

No. 31863

**NEW ZEALAND
and
VANUATU**

Exchange of letters constituting an agreement on arrangements for the visit by a New Zealand Defence Force contingent to the Republic of Vanuatu for Exercise TROPIC DAWN 94. Port Vila, Vanuatu, 4 May 1994

Authentic text: English.

Registered by New Zealand on 1 June 1995.

**NOUVELLE-ZÉLANDE
et
VANUATU**

Échange de lettres constituant un accord relatif aux arrangements en vue de la visite en République de Vanuatu d'un contingent de la force de défense néo-zélandaise pour l'Opération TROPIC DAWN 94. Port Vila (Vanuatu), 4 mai 1994

Texte authentique : anglais.

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

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN NEW ZEALAND AND VANUATU ON ARRANGEMENTS FOR THE VISIT BY A NEW ZEALAND DEFENCE FORCE CONTINGENT TO THE REPUBLIC OF VANUATU FOR EXERCISE TROPIC DAWN 94

I

NEW ZEALAND HIGH COMMISSION
PORT VILA

Port Vila
Vanuatu

4 May 1994

Our Reference:
35/2/3

Hon. Sethy John Regenvanu
Acting Prime Minister and
Acting Minister of Foreign Affairs
Republic of Vanuatu
PORT VILA

Dear Acting Prime Minister

I have the honour to refer to the talks held between officials from New Zealand and the Republic of Vanuatu in November 1993 concerning the visit of a New Zealand Defence Force contingent to the Republic of Vanuatu for Exercise TROPIC DAWN 94, to be held between 5 - 30 May 1994.

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

1. The Government of New Zealand shall send a contingent of 53 Army personnel to the Republic of Vanuatu

¹ Came into force on 4 May 1994, the date of the letter in reply, in accordance with the provisions of the said letters.

between 5 - 30 May 1994 to take part in Exercise TROPIC DAWN 94 for the purpose of conducting a medical exercise in a tropical environment. An advance group of three New Zealand servicemen will deploy by civilian airline to arrive in the Republic of Vanuatu no later than 5 May 1994. The main body of the New Zealand contingent, predominantly medical servicemen, will deploy to and from the Republic of Vanuatu by RNZAF Andover aircraft, arriving no later than 9 May 1994. The contingent will also include servicemen for mutual assistance training and the provision of civic aid. The purpose of these groups is to:

- a. Medical Group. Comprising of up to 40 medical personnel to be based on the Island of Santo. This group will form medical teams to deploy to villages in the vicinity of Big Bay and South Santo to conduct a vaccination and education programme.
- b. Civic Aid Group. Comprising 10 engineers to be based on the Islands of Ambae and Pentecost. This group will complete water supply and plumbing tasks.
- c. Mutual Assistance Training Group. Comprising up to three personnel to be based in Port Vila to conduct on-the-job training. This activity will be subject to advice from the Vanuatu Mobile Force (VMF) that facilities and personnel are prepared for the training being offered.

2. For the purposes of the 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 the Republic of Vanuatu for the purpose of taking part in Exercise TROPIC DAWN 94.

"New Zealand Servicemen" means an individual member of the New Zealand contingent.

"New Zealand Service authorities" means the authorities empowered by the law of New Zealand to exercise command and jurisdiction over members of the New Zealand contingent while they are participating in Exercise TROPIC DAWN 94.

"The Vanuatu authorities" means the authorities from time to time designated by the Government of the Republic of Vanuatu for the purpose of exercising the powers in relation to which the terms are used.

"Port of Entry" means the Port, International Airport or National Airforce Base at which the contingent disembarks.

"Training" includes the conduct of combined training in either country.

3. The Government of the Republic of Vanuatu shall make available the following support to the Medical Group:

- a. vaccinations for the conduct of the vaccination programme;
- b. refrigeration facilities for the safekeeping of the vaccines;
- c. tentage area close to the Santo platoon to share ablution and cooking facilities;
- d. transport to move medical teams to village areas in the vicinity of Big Bay and South Santo;
- e. three VMF signals detachments (comprising 1 signaller and two riflemen as radio operators) to move with the medical teams to the village areas;
- f. frequencies for the use by VMF signalers; and
- g. liaison officers from the Ministry of Health to deploy with the medical teams.

