

No. 31859

**NEW ZEALAND
and
SOLOMON ISLANDS**

Exchange of notes constituting an agreement on arrangements for the visit by a contingent of the New Zealand Armed Forces to Solomon Islands for Exercise TROPIC DAWN 90. Honiara, Solomon Islands, 24 and 28 August 1990

Authentic text: English.

Registered by New Zealand on 1 June 1995.

**NOUVELLE-ZÉLANDE
et
ÎLES SALOMON**

Échange de notes constituant un accord relatif aux arrangements en vue de la visite aux Îles Salomon d'un contingent des forces armées néo-zélandaises pour l'Opération TROPIC DAWN 90. Honiara (Îles Salomon), 24 et 28 août 1990

Texte authentique : anglais.

Enregistré par la Nouvelle-Zélande le 1^{er} juin 1995.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN NEW ZEALAND AND SOLOMON ISLANDS ON ARRANGEMENTS FOR THE VISIT BY A CONTINGENT OF THE NEW ZEALAND ARMED FORCES TO SOLOMON ISLANDS FOR EXERCISE TROPIC DAWN 90

I

NEW ZEALAND HIGH COMMISSION
HONIARA SOLOMON ISLANDS

24 August 1990

Hon. Sir Baddeley Devesi GCMG, GCVO, KStJ
Minister of Foreign Affairs and Trade Relations
Honiara

Dear Minister

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENT OF NEW ZEALAND AND THE GOVERNMENT OF SOLOMON ISLANDS ON ARRANGEMENTS FOR THE VISIT BY A CONTINGENT OF THE NEW ZEALAND ARMED FORCES TO SOLOMON ISLANDS FOR EXERCISE TROPIC DAWN 90

(1) Text of Initiating Note

I have the honour to refer to the talks held between officials from New Zealand and Solomon Islands in May 1990 concerning the visit of a contingent of the New Zealand Armed Forces to Solomon Islands for Exercise TROPIC DAWN 90 to be held between 29 August and 17 September 1990. The purpose of the exercise is to give New Zealand Service personnel experience in minor infantry tactics in a tropical environment and to undertake training assistance to the Royal Solomon Islands Police (RSIP) as requested by the Government of Solomon Islands. I now propose on behalf of the Government of New Zealand that an agreement be reached between our two Governments relating to these exercises on the following terms:

1 The Government of New Zealand will send a contingent of 120 Army personnel to Solomon Islands between 29 August and 17 September 1990 to take part in Exercise TROPIC DAWN 90. A contingent training team will deploy to Solomon Islands 14 days prior to the arrival of other contingent members to provide pre-exercise training for the RSIP. The contingent will deploy to and from Solomon Islands by RNZAF Hercules aircraft. An

¹ Came into force on 28 August 1990, the date of the note in reply, in accordance with the provisions of the said notes.

RNZAF Andover aircraft will provide for in-country transport support.

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

"New Zealand contingent" means that group of New Zealand Servicemen who will be visiting Solomon Islands for the purpose of taking part in Exercise TROPIC DAWN 90 in Solomon Islands.

"New Zealand serviceman" means an individual member of the contingent of the New Zealand Armed Forces who will be visiting Solomon Islands for the purpose of taking part in Exercise TROPIC DAWN 90 and "New Zealand servicemen" means such members.

"New Zealand Service authorities" means the authorities empowered by the law of New Zealand to exercise command or jurisdiction over members of the New Zealand contingent while they are participating in Exercise TROPIC DAWN 90.

3 The New Zealand contingent taking part in Exercise TROPIC DAWN 90, shall be permitted to:

- a conduct infantry minor tactics training on Vangunu;
- b use the RSIP barracks in Honiara as a staging camp;
- c conduct advanced infantry minor tactics training for 30 members of the RSIP;
- d conduct basic infantry minor tactics training for up to 30 members of the RSIP;
- e exercise with the RSIP Patrol Boat LATA and 30 members of the RSIP in the Vangunu area.

4 The Solomon Islands Government shall make available up to 60 members of the RSIP for training and provide interpreter support, liaison, and advice to the New Zealand contingent taking part in Exercise TROPIC DAWN 90.

5 The Solomon Islands Government shall make available the LATA to exercise with the New Zealand contingent taking part in Exercise TROPIC DAWN 90.

6 The New Zealand contingent taking part in Exercise TROPIC DAWN 90 shall supply rations, ball ammunition and blank ammunition for RSIP personnel.

7 The Government of New Zealand shall facilitate the movement to and from Honiara of those RSIP personnel taking part in Exercise TROPIC DAWN 90.

