

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

**Agreement between Solomon Islands, Australia, New Zealand, Fiji, Papua
New Guinea, Samoa and Tonga**

**concerning the operations and status of the police and armed forces and
other personnel deployed to Solomon Islands to assist in the restoration of
law and order and security**

(Townsville, 24 July 2003)

Entry into force : 24 July 2003

AUSTRALIAN TREATY SERIES

[2003] ATS 17

**AGREEMENT BETWEEN SOLOMON ISLANDS, AUSTRALIA, NEW
ZEALAND, FIJI, PAPUA NEW GUINEA, SAMOA, AND TONGA
CONCERNING THE OPERATIONS AND STATUS OF THE POLICE AND
ARMED FORCES AND OTHER PERSONNEL DEPLOYED TO SOLOMON
ISLANDS TO ASSIST IN THE RESTORATION OF LAW AND ORDER AND
SECURITY**

**SOLOMON ISLANDS, AUSTRALIA, NEW ZEALAND, FIJI, PAPUA NEW
GUINEA, SAMOA, AND TONGA**

RECOGNISING the need for cooperation between members of the Pacific Islands
Forum;

NOTING that deteriorating law and order and security in Solomon Islands poses a threat
to good governance and economic prosperity of Solomon Islands;

NOTING FURTHER the requests for assistance in restoring law and order and security
dated 4 July 2003 from the Governor-General of Solomon Islands acting on the advice of
the Cabinet of Solomon Islands;

NOTING FURTHER the endorsement of the Ministers of Foreign Affairs of the Pacific
Islands Forum on 30 June 2003, pursuant to the Biketawa Declaration, of the provision of
a package of strengthened assistance to Solomon Islands, including a policing operation
to restore law and order, supported as required by armed peace-keepers, and a program of
assistance to strengthen the justice system and restore the economy and basic services;

ACKNOWLEDGING the need to assist the effective functioning of government, the restoration of confidence in law and order, and the economic recovery of Solomon Islands; and

NOTING FURTHER the desirability of establishing the agreed basis for the operations and status of police and armed forces and other personnel deployed to Solomon Islands;

HAVE AGREED as follows:

Article 1

Definitions

- (a) “Area of Operations” means the territory of Solomon Islands, all areas where it exercises maritime jurisdiction, and the superjacent airspace.
- (b) “Assisting Country” means Australia, New Zealand, Fiji, Papua New Guinea, Samoa, Tonga or such other State which, with the concurrence of the Parties to this Agreement, contributes personnel to the Visiting Contingent.
- (c) “Participating Police Force” means police force and associated personnel of Australia, New Zealand, Fiji, Papua New Guinea, Samoa, Tonga and such other State which, with the concurrence of the Parties to this Agreement, contributes such personnel to the Visiting Contingent.
- (d) “Participating Armed Forces” means armed forces and associated personnel of Australia, New Zealand, Fiji, Papua New Guinea, Samoa, Tonga and such other State which, with the concurrence of the Parties to this Agreement, contributes such personnel to the Visiting Contingent.
- (e) “Visiting Contingent” means a contingent of persons that consists of the Participating Police Force and the Participating Armed Forces and other personnel of the Assisting Countries or of other countries where those other personnel are notified to the ministry of the Government of Solomon Islands responsible for foreign affairs.

Article 2

Security Assistance

The Assisting Countries may deploy a Visiting Contingent of police forces, armed forces and other personnel to Solomon Islands to assist in the provision of security and safety to persons and property; maintain supplies and services essential to the life of the Solomon Islands community; prevent and suppress violence, intimidation and crime; support and develop Solomon Islands institutions; and generally to assist in the maintenance of law and order in Solomon Islands.

Article 3

Duration of Assistance

1. The Visiting Contingent may provide assistance as specified in Article 2 of this Agreement for such period as the Governments of Solomon Islands and the Assisting Countries mutually agree to be necessary to achieve the purpose of their deployment to the Area of Operations.
2. The Assisting Countries may at any time withdraw any or all of their members of the Visiting Contingent from the Area of Operations. A significant withdrawal of members of the Visiting Contingent, other than for the purpose of rotation, will only take place after consultation with the Government of Solomon Islands.
3. The Government of Solomon Islands may at any time in writing request withdrawal of the Visiting Contingent from the Area of Operations. On receipt of such written notice, the Visiting Contingent shall withdraw prior to the expiration of 3 months from the date of receipt of that notice.

