

AGREEMENT BETWEEN
THE GOVERNMENT OF AUSTRALIA
AND
THE GOVERNMENT OF THE REPUBLIC OF FIJI
ON COOPERATION IN THE FIELD OF DEFENCE AND THE STATUS OF
VISITING FORCES

The Government of Australia (“Australia”) and the Government of the Republic of Fiji (“Fiji”), hereinafter referred to as “the Parties”;

ACKNOWLEDGING their commitment to a new era of friendship in the Vuvale Partnership, signed on 16 September 2019;

RECOGNISING their shared interest in enhanced security cooperation to meet common challenges and maintain a secure, sovereign and resilient region;

GUIDED by the principles of trust, respect and understanding;

VALUING their reciprocal commitment to supporting each other in times of crisis;

REAFFIRMING the mutual benefit of interoperability between the Republic of Fiji Military Forces and the Australian Defence Force;

CONSIDERING that the conduct of defence cooperative activities between them is in their respective national interests;

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

HAVE AGREED as follows:

Article 1
Definitions

(1) In this Agreement:

- (a) “Civilian Component” means the civilian personnel accompanying the Visiting Force who are employed by or in its service having functions relating

- to defence matters and who are neither nationals of, nor ordinarily resident in, the Receiving State, but does not include contractors.
- (b) "Classified Information" means information or material that requires protection in the interest of national security and is so designated by the application of a national security classification indicating the minimum level of protection required by the originating Party so as to safeguard this information from disclosure. This information may be in oral, visual, electronic, documentary or material form, including equipment or technology;
 - (c) "Dependent" means a person who:
 - (i) is not a member of a Visiting Force or its Civilian Component;
 - (ii) is neither a national of or nor ordinarily resident in the Receiving State; and
 - (iii) is accompanying a member of a Visiting Force or its Civilian Component and is:
 - (I) the Spouse of the member;
 - (II) wholly or mainly maintained by the member;
 - (III) in the custody, care or charge of the member; or
 - (IV) a relative of the member ordinarily residing with the member;
 - (d) "Force" means the personnel belonging to the land, sea or air armed services of a Party;
 - (e) "Receiving State" means the State of the Party in whose territory a Visiting Force is located;
 - (f) "Sending State" means the State of the Party to which the Visiting Force belongs;
 - (g) "Sensitive Information" means information or material that, if compromised, would cause damage to an individual, organisation or government but does not warrant a security classification;
 - (h) "Service Law" means any act, statute, order, regulation or instruction of the Sending State governing all or any of the members of a Visiting Force. Where the laws and regulations of the Sending State so provide, Service Law shall also apply to members of the Civilian Component;
 - (i) "Spouse" means another person who:
 - (i) is married to a member under the law of the Sending State; or
 - (ii) is not married to a member but has a relationship with the member as a couple on a genuine domestic basis as recognised by the law of the Sending State.
 - (j) "Visiting Force" means any individual, body, contingent or detachment of the Force of one Party, who, with the consent of the other Party, is present in the territory of the other Party pursuant to a cooperative activity.

(2) Any reference to a law, regulation or international instrument in this Agreement shall be construed as a reference to that law, regulation and international instrument as in force at the time of the entry into force of this Agreement and as amended or replaced from time to time.

Article 2 Objective

The purpose of this Agreement is to facilitate and foster closer defence cooperation between the Parties by establishing a framework for the conduct of such cooperation, and by defining the status of the Visiting Force and the Civilian Component of one Party while in the territory of the other Party.

Article 3 Scope and Application

- (1) The Parties shall mutually determine the cooperative activities to which this Agreement shall apply in writing, on a case by case basis.
- (2) The types of cooperative activities to which this Agreement may apply include:
 - (a) the conduct of joint or unilateral visits and military exchanges, operations, exercises or other activities;
 - (b) the provision of international humanitarian assistance and disaster relief;
 - (c) the provision of joint or unilateral education and training of personnel;
 - (d) the conduct of logistic support;
 - (e) the exchange of information, including Sensitive Information and Classified Information;
 - (f) activities to enhance and broaden the interaction of their respective military cultures; and
 - (g) other cooperative activities mutually determined by the Parties.
- (3) Cooperative activities under this Agreement shall be implemented by the national defence organisations of both Parties. The details of such cooperative activities may, if required, be specifically defined by the Parties as mutually determined in writing.
- (4) Unless otherwise mutually determined by the Parties, each Party shall bear its own costs of participation in cooperative activities undertaken pursuant to this Agreement.
- (5) When Classified Information or Sensitive Information is exchanged under this Agreement, the Parties shall protect such information in accordance with any security, privacy or other marking it carries and shall not pass such information to a third party without the consent of the originating Party.
- (6) The Parties may mutually determine in writing such additional requirements for security protection as they consider appropriate for the purpose of facilitating the transmission and protection of Sensitive and Classified Information.
- (7) 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 this Agreement. The Receiving State shall make reasonable efforts to address such requests. The Parties shall mutually determine arrangements, including financial arrangements, for such use of facilities and related services in the Receiving State.