8 The Government of New Zealand shall pay the fuel costs of the LATA for the duration of Exercise TROPIC DAWN 90.

9 The Government of Solomon Islands shall not levy landing charges against the Government of New Zealand for the use of airport facilities in connection with exercise TROPIC DAWN 90.

10 The Government of Solomon Islands shall facilitate the entry of the New Zealand contingent into Solomon Islands for Exercise TROPIC DAWN 90 by not requiring passports of its members. The following documents shall, however, be required for entry into Solomon Islands:

- a a personal identity card issued by the appropriate authority of the Government of New Zealand showing the full name, date of birth, rank and number, service and photograph of the holder;
- b an individual or collective movement order issued by an appropriate authority and certifying to the status of the individual or group as a member of a New Zealand contingent.

11 All freight and exercise stores and equipment required by the New Zealand contingent for the exercise shall be given entry free of all duties and taxes by the Government of Solomon Islands provided that a detailed list of New Zealand stores and equipment is forwarded to the Government of Solomon Islands. The New Zealand contingent taking part in Exercise TROPIC DAWN 90 shall provide to the Government of Solomon Islands a list of weapons by type and serial number.

12 The New Zealand contingent shall be permitted to take with it upon departure all equipment brought by it into Solomon Islands for the purpose of Exercise TROPIC DAWN 90 free from export duties and related charges and restrictions.

13 New Zealand servicemen shall be entitled to use valid New Zealand drivers licences and New Zealand Army drivers licenses.

14 The New Zealand contingent shall provide its own 24 hour ration packs which shall comply with the agricultural requirements of Solomon Islands.

15 For the purpose of the command and control of members of the New Zealand contingent participating in TROPIC DAWN 90 and for exercise purposes, the Government of Solomon Islands shall allow the New Zealand contingent to establish and operate HF and VHF radio stations using frequencies approved by the Solomon Islands Government.

16 New Zealand servicemen may wear uniform in performing official duties in Solomon Islands.

17 New Zealand servicemen while in Solomon Islands for purposes of Exercise TROPIC DAWN 90 shall be permitted to possess and carry arms on condition that they are authorised to do so by their orders and provided that arrangements regarding

the carrying of arms outside areas and facilities in use by the visiting contingent have been made between the appropriate authorities of the two Governments. Live ammunition will be used only during range practice by the RSIP. Blank ammunition and pyrotechnics shall be used during training.

18 The Government of Solomon Islands shall grant New Zealand servicemen participating in Exercise TROPIC DAWN 90 exemption from departure tax.

19 The rights of the two Governments with respect to criminal and disciplinary jurisdiction over the New Zealand contingent participating in Exercise TROPIC DAWN 90 shall be as follows:

- a The New Zealand Service authorities shall have the right to exercise within Solomon Islands all criminal and disciplinary jurisdiction conferred on them by the law of New Zealand over all New Zealand servicemen, and exclusive jurisdiction over the New Zealand servicemen with respect to offences punishable by the law of New Zealand but not by the law of Solomon Islands.
- b The authorities of Solomon Islands shall have the right to exercise jurisdiction over New Zealand servicemen with respect to offences committed in Solomon Islands and punishable by the law of Solomon Islands and the right to exercise exclusive jurisdiction with respect to offences punishable by the law of Solomon Islands but not by the law of New Zealand.
- c In cases where the right to exercise jurisdiction is concurrent, the following rules apply:
 - (1) The New Zealand Service authorities shall have the primary right to exercise jurisdiction over New Zealand servicemen in relation to:
 - i) offences solely against the property or security of New Zealand;
 - ii) offences solely against the person or property of a New Zealand serviceman or servicemen taking part in Exercise TOPIC DAWN 90;
 - iii) offences arising out of any act or omission done in the performance of official duty as a New Zealand serviceman.
 - (2) In the case of any other offences the Solomon Islands authorities shall have the primary right to exercise jurisdiction;
 - (3) If the authorities having the primary right to exercise jurisdiction under these rules decide not to exercise jurisdiction, they shall notify the other authorities as soon as practicable. The authorities having primary right to exercise jurisdiction shall give sympathetic consideration to a request from the other authorities for a waiver of jurisdiction.

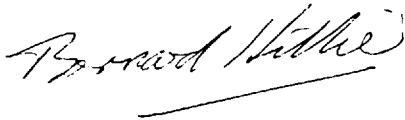
(4) The foregoing paragraphs shall not confer any right on New Zealand Service authorities to exercise jurisdiction over persons who are nationals of or ordinarily resident in Solomon Islands unless they are New Zealand servicemen.