4. The Government of the Republic of Vanuatu shall make available the following support to the Civil Aid Group:

- a. transport to move the engineering team on the island of Ambae;
- b. one vehicle on the island of Pentecost to be available at Lonorore Airstrip;
- c. six VMF engineers (three on Ambae, three on Pentecost) to deploy with the New Zealand personnel;
- d. one VMF signaller to deploy with the New Zealand personnel on Pentecost;
- e. radio frequencies for use by the VMF signaller;
- f. four liaison officers from the Department of Health to deploy with the New Zealand personnel to Ambae and Pentecost.

5. Subject to advice from the VMF, the Government of the Republic of Vanuatu shall make available the following support to the Mutual Assistance Training Group:

- a. transport assistance to and from the hotel accommodation (Kaiviti Hotel) and the VMF Barracks at Vila; and
- b. one liaison officer.

6. The Government of the Republic of Vanuatu shall not levy landing charges against the Government of New Zealand for the use of airport facilities in the Republic of Vanuatu in connection with Exercise TROPIC DAWN 94.

7. The Vanuatu authorities shall facilitate the entry of the New Zealand contingent into the Republic of Vanuatu by not requiring passports of its members. The following documents shall, however, be required for entry into the Republic of Vanuatu:

- 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 the New Zealand contingent.

8. All freight and exercise stores and equipment required by the New Zealand contingent for the exercise shall be given entry free of all duties by the Vanuatu authorities provided that a detailed list of New Zealand stores and equipment is forwarded to the Vanuatu authorities.

9. The New Zealand contingent shall be permitted to take with it upon departure all equipment brought by it into the Republic of Vanuatu for the purpose of Exercise TROPIC DAWN 94 free from export duties and related charges and restrictions.

10. The New Zealand contingent shall provide their own 24 hour ration packs which shall comply with the agricultural requirements of the Republic of Vanuatu.

11. The Government of New Zealand shall supply rations and loan field equipment to Vanuatu personnel deploying in support of the New Zealand contingent.

12. For the purpose of the command and control of members of the New Zealand contingent participating in the exercise, the Vanuatu authorities shall permit the New Zealand contingent to establish and operate HF and VHF radio stations using frequencies approved by the Government of the Republic of Vanuatu.

13. New Zealand servicemen shall be permitted to wear uniform in performing official duties in the Republic of Vanuatu.

14. New Zealand servicemen shall not deploy with weapons or pyrotechnics for Exercise TROPIC DAWN 94.

15. The Government of the Republic of Vanuatu shall grant New Zealand servicemen participating in Exercise TROPIC DAWN 94 exemption from departure tax.

16. The rights of the two Governments with respect to criminal and disciplinary jurisdiction over the New Zealand contingent participating in Exercise TROPIC DAWN 94 shall be as follows:

- a. The New Zealand Service authorities shall have the right to exercise within the Republic of Vanuatu all criminal and disciplinary jurisdiction conferred on them by the law of New Zealand over New Zealand servicemen, and the right to exercise exclusive jurisdiction over the New Zealand servicemen with respect to offences punishable by the law of New Zealand but not by the law of the Republic of Vanuatu.
- b. The authorities of Vanuatu shall have the right to exercise jurisdiction over New Zealand servicemen with respect to offences committed in the Republic of Vanuatu and punishable by the law of the Republic of Vanuatu and the right to exercise exclusive jurisdiction with respect to offences punishable by the law of the Republic of Vanuatu but not by the law of New Zealand.
- c. In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:
 - (1) The New Zealand authorities shall have the primary right to exercise jurisdiction over New Zealand servicemen in relation to:
 - i) offences solely against the property and security of New Zealand;

- ii) offences solely against the person or property of another New Zealand serviceman taking part in Exercise TROPIC DAWN 94;
 - iii) offences arising out of any act or omission done in the performance of an official duty as a New Zealand serviceman.
- (2) In the case of any other offences, the Vanuatu 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 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 the Republic of Vanuatu unless they are New Zealand servicemen.
- d. The New Zealand Service authorities and the Government of the Republic of Vanuatu shall assist each other in the arrest of New Zealand servicemen taking part in Exercise TROPIC DAWN 94 where such arrest is necessary to allow the exercise of jurisdiction provided for in the above paragraphs and, subject to paragraphs h and i of this clause, in handing them over to the Government which is to exercise jurisdiction in accordance with the above paragraphs.
 - e. The Government of the Republic of Vanuatu shall notify promptly the New Zealand Service authorities of the arrest of any New Zealand Serviceman taking part in Exercise TROPIC DAWN 94.
 - f. Where the Government of the Republic of Vanuatu has arrested a New Zealand Serviceman taking part in Exercise TROPIC DAWN 94, the Government of the Republic of Vanuatu shall if so requested release him to the custody of the New Zealand Service authorities in the Republic of Vanuatu pending completion of trial proceedings provided that he shall, on request, be made available to the Government of the Republic of Vanuatu.