Article 4 Respect for Local Law

Subject to Articles 5 and 6 below, members of a Visiting Force and its Civilian Component and Dependents shall be subject to the laws and regulations of the Receiving State.

Article 5 Disciplinary Matters

(1) The Sending State shall have exclusive competence regarding administrative and disciplinary matters over members of a Visiting Force and its Civilian Component in accordance with its laws and regulations. Each Party shall, upon request from the other Party, convey to the requesting Party their respective defence force disciplinary laws and regulations.

(2) In the case of behaviour that is liable to administrative or disciplinary action in the territory of the Receiving State (where practicable), the Sending State shall inform the Receiving State of the nature of the possible punishment before carrying it out.

(3) The Receiving State may request that any member of the Visiting Force or its Civilian Component be repatriated to the Sending State for the carrying out of the given punishment.

Article 6 Criminal Jurisdiction

(1) Subject to the provisions of this Article:

- (a) the Receiving State shall have criminal jurisdiction over the members of a Visiting Force and its Civilian Component and Dependents with respect to offences committed within the territory of the Receiving State and punishable by the laws and regulations of the Receiving State; and
- (b) the Sending State shall have the right to exercise within the Receiving State all criminal jurisdiction conferred on it by its laws and regulations over members of a Visiting Force and its Civilian Component and Dependents.

(2) Subject to the provisions of this Article:

- (a) the Receiving State shall have the right to exercise exclusive jurisdiction over members of a Visiting Force and its Civilian Component and Dependents with respect to offences punishable by the laws and regulations of the Receiving State, but not by the laws and regulations of the Sending State; and
- (b) the Sending State shall have the right to exercise exclusive jurisdiction over members of a Visiting Force and its Civilian Component and Dependents with respect to offences punishable by the laws and regulations of the Sending State, but not by the laws and regulations of the Receiving State.

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

- (a) the Sending State shall have the primary right to exercise jurisdiction over members of a Visiting Force and its Civilian Component who are subject to the laws and regulations of the Sending State in relation to:
 - (i) offences solely against the property or security of the Sending State, or offences solely against the person or property of another member of a Visiting Force or its Civilian Component or Dependents; and
 - (ii) offences arising out of an act or omission done in the performance of official duty, with the Parties to consult each other to determine whether an act or omission occurred in the performance of official duty;
- (b) in the case of any other offence, the Receiving State shall have the primary right to exercise jurisdiction;
- (c) if a Party with the primary right to exercise jurisdiction elects not to do so, the Party shall notify the other Party as soon as it is practicable;
- (d) a Party may request the other Party to waive its primary right to exercise jurisdiction;
- (e) either Party with the primary right to exercise jurisdiction shall give sympathetic consideration to a request for waiver from the other Party. Such a decision may be given on conditions, which may include that proceedings be commenced by the requesting Party; and
- (f) the Parties shall notify each other as soon as practicable of the disposition of all cases where the right to exercise jurisdiction is concurrent.

(4) Subject to applicable laws, the Parties shall cooperate in the arrest of a member of a Visiting Force or its Civilian Component or a Dependent in the territory of the Receiving State who is accused of an offence and in handing them over to the authorities of the Party that is to exercise jurisdiction in accordance with this Article.

(5) The Sending State shall give prompt notification to the Receiving State of the arrest or detention of any member of a Visiting Force or its Civilian Component or

a Dependent where that person is subject to the primary jurisdiction of the Receiving State.

(6) The Receiving State shall promptly notify the Sending State of the filing of any complaint against, or the arrest or detention of any member of a Visiting Force or its Civilian Component or Dependents.

