

Agreement
between
The Government of New Zealand
and
The Government of the Republic of Fiji
on Cooperation in the Field of Defence and the Status of Visiting Forces

BETWEEN: GOVERNMENT OF NEW ZEALAND represented by the
New Zealand Ministry of Defence;

AND: GOVERNMENT OF THE REPUBLIC OF FIJI represented by the
Ministry of Home Affairs and Immigration;

*(May be individually referred to as '**Party**' and collectively referred to as '**Parties**');*

Having regard to the cordial defence and security relationship between the Parties;

Considering that the conduct of defence cooperation activities between them is in the national interest of both their countries;

Desiring to confirm, in accordance with each Parties' laws and regulations, 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; and

Further desiring to cooperate to minimise adverse impacts of their activities upon the environment.

NOW THEREFORE the Parties have agreed as follows:

Article 1

Definitions

In this Agreement, unless the context otherwise requires:

‘armed forces’ means the Navy, the Army, and the Air Force collectively; and includes any branch, corps, command, formation, unit, or other part of the Armed Forces; but does not include any part of the cadet forces.

‘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 as articulated in this Agreement.

‘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 as articulated in this Agreement.

‘civilian component’, in relation to a visiting force, means the civilian personnel who are neither nationals of, nor ordinarily resident in, the receiving State, and who:

- (a) are employed by or in the service of the visiting force; or
- (b) are serving with an organisation that, with the approval of the Government of the receiving State, is accompanying the visiting force; or
- (c) are attached to or are accompanying the visiting force.

‘dependant’, in relation to a visiting force, means a person who:

- (a) is not a member of a visiting force or of its civilian component; and
- (b) is neither a national of, nor ordinarily resident in, the receiving State; and
- (c) is accompanying a member of the visiting force or its civilian component; and
 - (i) is the spouse of the member; or

- (ii) is not married to the member, but is living together with the member in a relationship that is recognised by the visiting force (whether the person is of the same or different sex as the member); or
- (iii) is wholly or mainly maintained by the member; or
- (iv) is in the custody, care or charge of the member; or
- (v) is one of the immediate family of the accompanying member residing with the member.

‘member of a visiting force’ means 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:

- (a) a 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
- (b) a person that the Parties mutually agree shall not be regarded as being a member of a visiting force for the purposes of this Agreement.

‘receiving State’ means the State of the Party in whose territory a visiting force is located, whether it is stationed there or in transit.

‘sending State’ means the State of the Party to which the visiting force belongs.

‘service authorities’ means the authorities empowered by law to exercise powers of command, control, discipline, or administration over a force, including (without limitation) any members of the force, members of its civilian component, and dependents, and includes a service tribunal.

‘territory’ means:

- (a) in the case of Fiji, all of its sovereign territory; and
- (b) in the case of New Zealand, means the islands and territories within the Realm of New Zealand, but excludes the self-governing State of the Cook Islands, the self-governing State of Niue, and Tokelau; and all waters within the outer limits of the territorial sea of New Zealand.

'visiting force' means any body, contingent, detachment, small group or individual person of the armed forces of one Party who, with the consent of the other Party, is present in the territory of the other Party in pursuit of duties as part of agreed activities pursuant to Article 2(2) of this Agreement, provided that the Parties may mutually agree that certain bodies, contingents, detachments, small groups or individuals shall not be regarded as constituting or being included in a visiting force for the purposes of this Agreement.

Article 2

Scope and Application

- (1) The Parties shall facilitate defence relations between each other by undertaking cooperative activities between them pursuant to this Agreement as they mutually agree.