- g. The New Zealand Service authorities and the Government of the Republic of Vanuatu 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 an offence. The handing over of such objects, however, may be made subject to their return within any reasonable time specified by the Government delivering them.
 - h. The New Zealand Service authorities and the Government of the Republic of Vanuatu shall notify each other of the disposal of all cases in which there are concurrent rights to exercise criminal jurisdiction.
 - i. Where an accused has been tried in accordance with the preceding paragraphs by the New Zealand authorities or by the Government of the Republic of Vanuatu, and has been convicted or acquitted (which expressions shall include any other final disposal of a charge) he shall not be tried again for the same offence or substantially the same offence by either Government. 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 an act or omission which constituted an offence for which he was tried by the Government of the Republic of Vanuatu.
 - j. In addition to the provision of any agreement entered into between New Zealand and Vanuatu concerning the return of prisoners from one country to the other, where a New Zealand Serviceman taking part in Exercise TROPIC DAWN 94 has been sentenced under the law of the Republic of Vanuatu to a term of imprisonment and the serviceman makes a request, which is supported by the Government of New Zealand, that the serviceman's term of imprisonment be served in New Zealand, the Serviceman's request shall be given sympathetic consideration by the Government of the Republic of Vanuatu.
17. The two Governments shall consult on the settlement of claims by one against the other arising from 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 of the other in the performance of official duty

where such damage or loss has occurred in the course of Exercise TROPIC DAWN 94. Due regard will be had in the settlement of such claims and in the determination of appropriate compensation payable, to the criteria set out in paragraph 18 of this agreement for the settlement of claims against the Government of New Zealand by third parties.

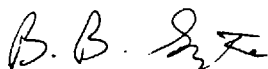
18. The Government of New Zealand shall pay just and reasonable compensation in accordance with the law of the Republic of Vanuatu for meritorious claims by third parties in respect of loss of life or injury to such third parties or loss of property or damage to property belonging to such third parties 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 Servicemen while in the Republic of Vanuatu for the purposes of Exercise TROPIC DAWN 94 and where the Government of the Republic of Vanuatu, after investigation, certify the claims:

- a. as having been submitted in good faith, within three months of the act of omission;
- b. as being reasonable in nature; and
- c. 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;
- d. where they relate to loss of property, as seeking sums which reflect accurately the value of such property immediately prior to such loss.

19. The Government of New Zealand shall take measures to ensure that members of the New Zealand contingent are aware of their duty to observe the laws and regulations of the Republic of Vanuatu.

20. If the foregoing is acceptable to the Government of the Republic of Vanuatu, 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.



Brian B. Smythe
High Commissioner

II

GOVERNMENT
OF THE REPUBLIC OF VANUATU

GOUVERNEMENT
DE LA RÉPUBLIQUE DE VANUATU

4 May 1994

His Excellency Mr Brian B. Smythe
High Commissioner
New Zealand High Commission
PORT VILA

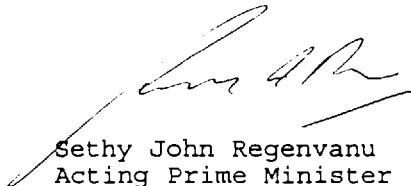
Excellency

I have the honour to refer to your letter of 2 May 1994 proposing an Agreement between the Government of the Republic of Vanuatu and the Government of New Zealand on arrangements for the visit by a contingent of the New Zealand Armed Forces to the Republic of Vanuatu for Exercise TROPIC DAWN 94, the text of which reads as follows:

[See letter I]

In reply I have the honour to confirm that the afore-mentioned arrangements for Exercise TROPIC DAWN 94 are acceptable to the Government of the Republic of Vanuatu, and that your Letter and this reply shall constitute an Agreement between our two Governments which will enter into force on this date.

Please accept Excellency, the renewed assurances of my highest consideration.



Sethy John Regenvanu
Acting Prime Minister
and Acting Minister of Foreign Affairs