Article 4

Command and Control of the Visiting Contingent

1. The head of the Visiting Contingent shall be a person nominated by the Government of Australia, in consultation with the Government of Solomon Islands. The head of the Visiting Contingent shall have responsibility, subject to any arrangements between Assisting Countries, for leading and managing the Visiting Contingent, and for related liaising with the Government of Solomon Islands and Assisting Countries.
2. While respecting the laws of Solomon Islands, the Visiting Contingent shall have sole responsibility for the internal command, control, discipline and administration of members of the Visiting Contingent.
3. The head of the Visiting Contingent may request an Assisting Country to withdraw any personnel contributed to the Visiting Contingent. The head of the Visiting Contingent shall give reasons for any such request and an Assisting Country shall comply forthwith with any such request.

Article 5

Status of Participating Police Force

1. The most senior Australian Police Officer of the Participating Police Force, shall be the head of the Participating Police Force, with responsibility for control of that Force. In exercising that control, the head of the Participating Police Force shall consult with the head of the Visiting Contingent.

2. The head of the Participating Police Force shall be appointed a Deputy Commissioner of the Solomon Islands Police Force. Other members of the Participating Police Force may be appointed to the Solomon Islands Police Force.

3. Members of the Participating Police Force appointed to the Solomon Islands Police Force shall not be required to make an oath or affirmation of allegiance.

4. (a) Members of the Participating Police Force are subject only to the orders of, and instructions from:

i) the head of the Participating Police Force; and

ii) where appointed to the Solomon Islands Police Force, the Commissioner of the Solomon Islands Police Force, in consultation with the head of the Participating Police Force.

(b) Subject to subparagraph (a)(ii), members of the Participating Police Force shall not be subject to the orders of or instructions from any other member of the Solomon Islands Police Force.

5. The Participating Police Force shall work co-operatively with the Government of Solomon Islands and its authorities, and consult with the Commissioner of the Solomon Islands Police Force, to achieve the purposes set out in Article 2.

6. Any tasks or orders carried out by members of the Participating Police Force shall be consistent with the laws, procedures and standards of conduct applicable to them in their own country.

7. The Participating Police Force shall not be subject to any regulations concerning the administration or discipline of the Solomon Islands Police Force, or to the jurisdiction of any Solomon Islands disciplinary authority, court or tribunal.

8. A member of the Participating Police Force shall exercise the powers, authorities and privileges exercised by members of the Solomon Islands Police Force, irrespective of whether that member has been appointed pursuant to paragraph 2.

9. In addition to the powers and authorities referred to in paragraph 8, the Participating Police Force may use such force as is reasonably necessary to achieve the purposes set out in Article 2.

10. Upon request made by a Police Commissioner of a country contributing personnel to the Participating Police Force, the application or implementation of this Article shall be the subject of consultations between the relevant Police Commissioners.

Article 6

Status of Participating Armed Forces

1. The most senior Australian Defence Force member of the Participating Armed Forces shall be the commander of those armed forces, with responsibility for the control of those Forces. In exercising that control, the commander shall consult with the head of the Visiting Contingent.
2. During the period of their assignment to the Visiting Contingent, members of the Participating Armed Forces shall remain under national command. Additional arrangements for command of members of the Participating Armed Forces may be made between the Assisting Countries separately.
3. The Participating Armed Forces shall work co-operatively with the Government of Solomon Islands and its authorities to achieve the purposes set out in Article 2.
4. Members of the Participating Armed Forces shall exercise the powers, authorities and privileges exercised by members of the Solomon Islands Police Force.
5. In addition to the powers and authorities referred to in paragraph 4, the Participating Armed Forces may use such force as is reasonably necessary to achieve the purposes set out in Article 2.
6. Upon request made by the national military commander of a country contributing personnel to the Participating Armed Forces, the application and implementation of this Article shall be the subject of consultations between the relevant national military commanders.