- (2) Cooperative activities pursuant to this Agreement include:
 - (a) the conduct of joint or unilateral visits, exchanges, maritime, air and land based exercises or other activities, particularly between the New Zealand Defence Force and the Republic of Fiji Military Forces;
 - (b) the provision of joint or unilateral training of military personnel;
 - (c) the conduct of logistical support;
 - (d) the exchange of information;

- (e) the exchange of intelligence;
 - (f) defence industry engagement;
 - (g) activities to enhance and broaden the interaction of their respective military cultures;
 - (h) the provision of humanitarian assistance or disaster relief; and
 - (i) such other cooperative activities related to defence as the Parties mutually agree.
- (3) Cooperative activities under this Agreement shall be implemented by both Parties' national defence organisations. Such cooperative activities may be specifically defined by means of agreements or arrangements. Unless the Parties mutually agree otherwise, the coordination of cooperative activities pursuant to this Agreement shall be undertaken using existing mechanisms for military and defence consultations.
- (4) Unless the Parties mutually agree otherwise, members of a visiting force and the civilian component present in the territory of the receiving State shall not be involved in the preparation for, or the execution of, a war or war-like operations or in actions relating to the maintenance or restoration of law and order, public security or national sovereignty.
- (5) The sending State may submit requests to the receiving State for facilities and related services that the sending State considers to be necessary for the visiting force and its civilian component to fulfil their commitment pursuant to Article 2(2) of this Agreement. The receiving State shall make reasonable efforts to address such requests.
- (6) Unless otherwise agreed by the Parties, each Party shall bear its own costs of participation in cooperative activities pursuant to this Agreement.

Article 3

Conditions for Entry, Departure and Stay

- (1) Subject to domestic laws and regulations, the authorities of the receiving State will facilitate the entry and departure of the visiting force and its civilian component and dependants for the furtherance of the activities covered by Article 2 of this Agreement. The sending State shall communicate in advance to the authorities of the receiving State the identity of such persons entering the receiving State pursuant to this Agreement.
- (2) Pursuant to this Agreement, members of the visiting force and members of the civilian component may stay with their dependants in the territory of the receiving State.
- (3) Members of a visiting force, members of its civilian component and dependants shall be exempt from any requirement to apply for a visa to the extent allowable by law on entering and departing the receiving State.
- (4) Subject to domestic laws and regulations, the authorities of the receiving State shall permit entry into or departure from the receiving State:
 - (a) for members of the visiting force who meet the health and quarantine requirements of the receiving State that are applicable at the time of entry holding:
 - (i) a valid passport or a military identification card; or

- (ii) an individual or collective travel document issued by the authorities of the sending State identifying the individual or group as a member or members of a visiting force, and authorising the travel; and
 - (iii) if applicable, such documents as may be issued by the authorities of the sending State in satisfaction of any national health and quarantine requirements of the receiving State.
 - (b) for members of a civilian component who meet the health and quarantine requirements of the receiving State that are applicable at the time of entry holding:
 - (i) a valid passport; and
 - (ii) a certificate issued by the authorities of the sending State certifying that the holder is a member of a civilian component;
 - (iii) if applicable, such documents as may be issued by the authorities of the sending State in satisfaction of any national health and quarantine requirements of the receiving State.
 - (c) for dependants who meet the health and quarantine requirements of the receiving State that are applicable at the time of entry holding:
 - (i) a valid passport; and
 - (ii) a valid visa; and
 - (iii) a certificate issued by the authorities of the sending State certifying that the holder is a dependant; and
 - (iv) if applicable, such documents as may be issued by the authorities of the sending State in satisfaction of any national health and quarantine requirements of the receiving State.
- (5) (a) If any person in the territory of 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:

- (i) promptly inform the authorities of the receiving State, giving such reasonable particulars as they may require;
- (ii) 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
- (iii) meet any reasonable costs incurred by the authorities of the receiving State in removing that person from the territory of the receiving State.

(b) Paragraph 5 (a) of this Article does not apply to a person who is not a national of the sending State or is otherwise entitled to remain in the receiving State.

(6) If the removal from the receiving State of a member of a visiting force or of its civilian component or a dependant is requested by the authorities of the receiving State or required by the law of the receiving State, the authorities of the sending State shall:

- (a) promptly take reasonable steps to effect the departure of that person from the territory of the receiving State; and
- (b) 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 a member of a visiting force, having been admitted to the receiving State, is absent for a period exceeding forty-eight hours without approved leave, the authorities of the sending State shall inform the authorities of the receiving State, giving such reasonable particulars, in accordance with the laws and regulations of the sending State, as may be required.