(7) Within the scope of its legal competence, where the Receiving State is to exercise jurisdiction over a member of a Visiting Force or its Civilian Component or a Dependent, it shall give sympathetic consideration to a request from the Sending State that the Sending State be entrusted with that person's custody pending conclusion of all judicial proceedings. Upon request, within the scope of its legal competence, the Sending State shall make available, for the purposes of investigation or trial, any such person who is in its custody over whom the Receiving State is to exercise jurisdiction.

(8) Within the scope of their legal competence, the Parties shall cooperate in the investigation of offences, including the collection and production of evidence to the Party that is to exercise jurisdiction in accordance with the above provisions. The provision of evidence may be made subject to the condition of its return within any reasonable time specified by the Party delivering it.

(9) Any person that has been convicted or acquitted for an offence by one Party in accordance with this Article may not be tried again by the other Party for an offence that is substantially the same.

(10) Whenever a member of a Visiting Force or its Civilian Component or a Dependent is taken into custody, detained or prosecuted by the Receiving State, they shall be accorded all generally accepted procedural safeguards pursuant to the international law obligations of the Receiving State, and no less than those provided to the nationals of the Receiving State. At a minimum, they shall be accorded the following procedural safeguards:

- (a) To a prompt and speedy trial;
- (b) To be informed in advance of the trial of the specific charge or charges made against him or her and to have reasonable time to prepare a defence;
- (c) To be confronted with the witnesses against him or her and to cross examine such witnesses;
- (d) To present evidence in their defence and to have compulsory process for the calling of witnesses if they are within the jurisdiction of the Receiving State;
- (e) To have legal representation of his or her own choice for his or her defence or to have free or assisted legal representation in accordance with conditions prevailing in the Receiving State;
- (f) To have the services of a competent interpreter;
- (g) To communicate with a representative of their Government and, when the rules of the court permit, to have a representative of that Government present at their trial;

- (h) To be present at their trial, which shall be public;
- (i) To seek a writ of habeas corpus;
- (j) To have the right to bail, subject to the pertinent laws and regulations of the Receiving State;
- (k) To have the right not to be compelled to testify against themselves; and
- (l) Not to be held guilty for a criminal offence on account of any act or omission which did not constitute a criminal offence under either the law of the Receiving State or international law at the time it was committed.

(11) Where the Receiving State is to exercise jurisdiction over a member of a Visiting Force or its Civilian Component or a Dependent, proceedings shall only be commenced in the courts of ordinary jurisdiction of the Receiving State and members of a Visiting Force or its Civilian Component or Dependents shall not be subject to the jurisdiction of the military of the Receiving State.

Article 7

Conditions of Entry and Departure

(1) The authorities of the Receiving State shall facilitate the entry of the Visiting Force, its Civilian Component and Dependents into and their departure from the Receiving State. Unless otherwise mutually determined by the Parties, the Sending State shall provide early notice to the Receiving State of the estimated date of arrival and identity of such persons entering the Receiving State.

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

(3) The Receiving State shall permit entry into or departure from the Receiving State with:

(a) for the Visiting Force:

- (i) a valid passport or military identification card;
- (ii) an individual or collective travel document issued by the Sending State identifying the individual or group as a member or members of the Visiting Force, and authorising the travel; and
- (iii) if applicable, such documents as may be issued by the Sending State in satisfaction of the national health and biosecurity requirements of the Receiving State.

(b) for members of a Civilian Component or a Dependent:

- (i) a valid passport; and
- (ii) a certificate issued by the authorities of the Sending State certifying that the holder is a member of the Civilian Component or a Dependent.

(4) The Receiving State may oblige members of the Visiting Force and its Civilian

Component and Dependents to produce a document in satisfaction of its national health and biosecurity laws and regulations. The Receiving State shall provide reasonable prior notice of any requirements in this regard.

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

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

- (a) promptly inform the Receiving State, giving such reasonable particulars as they may require; and
- (b) promptly take appropriate steps to effect the departure of that person from the territory of the Receiving State, unless the Receiving State allows the person to remain in its territory.

(7) If the removal from the Receiving State of a member of the Visiting Force or its Civilian Component or a Dependent is reasonably requested by the Receiving State or required by the law of the Receiving State, 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 Receiving State in removing that person from the territory of the Receiving State.

Article 8

Diplomatic Clearances, Movements, Harbour and Airport Charges and Fees

(1) The Receiving State shall submit the appropriate permanent or occasional flight or ship diplomatic clearances, for State and military aircraft and vessels, to the Sending State by diplomatic channels.