Article 7

Uniform and Carriage of Weapons

1. Members of the Visiting Contingent may wear their respective national uniform when on official duty in Solomon Islands.
2. Members of the Visiting Contingent may possess, carry and use arms in accordance with their internal orders or rules in order to protect themselves or the Visiting Contingent, other persons, property of the Visiting Contingent, public or private property, or to achieve any of the purposes set out in Article 2.

Article 8

Detention and Disarmament

1. Members of the Participating Armed Forces and Participating Police Force and other members of the Visiting Contingent appointed to the Solomon Islands Police Force may detain and disarm any person or persons who are committing or attempting to commit

offences in relation to person or property. The detention and disarmament will be for fulfilment of the purposes set out in Article 2. Persons detained and disarmed shall be delivered to the appropriate authorities for the purpose of dealing with any such offence.

2. Members of the Participating Armed Forces, Participating Police Force and other members of the Visiting Contingent appointed to the Solomon Islands Police Force may take into custody any person they detain or disarm or who is not authorised to be on the premises of the Visiting Contingent provided in Article 17 in order to deliver him or her to the appropriate authorities.

Article 9

Seizure and Destruction of Weapons

1. The Visiting Contingent may seize any weapons and ammunition as necessary for the achievement of the purposes set out in Article 2.

1. The Visiting Contingent may, with the permission in writing of the Commissioner of the Solomon Islands Police Force, destroy such seized weapons and ammunition.

3. The Visiting Contingent shall, as far as is practicable, record particulars of weapons and ammunition, seized or destroyed, including serial numbers (if applicable) and the dates and places of seizure or destruction, and the particulars of the persons from which they were seized.

Article 10

Jurisdiction

1. The Visiting Contingent shall take all appropriate measures to ensure that the laws and regulations of Solomon Islands are observed and respected.

2. Members of the Visiting Contingent and the Assisting Countries shall have immunity from legal proceedings in Solomon Islands courts and tribunals in relation to actions of the Visiting Contingent or its members that are taken in the course of, or are incidental to, official duties. Legal proceedings for the purpose of this paragraph include criminal, civil, disciplinary and administrative proceedings, and proceedings seeking to enforce customary law.

3. Criminal and disciplinary jurisdiction shall not be exercised over a member of the Visiting Contingent arising out of an action taking place in Solomon Islands if such jurisdiction is asserted over that member in respect of that action by an Assisting Country.

4. Where criminal and disciplinary jurisdiction has been exercised over a member of the Visiting Contingent arising out of an action taking place in Solomon Islands, that

jurisdiction will be relinquished to an Assisting Country if that country asserts jurisdiction over that member in respect of that action.

5. Where an Assisting Country asserts the jurisdiction referred to in paragraphs 3 and 4 over a member of the Visiting Contingent, that Assisting Country shall ensure that appropriate action is taken against that member consistent with its laws and practices.

6. An Assisting Country may waive immunity granted by paragraph 2 to that country or its personnel.

7. Where an Assisting Country waives the criminal or civil immunity of any of its personnel as provided in paragraph 2 or an Assisting Country asserts the jurisdiction referred to in paragraphs 3 and 4, the Assisting Country and Solomon Islands authorities shall assist each other in carrying out all necessary investigations into any offences alleged to have been committed by that member. Such investigations shall include the collection and production of evidence in relation to any alleged offence or offences committed by the member.

8. When so requested by head of the Visiting Contingent, the Solomon Islands authorities may take into custody any member of the Visiting Contingent, without subjecting them to any routine of arrest, in order immediately to deliver them, together with any items seized, to the nearest appropriate authorities of the Visiting Contingent.

9. The Government of Solomon Islands, on receipt of a request from an Assisting Country, shall assist that country in relation to any criminal or internal disciplinary proceedings against a member of the Visiting Contingent.

Article 11

Discipline

Each Assisting Country shall take all appropriate measures to ensure the maintenance of discipline and good order among its members of the Visiting Contingent.

Article 12

Obligations under International Law

In giving effect to this Agreement, the Parties shall act in a manner consistent with their obligations under international law.