(8) Members of a visiting force may wear the uniform and military insignia of their armed forces, while performing their official duties, in accordance with the regulations in force in their armed forces.

Article 4
Criminal and Discipline Matters

- (1) Except as otherwise provided in this Agreement, members of a visiting force and of its civilian component and dependants shall be subject to the laws and regulations 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) abide by the laws and regulations of the receiving State; and
 - (b) abstain from any activity inconsistent with this Agreement.
- (3) The authorities of the sending State shall have the right to exercise within the territory of the receiving State its jurisdiction conferred on them by the law of the sending State over members of a visiting force and of its civilian component and dependants.
- (4) 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.
- (5) The 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 with respect to offences punishable by the law of the sending State but not by the law of the receiving State.
- (6) 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.

- (7) In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:
- (a) the authorities of the sending State shall have the primary right to exercise jurisdiction over members of a visiting force and, its civilian component in relation to:
 - (i) offences solely against the security of the sending State;
 - (ii) offences solely against the property of the sending State or of another member of a visiting force or member of its civilian component or of a dependant;
 - (iii) offences solely against the person or property of another member of a visiting force or of its civilian component or a dependant; and offences arising out of any act or omission done in the performance of official duty by a member of the visiting force or a member of its civilian component;
 - (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.
- (8) The sending State shall have exclusive competence regarding disciplinary matters over members of the visiting force and members of

the civilian component in accordance with its laws and regulations. In the case of behaviour that is liable to punishment in the territory of the receiving State, the authorities of the sending State shall inform the authorities of the receiving State of the nature of the possible punishments before carrying them out. The authorities of the receiving State may request that any member of the visiting force or member of the civilian component be repatriated to the sending State for the carrying out of the given punishment.

- (9) Each Party shall, upon request from the other Party, convey to the requesting Party, their respective defence force disciplinary laws and regulations.
- (10) The authorities of the receiving State, when exercising criminal jurisdiction over members of the visiting force and members of the civilian component and dependants, shall not impose the death penalty as a punishment and shall comply with the international human rights obligations of both Parties.

Article 5

Arrest and Investigations

- (1) The authorities of the receiving State and the authorities of the sending State shall assist each other in the arrest of members of a visiting force and of its civilian component and of dependants 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 Article 4.
- (2) The authorities of the receiving State shall notify the authorities of the sending State of the arrest of a member of a visiting force or of its civilian component or of a dependant as soon as practicable after the arrest.
- (3) The authorities of the receiving State and the 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 Article 4. 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 authorities of the sending State that the authorities of the sending State be entrusted with that person's custody pending conclusion of all judicial proceedings. Upon request, the 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.

- (4) The authorities of the sending State and the authorities of the receiving State shall notify each other of the progress of all cases in which there are concurrent rights to exercise jurisdiction.
- (5) When a person has been tried in accordance with the provisions of this Article by the authorities of either the sending or receiving State, they may not be tried again for substantially the same offence by the authorities of the other State.
- (6) 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, they shall be entitled to all procedural safeguards as provided for in the laws and regulations of the receiving State.

Article 6

Movements

- (1) For the purposes of this Article:

- (a) **official vehicle** means a vehicle, including a hired vehicle, which is exclusively in the service of a visiting force or its civilian component
- (b) **private vehicle** means a vehicle for personal use which is registered in the sending State, has been in the receiving State for less than 18 months and remains in the ownership of the member of the visiting force or its civilian component or a dependant who brought the vehicle into the receiving State
- (2) The authorities of the receiving State shall accept as valid, without a test or fee, the operating permits or licences issued by the authorities of the sending State to a member of a visiting force or its civilian component for the purpose of operating official vehicles in the course of their official duty for a period of up to 12 months. Permits and licences shall be accompanied by a translation in the official language of the receiving State.
- (3) Operating permits or licences for official vehicles accepted under paragraph (2) of this Article shall also be valid, to the extent that this is permissible under the laws and regulations of the sending State, for the operation of private vehicles for a period of up to 12 months. The permit or licence is to be accompanied with a certificate providing such authorisation and is to be translated to the official language of the receiving State.
- (4) Official vehicles, 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.
- (5) Unless otherwise agreed by the Parties, and subject to paragraph (6) of this Article, all conduct of land transport and movement in an official vehicle by the visiting force or the civilian component shall be deemed to have been approved by the authorities of the receiving State, provided

that such conduct is compliant with:

- (a) the domestic regulations of the sending State; and
 - (b) the domestic regulations of the receiving State; and
 - (c) any treaties or related agreements to which both States are Parties.
- (6) In the event that land transport or movement conducted by the visiting force or the civilian component requires authorisation (such as a certificate of loading) or an exemption (such as the transport of hazardous materials or movement of oversize vehicles) the receiving State shall administer such authorisations or exemptions free of charge to the sending State.
- (7) Unless otherwise agreed by the Parties, members of the visiting force shall be subject to all transport laws and regulations of the receiving State. Compliance with such laws and regulations shall be monitored by the competent authorities of the receiving State. This monitoring may be conducted jointly with the competent authorities of the sending State.
- (8) When operating a vehicle, including a private vehicle, in the territory of the receiving State, dependants are to have:
- (a) a current and valid driver licence authorising the operation of corresponding private vehicles to the extent permissible under the laws of the licence issuing State. Where the licence is not in English, it must be accompanied with a certificate providing an accurate English translation obtained from the authorities of the licence issuing State which provided such authorisation, or an international driving permit as specified in Annex 10 of the United Nations Convention on Road Traffic, as signed at Geneva on 19 September 1949, or; Annex 7 of the United Nations Convention on Road Traffic, as signed at Vienna on 8 November 1968 and issued overseas in accordance with the provisions of the appropriate convention, which will be valid for a period up to 12 months;
 - (b) a vehicle registration document;

- (c) a nationality plate sticker; and
 - (d) if the car is borrowed, a letter of authorisation from the owner.
- (9) Unless an exemption otherwise exists in the laws or regulations of the receiving State, official vehicles of the visiting force shall be subject to the same conditions in respect of any tax or fee for the use of roads as the armed forces of the receiving State.

Article 7

Air and Maritime Matters

- (1) Unless otherwise covered by an annual clearance granted for certain categories of aircraft, the sending State shall submit diplomatic clearance requests for military aircraft and vessels to enter the receiving State for the purpose of conducting activities pursuant to Article 2(2) to the authorities of the receiving State by diplomatic channels.
- (2) The visiting force shall be subject to the same conditions in respect of fees and charges, and biosecurity requirements, as vessels and aircraft of the receiving State's armed forces.
- (3) Except in the case of emergencies, members of the visiting force may operate military aircraft at civilian airfields only with the permission of the authorities of the receiving State.
- (4) The competent authorities of both states shall coordinate all air traffic control systems that they set up and operate, as well as the associated communications systems, where this is necessary to ensure the safety of air traffic and the achievement of the purpose of stay of the members of their armed forces, in accordance with the provisions of Article 11.
- (5) The authorities of the receiving State shall accept as valid, without a test or fee, the operating permits or licences issued by the authorities of the sending State to a member of a visiting force or its civilian component for

the purpose of operating aircraft or vessels in the course of his or her official duty. Permits and licences are to have added a translation of the official language of the receiving State.

Article 8

Weapons

- (1) Members of a visiting force may possess and carry arms when they are authorised to do so by orders issued by the authorities of the sending State, and with the prior agreement of the service authorities of the receiving State. Possession and carriage shall be undertaken by members of the visiting force in the course of their duty and in accordance with relevant laws and regulations of the receiving State.
- (2) The visiting force may import arms when they are authorised to do so by orders issued by the authorities of the sending State, in accordance with relevant laws and regulations of receiving State and pursuant to Article 2(2) of this Agreement.
- (3) Weapons, ammunition and dangerous goods of the visiting force shall be transported and stored under the responsibility of the sending State and in accordance with the relevant laws and regulations of the receiving State.

Article 9

Security

- (1) The authorities of the receiving State and the authorities of the sending State shall cooperate to protect the security of the premises and areas made available to the visiting force.
- (2) The authorities of the sending State may take such appropriate measures

as are in accordance with the laws and regulations of the receiving State to protect the security of the premises and areas made available to the visiting force, and of their property, official records and information.