(2) Aircraft and vessels operated by or for the Visiting Forces and its Civilian Component may enter the Receiving State upon approval by the authorities of the Receiving State in connection with activities mutually approved by the Parties.

(3) The authorities of the Receiving State shall grant to the Visiting Force and its Civilian Component, their aircraft, vessels and official motor vehicles, ingress to and egress from such defined land and sea areas, air space or facilities in the Receiving State for the purpose of activities mutually approved by the Parties.

(4) The authorities of the Receiving State retain the right to prescribe the routes to be used and may impose restrictions on movements within the Receiving State

and prohibit access to and passage through specified areas, air space or facilities.

(5) Vessels belonging to the Visiting Force or its Civilian Component may, with the consent of the Authorities of the Receiving State, visit ports of the Receiving State for the purpose of combined training, exercises or other activities mutually approved by the Parties upon reasonable notification and in accordance with normal international practice.

(6) The Authorities of the Receiving State shall, subject to Article 4, allow individual members of the Visiting Force and the Civilian Component freedom of movement in the territory of the Receiving State for the purpose of lawful activities.

(7) The Visiting Force shall be subject to the same conditions in respect of harbour and airport charges and fees, as vessels and aircraft of the Receiving State's Force.

(8) 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 Receiving State's Force.

Article 9 Importation and Exportation

(1) In this Article, "Duty" means any duty, tax, fee, charge or levy (including sales tax, customs duty, excise duty and goods and services tax) payable on importation or exportation except those that are no more than charges for services rendered.

(2) A Visiting Force may import, free of Duty, its motor vehicles, equipment, supplies (including weapons, ammunition and other explosive devices), materials and other goods such as but not limited to medical instruments and machinery, and pharmaceutical products including drugs, blood and blood products, 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.

(3) A member of a Visiting Force or its Civilian Component or a Dependent may import free of Duty reasonable quantities of personal effects, furniture and household goods (other than motor vehicles, cigarettes, cigars, tobacco and spirituous liquors), provided that:

- (a) they are imported at the time of first arrival of the member of a Visiting Force or its Civilian Component or Dependent in the Receiving State, or within six months thereafter; and
- (b) they remain in the use, ownership and possession of, or are consumed by that person.

(4) A member of a Visiting Force or its Civilian Component may import into the

Receiving State one motor vehicle free of Duty in accordance with the legislation of the Receiving State.

(5) Items which have been imported free of Duty under paragraphs 2, 3 or 4 of this Article:

- (a) may be exported free of Duty, provided that the Receiving State may require verification that goods exported have been imported under the conditions of paragraphs 2, 3 or 4 of this Article as the case may be; and
- (b) may not be transferred to another person, operated, sold, traded, exchanged, hired out, donated or otherwise disposed of for financial gain in the Receiving State without the express approval of the Receiving State and in compliance with the laws and regulations of the Receiving State, especially if weaponry, arms and ammunition are concerned.

(6) If the express approval of the Receiving State is obtained, items which have been imported free of Duty under paragraph 2 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 Sending State shall first offer them for sale to the Receiving State at a reasonable price having regard to their condition and other relevant circumstances, unless the latter shall have indicated that it is not interested in their acquisition; and
- (b) in so disposing of stores or goods the Sending State shall be liable to pay any Duty which would be payable on items so disposed of in accordance with the law of the Receiving State.

(7) The arrangements in paragraph 6 of this Article shall cover only the sale or disposal of unforeseen surpluses or damaged items of official stores and equipment. Any such sale or disposal shall not be 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 Receiving State may require a member of a Visiting Force or its Civilian Component to provide security or undertakings for, or verification of, compliance with the provisions of paragraphs 3, 4 and 5 of this Article.

(9) The Sending State shall be permitted to import into and export from the Receiving State, free of Duty, all fuel, oil and lubricants intended for exclusive use in official vehicles, aircraft and vessels used in connection with cooperative activities.

(10) Subject to this Article, the Sending State shall take appropriate measures to ensure that the Visiting Force, its Civilian Component and Dependents shall pay any Duty and fines due to the Receiving State.

Article 10
Importation, Transportation, Storage, Use, Carriage and Export of
Weapons, Ammunition, Dangerous and Prohibited Goods

(1) Members of the Visiting Force may possess and carry weapons in accordance with the laws, regulations and policies of the Receiving State or Sending State, whichever is more restrictive.

