of Germany which would apply, under similar circumstances, to its own liability.
5. With regard to the settlement of damages to third parties the following provisions apply:
 - a) The authority of the Federal Republic of Germany that is responsible for the receipt and examination of the compensation claim shall immediately on receipt of the claim conduct its own investigations on the matter.
 - b) The German authority shall immediately on receipt of the compensation claim, communicate the receipt of the claim to the New Zealand authority so the New Zealand authority may advise the New Zealand armed forces insurer. The communication shall contain – if applicable – the file number of the German authority, the name and address of the claimant, a short description of the incident including the time and location, the compensation amount claimed, the nature of the damage,

the names of the members of the armed forces involved, and the name of the unit involved in the incident. The communication shall be sent in duplicate.

- c) The New Zealand authority shall confirm to the German authority the receipt of the communication and send all available information and evidence within six weeks of receipt of the communication. If the New Zealand authority does not have any such information or evidence, it shall inform the German authority accordingly. The New Zealand authority shall also communicate to the German authority whether the damage was in its view caused by an act or omission for which the New Zealand armed forces are legally responsible and/or if the damage was in connection to the use of a military vehicle by members of the New Zealand armed forces, and whether or not the use of the vehicle was permitted.
- d) Should the New Zealand armed forces insurer wish to participate in a claim investigation the German authority shall facilitate such participation.
- e) The German authority shall decide, after evaluation of all available information and evidence, whether and to what extent the claim for compensation is justified according to German law.
- f) The German authority shall pay the compensation amount in its currency. It shall claim reimbursement for this amount from the New Zealand authority. The New Zealand authority shall

reimburse this amount within three months. If according to the law of the Federal Republic of Germany compensation is to be granted in the form of an annuity, it shall in relationship between the two contractual parties be reimbursed as a capitalised amount according to the principles applied in the Federal Republic of Germany.

- g) In the case of damages that did not occur in the performance of official duty, the German authority shall prepare a report for the New Zealand authority, which shall examine it without delay and decide whether and up to which amount it regards compensation as justified. The German authority may – independently from the decision of New Zealand – offer the amount to be given to the claimant as a lump-sum settlement, without recognition of a legal obligation (*ex gratia*). If this offer is accepted by the claimant in full and final settlement of his or her claim, the German authority shall make the payment. The New Zealand authority shall reimburse this amount. The jurisdiction of German courts for the conduct of proceedings against a member of the New Zealand armed forces shall remain unaffected, unless and until a payment is made in full and final settlement of the claim. Furthermore, the provisions of the sub-paragraphs a) to f) of this paragraph apply accordingly.
- h) The Federal Republic of Germany shall take all reasonable steps to defend and deal with each claim as if it were a claim against the Federal Republic of Germany.

6. The foregoing provisions shall not be applicable to claims arising out of contracts or quasi-contractual relationships.

Article 11

Exercises

1. Exercises shall be governed by the legal provisions and service regulations of the Federal Republic of Germany.
2. Exercises on land shall generally take place on military training areas, firing ranges and in other military training facilities of the German armed forces, or on property provided to the Parties to the Agreement to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Legal Status of their Forces with respect to the Foreign Forces stationed in the Federal Republic of Germany of 3 August 1959, for their exclusive use.
3. Exercises in airspace shall be governed by the laws and regulations of the Federal Republic of Germany on the entry into and the use of the airspace and the utilisation of aviation installations and facilities which fall within the scope of the Standards and Recommended Practices of the International Civil Aviation Organisation, and, in addition, by applicable notification, approval and coordination procedures contained in respective laws and regulations of the

Federal Republic of Germany. Aircraft crew members taking part in a training exercise as well as participating flight safety and air defence control personnel must have a good command of the English language, to the extent that this is necessary for reasons of flight safety or air traffic control.

4. Training exercises of foreign naval ships and auxiliary ships in coastal waters and in inland waters shall be governed by the laws and regulations of the Federal Republic of Germany.
5. Prior to the implementation of exercises, the competent authorities of both Parties shall determine in detail the services to be provided and the resulting costs.

Article 12 Settlement of Disputes

Disputes on the application or interpretation of this Agreement shall be settled amicably through consultations, and not referred to third parties for mediation.

Article 13 Implementation

Arrangements on the implementation of this Agreement may be mutually determined between the Federal Ministry of Defence of the

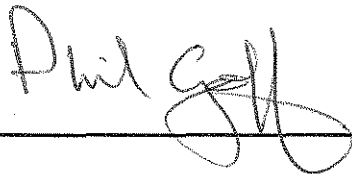
Federal Republic of Germany and the New Zealand Defence Force, which shall notify each other of the contact details of the person(s) responsible for the implementation of this Agreement.

Article 14

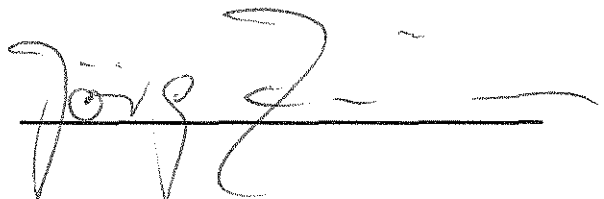
Entry into Force, Period of Validity, and Termination

1. This Agreement shall enter into force on the day on which both Parties have notified each other that the internal conditions for the entry into force are fulfilled. The decisive day is the day of receipt of the last notification.
2. This Agreement shall remain in force indefinitely. The Agreement may be terminated through diplomatic channels by either Party in writing. The termination shall become valid one year after the day of delivery to the other Party.

Done at WELLINGTON on 4 NOVEMBER 2008 in duplicate, in the German and English languages, each version being equally authoritative.



For the Government
of New Zealand



For the Government
of the Federal Republic of Germany