- (3) The authorities of the sending State shall have the right to maintain good order and discipline within the visiting force, including the ability to use military police.
- (4) The authorities of the receiving State shall be responsible for security outside the premises and areas made available to the visiting force.

- (5) Subject to paragraph (4) of this Article, the military police of the visiting force may, with the consent of and in liaison with the authorities of the receiving State, be employed immediately outside the premises and areas occupied by a visiting force, in so far as such employment is consistent with the laws of the receiving State and is necessary to protect the security of the installations and areas made available to the visiting force and to maintain good order and discipline among the members of the visiting force.
- (6) The Parties will take all reasonable measures to protect all classified information exchanged or communicated between the Parties in cooperative activities pursuant to Article 2(2) of this Agreement and may enter into an arrangement that outlines the conditions and procedures for the protection and exchange of classified information.

Article 10

Environmental Protection

- (1) In this Article:
- (a) **chemical substance** means any organic or inorganic substance of a particular molecular identity, including:
- (i) any combination of such substances occurring in whole or in part as a result of chemical reaction or occurring in nature; and
 - (ii) any element or uncombined chemical.
- (b) **chemical mixture** means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction, if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical

reaction at the time the chemical substances comprising the combination were combined. This shall include non-biodegradable mixtures.

(c) **process** means the preparation of a chemical substance or mixture after its manufacture for commercial distribution.

(i) in the same form or physical state or in a different form or physical state from that which it was received by the person so preparing such substance or mixture; or

(ii) as part of an article containing a chemical substance or mixture.

(d) **importation** means the entry of products or substances into the receiving State after having been properly cleared through or still remaining under customs control, the product or substance of which is intended for direct consumption, merchandising, warehousing, or for further processing.

(e) **manufacture** means the mechanical or chemical transformation of substances into new products whether work is performed by power-driven machines or by hand, whether it is done in a factory or in a worker's home, and whether the products are sold at wholesale or retail.

(f) **unreasonable risk** means a risk of adverse effects that is either:

- (i) high probability; or
- (ii) low probability, but with a high potential impact.

(g) **hazardous substances** are substances which present either:

- (i) short-term acute hazards, such as acute toxicity by ingestion, inhalation or skin absorption, corrosivity or other skin or eye contact hazards or the risk of fire or explosion;
or
- (ii) long-term environmental hazards, including chronic toxicity upon repeated exposure, carcinogenicity (which may in some cases result from acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odours.

(h) **hazardous wastes** are hereby defined as substances that are without any safe commercial, industrial, agricultural or economic usage and are shipped, transported or brought from the country of origin for dumping or disposal into or in transit through any part of the territory of the receiving State. Hazardous wastes shall also refer to by-products, side-products, process residues, spent reaction media, contaminated plant or equipment or other substances from manufacturing operations, and as consumer discards of manufacture products.

(2) The Parties recognise and acknowledge the importance of environmental protection in the context of combined training, exercises or other activities mutually approved by the Parties.

(3) The Parties commit themselves to prevent the dumping of wastes and

other matter, and to avoid, remedy, or mitigate discharges of contaminants, that create hazards to human health, harm living resources and marine life, damage amenities or have significant adverse effects on natural resources within the territorial jurisdiction of the receiving State. Combined training, exercises or other activities mutually approved by the Parties shall be conducted in accordance with existing environmental laws, rules, regulations and policies of the receiving State and consistent with international conventions and agreements to which the receiving State is a Party, regardless of whether the sending State is a Party to such international convention or agreement invoked. When combined training, exercises or other activities mutually approved by the Parties are being planned, the receiving State shall inform the authorities of the sending State in writing of all relevant environmental laws, rules, regulations, policies and international conventions and agreements.

- (4) The Parties shall work together to exchange appropriate information regarding issues that could affect the health and environment of citizens of the receiving State and the visiting force and its civilian component. The authorities of the Parties shall discuss, on a regular basis, environmental issues related to combined training, exercises or other activities mutually approved by the Parties. The Parties shall consult on any risks posed by environmental contamination of, or hazards posed by, facilities and areas of the receiving State and in the communities adjacent to such facilities and areas.