(2) Weapons, ammunition and dangerous goods of the Visiting Force shall be imported, transported, stored, used and exported in accordance with the laws, regulations and policies of the Receiving State.

(3) The Receiving State shall specify, in consultation with the Sending State, the quantity and type of weapons, ammunition and dangerous goods, which may be imported, transported, stored and used in, and exported from, the Receiving State.

Article 11
Personal Taxation

The taxation of any member of a Visiting Force or its Civilian Component and any Dependent shall be subject to any agreement between the Sending State and the Receiving State for the avoidance of double taxation.

Article 12
Uniforms

Members of a Visiting Force may wear the uniform and military insignia of their Force while performing their official duties.

Article 13
Security

(1) The Parties shall cooperate and take appropriate measures in accordance with the laws and regulations of the Receiving State to ensure the security of the installations and areas made available to the Visiting Force, and of their property, official records and information.

(2) The Sending State shall have the right to maintain military police for the maintenance of good order and discipline within the Visiting Force.

(3) The Receiving State shall be responsible for security outside the installations and areas made available to the Visiting Force.

(4) Subject to paragraph 3 of this Article, members of the Visiting Force may, with the consent of and in liaison with the Receiving State, be employed outside the

installations and areas used by a Visiting Force, in so far as such employment is necessary to protect the security of the installations and areas made available to the Visiting Force or to maintain good order and discipline among the members of a Visiting Force.

Article 14
Driving Licences and Official Vehicles

(1) The Parties shall mutually determine applicability of exemptions to the Sending State's Visiting Force and its Civilian Component from registration and licensing laws for the possession or operation of vehicles, aircraft, vessels and other equipment necessary for the purposes of Cooperative Activities.

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

(3) Official vehicles, excluding vehicles hired in the Receiving State, shall carry, in addition to the registration number issued by the Sending State, a distinctive nationality mark, but shall not be required to be registered by the Receiving State.

Article 15
Licensing and Qualification of Trades and Medical Professionals

(1) Subject to paragraph 2 of this Article, members of the Visiting Force and Civilian Component with current and valid professional, technical or trade licences and qualifications issued by the Sending State shall be allowed to perform their relevant official duties within the Receiving State and shall not be required by the Receiving State to obtain any permission (whether in the form of registration, licence or otherwise) to conduct such official duties as a member of the Visiting Force or Civilian Component.

(2) Medical professionals, who are members of the Visiting Force or Civilian Component, shall be allowed to provide medical treatment, prescribe and dispense medicinal drugs, and use medical products or devices in the Receiving State for the benefit of the members of the Visiting Force and the Civilian Component. Such medical professionals who are members of the Visiting Force or Civilian Component shall not provide medical treatment, prescribe or dispense medicinal drugs, or use medical products or devices for the benefit of the general public in the Receiving State without the prior consent of the Receiving State.

Article 16
Communications

(1) Any installation of the Visiting Force's telecommunication system is subject to authorisation from the Receiving State. Requests for such installation shall be given fair and expedient consideration by the Receiving State. The construction, maintenance and operation of such communication systems shall be carried out as mutually determined by the Parties.

(2) The Visiting Force shall only use the frequencies allocated to it by the Receiving State. The procedure for allocation, change, withdrawal or return of frequencies shall be mutually determined by the Receiving State and the Sending State. The Visiting Force may operate communication and information systems for official communications in accordance with arrangements mutually determined with the Receiving State.

(3) The Visiting Force shall take reasonable measures to avoid interference with communication networks in the Receiving State by their own communications or other electrical installations. The Receiving State shall take reasonable measures to avoid interference with the communications facilities of Visiting Forces by communications or other electrical installations operated in the Receiving State.

Article 17
Public Health, Biosecurity and Medical Treatment

(1) Members of a Visiting Force shall be medically and dentally fit to conduct any cooperative activity upon entry into the Receiving State.

(2) Unless otherwise mutually determined by the Parties, any medical or dental treatment provided in the facilities of the Receiving State, or by personnel of the Receiving State on request, shall be provided on a full cost recovery basis, including aeromedical evacuation.

(3) The Sending State shall ensure that members of its Visiting Force, Civilian Component and Dependents when entering and present in the Receiving State comply with all biosecurity laws and regulations. Unless otherwise agreed between the Parties, all costs in relation to meeting the Receiving State's biosecurity requirements shall be met by the Sending State.