- d The New Zealand Service authorities and the Government of Solomon Islands shall assist each other in the arrest of New Zealand servicemen taking part in Exercise TROPIC DAWN 90 where such arrest is necessary to allow the exercise of jurisdiction provided for in the above sub paragraphs and, subject to sub paragraphs h and i of this clause, in handing them over the authorities which are to exercise jurisdiction in accordance with the above paragraphs.
- e The Government of Solomon Islands shall notify promptly the New Zealand Service authorities of the arrest of any New Zealand servicemen taking part in Exercise TROPIC DAWN 90.
- f Where Solomon Islands authorities have arrested a New Zealand serviceman taking part in Exercise TROPIC DAWN 90 the Government of Solomon Islands shall if so requested release him to the custody of the New Zealand Service authorities in Solomon Islands pending completion of trial proceedings provided that he shall, on request, be made available to the Solomon Islands authorities.
- g The New Zealand Service authorities and Solomon Islands authorities shall in all cases, including those giving rise to concurrent jurisdiction, assist each other in the carrying out of all necessary investigations into offences and in the collection and production of evidence, including the seizure of and, in appropriate cases, the handing over of objects in connection with the offence. The handing over of such objects, however, may be made subject to their return within any reasonable time specified by the authorities authorising their delivery.
- h The New Zealand Service authorities and Solomon Islands authorities shall notify each other of the disposal of all cases in which there are concurrent rights to exercise criminal jurisdiction.
- i Where an accused serviceman has been tried in accordance with the preceding paragraphs by the New Zealand Service authorities or in a Solomon Islands Court and has been convicted or acquitted (which expressions shall include any other final disposal of a charge) he may not be tried again for the same or substantially the same offence under New Zealand or Solomon Islands law. This paragraph shall not prevent the New Zealand Service authorities from trying or dealing with a New Zealand serviceman for any violation of rules of discipline arising from any act or omission which constituted an offence for which he was tried under Solomon Islands law.

- j In addition to the provision of any agreement entered into between New Zealand and Solomon Islands concerning the return of prisoners from one country to the other, where a New Zealand serviceman taking part in Exercise TROPIC DAWN 90 has been sentenced under the law of Solomon Islands to a term of imprisonment and he makes a request, which is supported by the Government of New Zealand, that his term of imprisonment be served in New Zealand, his request shall be given sympathetic consideration by the Government of Solomon Islands.
- 20a The two Governments shall consult on the settlement of claims by one against the other arising from the loss of or damage to property owned or being used by one of them and caused by an act or omission of a member of the armed forces or an employee of the other in the performance of official duty where such damage or loss has occurred in the course of Exercise TROPIC DAWN 90, due regard being had in the settlement of such claims and in the determination of appropriate compensation payable, to the criteria set out in sub paragraph b of this clause for the settlement of claims against the Government of New Zealand by third parties.
- b The Government of New Zealand shall pay just and reasonable compensation in accordance with the law of Solomon Islands for meritorious claims by third parties in respect of loss of life or injury to such third parties or loss of property or damage to property belonging to such third parties where such damage or loss is caused by the act or omission (done in the performance of official duty) of a New Zealand serviceman or serviceman while in Solomon Islands for the purposes of Exercise TROPIC DAWN 90 and where the Government of Solomon Islands, after investigation, certify the claims:
- (1) as having been submitted in good faith, within three months of the act of omission,
 - (2) as being reasonable in nature, and
 - (3) where they relate to property damage, as seeking sums which reflect accurately the current market prices for returning the damaged property to the condition it was in before such damage, and
 - (4) where they relate to loss of property, as seeking sums which reflect accurately the value of such property immediately prior to such loss.
- 21 The Government of New Zealand shall take measures to ensure that members of the visiting contingent are aware of their duty and observe the law of Solomon Islands.

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

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

A handwritten signature in cursive script, reading "Bernard Hillier", with a horizontal line underneath it.

Bernard Hillier
High Commissioner

II

MINISTRY OF FOREIGN AFFAIRS
AND TRADE RELATIONS

OUR REF: FA. 12/3/12

YOUR REF:

Honiara

Solomon Islands

DATE: 28.8.90

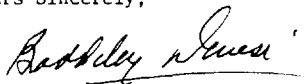
His Excellency The High Commissioner
New Zealand High Commission
Honiara

Dear High Commissioner,

I have the honour to refer to your letter of 24 August 1990 and confirm that all arrangements as spelt out under the text of the initiating Note for the Exercise of Tropic Dawn 90 are acceptable to the Government of Solomon Islands.

This reply places on record the understanding reached between our two Governments which will come into operation today.

Yours Sincerely,



Sir Baddeley Devesi
Minister for Foreign Affairs & Trade Relations
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