- (5) Combined training, exercises or other activities mutually approved by the Parties shall not be undertaken in protected areas, areas of historic, cultural, spiritual, or environmental significance to indigenous populations of the receiving State, critical watersheds, areas of significant indigenous vegetation or significant habitats of indigenous fauna, or other areas identified by the receiving State as being environmentally significant or sensitive, which are to be used consistent with the policies of enhancement of biological diversity and sustainable development and protection against destructive human activities as provided for in pertinent environmental laws, rules, regulations and policies of the receiving State.
- (6) The importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal within the territorial limits of the receiving State of chemical substances and mixtures that present unreasonable risk or injury to health or the environment as well as the entry, transit, generation or use of hazardous wastes and their disposal into the territorial limits of the receiving State, for whatever purpose, are strictly prohibited.
- (7) The authorities of the sending State shall provide the authorities of the receiving State information with respect to whether the visiting force and its civilian component have with them or in their equipment or aircraft, motor vehicle or vessel the prohibited substances referred to above.
- (8) The Government of the sending State commits to conduct, in coordination with the authorities of the receiving State, periodic environmental performance assessments that examine, identify and evaluate the environmental aspects of such combined training, exercises or other activities mutually approved by the Parties in order to minimise adverse environmental effects, including planning, programming and budgeting for these requirements accordingly. The

Government of the sending State shall promptly undertake to remedy contamination caused by the visiting force and its civilian component that poses an imminent and substantial endangerment to human health, whether probable or known, and to consider additional remedial measures required to protect human health. The Government of the sending State shall promptly undertake to remedy contamination caused by the visiting force and its civilian component that poses a substantial risk of environmental harm, whether probable or known, including any consequential ecological or economic damage.

- (9) Any environmental damage to individuals and/or properties resulting from combined training, exercises or other activities mutually approved by the Parties will be subject to claims and compensation notwithstanding Article 19(2). Where it has been mutually determined that the sending State has caused environmental damage to an area, the Government of the sending State shall be responsible for the rehabilitation of damaged areas in accordance with the existing environmental laws, rules, regulations and policies of the receiving State.

Article 11

Communications

- (1) The visiting force may, in so far as is necessary to achieve the purposes of Article 2(2), set up and operate temporary communications facilities. The operation of communication facilities by the visiting force shall be subject to the laws and regulations of the receiving State. The use of radio frequencies is subject to the approval of the authorities of the receiving State.
- (2) The visiting force shall take all necessary measures to avoid interference with communication networks in the receiving State by their own communications or other electrical installations. The authorities of the receiving State shall take reasonable measures necessary to avoid interference with the communications facilities of visiting forces by communications or other electrical installations operated in the receiving State.

Article 12

Medical Treatment

- (1) Members of the visiting force shall be medically and dentally fit prior to entry into the receiving State to conduct any activity pursuant to this Agreement.
- (2) Unless otherwise mutually agreed, any medical or dental treatment provided in the facilities of the receiving State or by personnel of the receiving State on request will be provided on a full cost recovery basis.
- (3) Unless otherwise mutually agreed by the Parties, medical evacuation provided to members of the visiting force, members of the civilian component and dependants in the receiving State using land, air or maritime transport assets of the receiving State will be provided on a full

cost recovery basis. Costs of medical evacuation from the receiving State to any overseas destination using the receiving State's craft will be recovered in full from the sending State. The sending State will be responsible for the costs of any medical evacuation that is not provided by the authorities of the receiving State.