Article 18
Environmental Protection

(1) Both Parties shall implement this Agreement in a manner that promotes the protection of the environment and cultural heritage, consistent with the laws and regulations of the Receiving State.

(2) Upon request, the Parties shall consult and exchange appropriate information

regarding issues that could affect the environment or cultural heritage in the Receiving State.

(3) The Sending State shall, in cooperation with the Receiving State, promptly take appropriate measures to address any damage or potential damage to the environment or cultural heritage, consistent with the laws and regulations of the Receiving State.

Article 19 Deceased Members

(1) The death of a member of the Visiting Force or its Civilian Component or a Dependent, in the Receiving State (hereinafter referred to as "the Deceased") shall be declared to the Receiving State. The death of the Deceased shall be certified by a doctor appointed by the Receiving State who shall issue a certificate.

(2) If the Receiving State orders an autopsy of the Deceased, the Sending State may nominate a representative to attend the autopsy.

(3) If permitted pursuant to the laws and regulations of the Receiving State, 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 Receiving State. If requested and where circumstances permit, the Receiving State shall assist with arrangements for the return of the Deceased's remains to the Sending State.

(4) If a member of the Visiting Force or its Civilian Component is believed to be dead but his or her remains have not been recovered, the Receiving State shall permit the Sending State to be involved in the search for and recovery of those remains, subject to the Receiving State's laws and regulations.

(5) If the remains of the Deceased are to be disposed of in the Receiving State instead of being repatriated, the Receiving State shall have regard to any requests made by the Sending State in relation to the method of such disposal. Costs of disposal in the Receiving State shall be borne by the Sending State.

Article 20 Accident Investigation

(1) In respect of any accident or incident in the Receiving State involving only official aircraft, vessels or aircraft of the Sending State, the Sending State shall conduct the investigation in a manner consistent with international law and the laws and regulations of the Receiving State.

(2) Where accidents or incidents that take place in the Receiving State involve official aircraft, vessels or aircraft of the Sending State, and any aircraft, vessels,

vehicles or personnel of the Receiving State or a third party in any way, the Parties shall conduct a joint investigation.

(3) In respect of all accidents or incidents in the Receiving State involving official aircraft, vessels or aircraft of the Sending State, members of the Visiting Force and its Civilian Component shall, wherever possible, and consistent with the laws and regulations of the Receiving State, assist the Sending State to secure the accident site and take custody of all wreckage.

Article 21

Claims between the Parties

(1) Subject to paragraph 2 of this Article, each Party shall waive all claims against the other Party:

- (a) for loss or damage to any property owned by a Party and used by its Force provided such damage was caused by an act or omission of a member of the other Party's Force or civilian personnel that arose out of, or was undertaken in the course of, their official duty; or
- (b) for loss or damage to any property owned by a Party and used by its Force provided that such damage arose from the use of a vehicle, vessel or aircraft owned by the other Party and used by that other Party's Force for the performance of official duty;
- (c) for maritime salvage, provided that the vessel or cargo salvaged was owned by a Party and was being used by its Force for official purposes; and
- (d) for injury or death suffered by a member of its Force or civilian personnel while engaged in the performance of official duty.

(2) Where the Parties mutually determine, in respect of any claim against the other Party, that the damage, loss, injury or death was caused by a reckless act, reckless omission, gross negligence or wilful misconduct on the part of a member of a Force or civilian personnel, the Party to whom that member belongs shall be solely responsible for that claim.

(3) The Parties shall settle all other claims against each other through consultation.

(4) For the purpose of paragraph 1 of this Article, the expression "owned by a Party" includes:

- (a) 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) a vehicle or an aircraft on hire or charter to the relevant Party; or
 - (c) property hired by the relevant Party;
- except to the extent that the risk of loss or damage is borne by a third party.