Article 13

Death

- (1) The death of a member of the visiting force, member of the civilian component or a dependant, in the territory of the receiving State shall be declared to the appropriate authorities of the receiving State. The authorities of the receiving State will inform the authorities of the sending State as soon as possible.
- (2) The death will be certified by a doctor authorised to do so by the authorities of the receiving State who shall issue a certificate.
- (3) The authorities of the receiving State shall not conduct a post-mortem examination without the prior written consent of the authorities of the sending State. If the sending State provides such consent, the time and place of the post-mortem examination and the personnel who will conduct the post-mortem examination shall be mutually agreed by the Parties.
- (4) If permitted pursuant to the laws and regulations of the receiving State, the authorities of the sending State shall have the right to take and retain charge of and make arrangements for the disposition of the remains of the deceased upon notification from the authorities of the receiving State. If requested and where circumstances permit, the authorities of the receiving State shall assist with arrangements for the return of the deceased's remains to the sending State.

Article 14
Emergency Assistance

- (1) In this Article:
- (a) **emergency assistance** means the provision of medical, logistical or engineering support or any other support provided by the armed forces of a Party when the circumstances necessitate such support in an expedient manner, such as a natural disaster.
 - (b) **requesting Party** means the Party that is requesting emergency assistance.
 - (c) **supporting Party** means any body, contingent or detachment of the armed forces belonging to the Party that is providing emergency assistance.
- (2) This Article applies in the event that:
- (a) the requesting Party requests emergency assistance from the supporting Party to any location within the requesting Party's sovereign territory; or
 - (b) a third party State has requested emergency assistance from both Parties, and the Parties provide joint emergency assistance to that third party State.
- (3) The requesting Party and the supporting Party may implement an arrangement that outlines the understandings of the Parties regarding the provision of emergency assistance by the supporting Party to the requesting Party.
- (4) Unless otherwise agreed by the Parties, members of the supporting Party are not members of a visiting force as defined in Article 1 for the purposes of providing emergency assistance.

- (5) Unless otherwise agreed by the Parties, the requesting Party will permit the supporting Party to import, use, and export medical stores that may be required to provide medical assistance, on the basis that the supporting Party ensures that such medical stores comply with its domestic regulations and is authorised for use by the authorities of the supporting Party.
- (6) Unless otherwise agreed by the Parties, the requesting Party will permit the supporting Party to import, use, and export the equipment, vehicles and plant necessary to provide support, on the basis that:
 - (a) the supporting Party ensures that such effects comply with all safety and operating regulations of the authorities of the supporting Party; and
 - (b) where applicable, the operators of such effects have the requisite operating licences recognised by the authorities of the supporting Party.
- (7) In the event that a third party state requests emergency assistance, both Parties may enter into an arrangement that outlines the Parties' understandings in respect of the provision of joint emergency assistance to that third party state.
- (8) Nothing in this Article affects any arrangement regarding the provision of emergency assistance entered into between one of the Parties and a third party state.

Article 15

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, cigarettes, cigars, tobacco and spirituous liquors.
 - (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 of the sending State shall not be subject to customs inspection. The certificate stating that the package contains solely official documents shall accompany the package. Samples of the official seals shall be lodged with the authorities of the receiving State.
- (3) A visiting force may import and export in accordance with the domestic laws and regulations of the receiving State, but free of any duty, its weapons, ammunition, explosives, motor vehicles, equipment, supplies, materials and other goods for the exclusive and official use of, but at the time of import not intended for sale by, the visiting force or its civilian component for use during cooperative activities pursuant to Article 2(2) of this Agreement.

- (4) Where required by the authorities of the receiving State, the sending State shall present to the relevant authorities of the receiving State, customs documents which both Parties have agreed to provide, and a certificate, the form of which has been accepted by both Parties and signed by the person authorised by the sending State. The authorities of the receiving State may request that the name of the person authorised to sign certificates including samples of the person's signature and seals used are communicated to them in advance.
- (5) The receiving State shall permit, free of duty or taxes:
- (a) in the case of a member of a visiting force, a member of its civilian component or a dependant, the importation of reasonable quantities of goods, subject to (5)(b), provided that:
 - (i) they 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
 - (ii) they remain in the use, ownership and possession of that member or dependant; and
 - (b) in the case of a member of a visiting force or a member of its civilian component, the importation of:

- (i) one motor vehicle pursuant to any arrangements agreed by the Parties;
 - (ii) cigarettes, cigars, tobacco and spirituous liquors as may be agreed by the Parties; and
 - (iii) fuel, oil and lubricants exclusively for use in official motor vehicles, aircraft and vessels of a visiting force or its civilian component.

- (6) Goods which have been imported free of duty under paragraph (3) of this Article:
 - (a) may be exported free of duty or any restriction, provided that the appropriate authorities of the receiving State may require verification that goods exported have been imported under the conditions of paragraph (3) as the case may be; and
 - (b) may not be transferred to another person, sold, traded, exchanged, hired out, donated or otherwise disposed of in the receiving State without the express approval of the appropriate authorities of the receiving State and in compliance with the laws and regulations of the receiving State; and
 - (c) with the exception of goods that have an express approval under (b), must be re-exported after a period mutually agreed between the parties, and if not, may become liable for duty in accordance with the laws of the receiving State.

- (7) If the express approval of the appropriate authorities of the receiving State is obtained, items which have been imported free of duty under paragraph (3) of this Article may, if they are owned by the sending State and in the use of a visiting force or its civilian component, be disposed of in the receiving State by public sale, auction, tender or private treaty, 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 authorities of the receiving State unless the latter shall have indicated that it is not interested in their acquisition;

- (b) in so disposing of stores or goods the authorities of the sending State shall be liable to pay any duties which would be payable on items so disposed of in accordance with the laws and regulations of the receiving State; and
 - (c) the disposal is not made in a manner or with such frequency as seriously to compete with or adversely affect legitimate trade or industry in the territory of the receiving State.
- (8) 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 paragraph (5) of this Article.

Article 16

Employment of Local Civilians

- (1) Subject to any requirement of the authorities of the receiving State and its laws and regulations, the sending State and its contractors shall employ such local labour as they may require, provided the labour is available and qualified to the work required. The conditions of employment and work, particularly wages, supplementary payments and conditions for the protection of workers, shall comply with the laws and regulations of the receiving State. Local civilian workers employed by the visiting force or its civilian component shall not be regarded for any purpose as being members thereof.

Article 17

Taxation

- (1) The taxation of any member of a visiting force or of its civilian component and any dependant shall be subject to any convention between the sending State and the receiving State for the avoidance of double taxation.
- (2) The authorities of the sending State shall take appropriate measures to ensure that the visiting force, its civilian component and dependents shall pay any taxes, duties and fines due to the receiving State.

Article 18

Foreign Exchange Control

- (1) Subject to paragraph (2) of this Article, members of a visiting force and of its civilian component and dependants 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 authorities 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 19

Claims between the Parties

- (1) For the purposes of paragraphs (2) and (3) 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.

- (2) 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.

- (3) 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 (4) of this Article.

- (4) A claim under paragraph (3) of this Article 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 agreed 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 agree,

the matter may, at the request of either Party, be referred to a single

arbitrator, agreed 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 agreed 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.

- (5) Neither Party shall be obligated to take out third party liability insurance for its vehicles, military aircraft and vessels or for the carrying of weapons. Each Party may itself assume the resulting risks.

Article 20

Third Party Claims

- (1) 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 agreed 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 laws and regulations 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.
- (2) 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 laws and regulations of the Receiving State and which is within an area occupied by the visiting force or its civilian component.
- (3) 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.

Article 21

Resolution of Disputes

- (1) Except as provided for in Article 18(4) of this Agreement, 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 22

Final Provisions

- (1) This Agreement shall enter into force on an exchange of notes via diplomatic channels confirming that each Party has completed its domestic requirements for the entry into force of this Agreement.
- (2) This Agreement shall remain in force until 180 days after one Party gives the other notice in writing of its intention to terminate this Agreement.
- (3) The Parties may amend this Agreement at any time by mutual agreement in writing.
- (4) The termination of this Agreement shall not release the Parties from the execution of the obligations resulting from its implementation concerning claims, security of information, disputes and jurisdiction.

In witness whereof the undersigned, duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate at

on

2023

**For the Government of
New Zealand**

**For the Government of the
Republic of Fiji**

**Hon. Andrew Little
Minister of Defence**

**Hon. Pio Tikoduadua
Minister of Home Affairs and
Immigration**