Article 22

Third Party Claims

(1) Subject to paragraph 3 of this Article, claims arising out of the acts or omissions of the Parties' Forces or civilian personnel that are done in the performance of their official duty and that cause loss or damage to property and/or injury or death to third parties in the Receiving State shall be dealt with in accordance with the following provisions:

- (a) claims shall be filed and adjudicated in accordance with the laws of the Receiving State;
- (b) claims that are not adjudicated shall, in consultation with the Sending State, be considered and settled in accordance with the laws of the Receiving State;
- (c) payment of any amount agreed by the Parties with the claimant or determined by adjudication shall be made by the Receiving State in its currency;
- (d) such payment, whether made as a result of settlement or adjudication, shall constitute a binding and conclusive discharge of the claim;
- (e) every claim paid by the Receiving State shall be communicated to the Sending State, together with full particulars and a proposed distribution in conformity with sub-paragraph (f) below. In default of a reply within four months from the date of the communication the proposed distribution shall be regarded as having been accepted by the Sending State;
- (f) the cost incurred in satisfying claims pursuant to the preceding sub-paragraphs shall be distributed between the Parties, as follows:
 - (i) where the Sending State alone is responsible for the damage, loss, injury or death, the Sending State shall meet the costs of the claim in full;
 - (ii) where both Parties are responsible for the damage, loss, injury or death, the amount agreed upon in settlement or determined by adjudication shall be apportioned between the Parties based on their degree of responsibility for the damage, loss, injury or death; and
 - (iii) where it is not possible to attribute responsibility for the damage, loss, injury or death specifically to either Party, the amount agreed upon in settlement or determined by adjudication shall be distributed equally between the Parties.

(2) The Sending State shall not claim immunity from the civil jurisdiction of the courts of the Receiving State in respect of any act or omission by a member of the Visiting Force or Civilian Component and their Dependents in the Receiving State.

(3) Paragraph 1 of this Article shall not apply to claims arising:

- (a) out of the use of official vehicles of the Sending State which are covered

- by insurance policies taken out in accordance with the laws and regulations of the Receiving State;
- (b) out of the tortious acts or omissions of members of the Visiting Force or Civilian Component not done in the performance of official duty, as such claims shall be settled or adjudicated in accordance with the laws and regulations of the Receiving State;
 - (c) out of the tortious acts or omissions of Dependents, as such claims shall be settled or adjudicated in accordance with the laws and regulations of the Receiving State; and
 - (d) under a contract made in connection with this Agreement or any implementing arrangements, as such claims shall be resolved in accordance with the terms of the relevant contract.

(4) Unless otherwise mutually determined by the Parties, neither Party will indemnify contractors against third party liability claims.

(5) The Sending State shall, at the request of the Receiving State, to the extent permitted by their laws, assist the Receiving State to take possession of any property of a member of the Visiting Force or Civilian Component or a Dependent that is subject to compulsory execution under the laws and regulations of the Receiving State and that is within an area in use by the Visiting Force or Civilian Component.

(6) The Parties shall, to the extent permitted by their laws and regulations, cooperate in the collection and production of evidence for the purpose of ensuring a fair hearing and disposing of claims in accordance with this Agreement.

Article 23 Disputes

Any dispute regarding the interpretation or the implementation of this Agreement shall be resolved solely by consultation and negotiation between the Parties and shall not be referred to any third party or tribunal.

Article 24 Entry into Force, Amendments and Termination

(1) This Agreement shall enter into force upon the date on which the last Party presents written notification to the other Party through diplomatic channels confirming that it has completed its domestic requirements for the entry into force of this Agreement.

(2) The Parties may amend this Agreement at any time by mutual agreement in writing. Amendments shall enter into force on the date on which the last Party presents written notification to the other Party through diplomatic channels confirming that the domestic procedures necessary for the entry into force of such amendments have been concluded.

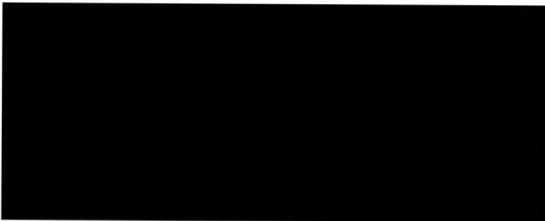
(3) The Parties may terminate this Agreement at any time by mutual agreement in writing. Either Party may give written notice of termination to the other Party at any time, in which case the Agreement shall terminate 180 (one hundred and eighty) days after the receipt of the written notice by the other Party.

(4) The termination of this Agreement shall not release the Parties from the execution of the obligations resulting from its implementation concerning protection of information, jurisdiction, claims, and disputes under this Agreement.

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

Done at 1235 hr on the 20th day of October, two thousand and twenty-two in the English language.

For the Government of
Australia



For the Government of the
Republic of Fiji