Article 13

Claims

1. Claims involving the Visiting Contingent arising in the Area of Operations shall be dealt with in accordance with this Article.
2. Each Party waives any claim against any of the other Parties in respect of:
 - (a) loss of, or damage (including loss of use) to, property owned, hired or chartered by a Party and used by the Visiting Contingent;
 - (b) maritime salvage of any vessel or cargo owned by a Party and used by the Visiting Contingent; and
 - (c) personal injury or death suffered by any member of the Visiting Contingent which arises out of any act or omission of any member of the Visiting Contingent in the performance of official duties.
3. Solomon Islands waives any claims against any of the other Parties in respect of loss of, or damage to, any of its state property and the personal injury or death suffered by any person employed by or in the service of the Government of Solomon Islands.
4. The Parties shall consult on claims not otherwise covered by this Article.

Article 14

Entry and Departure

1. Solomon Islands authorities shall facilitate the entry into, and departure from, Solomon Islands of the Visiting Contingent. Members of the Visiting Contingent shall be exempt from visa laws and orders and immigration inspection and restrictions on entering into or departing from Solomon Islands. Members of Participating Armed Forces may enter into, and exit from, Solomon Islands on presentation of military identification issued by the relevant Participating Armed Forces. The Government of Solomon Islands shall grant all members of the Visiting Contingent exemption from departure tax.
2. Members of the Visiting Contingent shall be exempt from any laws and orders governing the residence of aliens in Solomon Islands, including registration, but shall not be considered as acquiring any right to permanent residence or domicile in Solomon Islands.
3. The Visiting Contingent may import into and export from Solomon Islands without licence, other restriction or registration and free of customs, duties and taxes, and inspection, any equipment (including vehicles, vessels and aircraft) and other supplies required by them for the purpose of their operations, together with personal effects of, and items for the personal consumption or use by, members of the Visiting Contingent. Any personal property imported duty-free which is sold in Solomon Islands by members

of the Visiting Contingent to persons other than those entitled to duty-free import privileges shall be subject to customs and other duties on its value at the time of sale.

Article 15

Freedom of Movement

Members of the Visiting Contingent together with service vehicles, vessels, aircraft, equipment and supplies shall enjoy freedom of movement throughout Solomon Islands.

Article 16

Transport and Financial Arrangements

1. The Visiting Contingent shall have the unimpeded right to the use of roads, bridges, canals and other waters, port and airfield facilities and airspace without payment of dues, tolls or other charges or fees throughout the area of operations.
2. Members of the Visiting Contingent may possess, store and operate vehicles, vessels, aircraft and other equipment, including medical equipment and supplies, without a permit or licence or restriction and free of duties, taxes and charges.
3. Vehicles, vessels, aircraft and other equipment, including medical equipment and supplies, provided and used by members of the Visiting Contingent shall not be subject to registration or licensing under the laws and regulations or orders of Solomon Islands.
4. The Assisting Countries shall be responsible for the salary, allowances, removal expenses, costs of transport to Solomon Islands, and medical and dental expenses of members of the Visiting Contingent.
5. Remittances between the Assisting Countries and Solomon Islands shall be freely allowed for:
 - funds derived by members of the Visiting Contingent;
 - funds derived by members of the Visiting Contingent from sources outside Solomon Islands, subject to any relevant laws, regulations or policies of the Assisting Countries;
 - funds derived from the proceeds of sales of personal effects or other property used by members of the Visiting Contingent while serving in Solomon Islands which are disposed of in connection with their departure from Solomon Islands.
6. Members of the Visiting Contingent shall be exempt from taxation by the Government of Solomon Islands on their pay and other emoluments. They shall also be exempt from any other direct taxes (including death duties), fees and charges.

7. The Visiting Contingent may purchase locally produced goods and commodities that it requires in fulfilment of the purposes of Article 2 free of duties, taxes and charges.

Article 17

Accommodation and Facilities

1. The Visiting Contingent shall establish such areas for headquarters, camps, training areas, or other premises as may be necessary for the accommodation and to achieve the purposes set out in Article 2. Without prejudice to the fact that all such premises remain Solomon Islands territory, they will be inviolable and subject to the exclusive control and authority of the Visiting Contingent. The consent of the head of the Visiting Contingent shall be required for the entry into such premises by any person.

2. Subject to paragraph 3, the Assisting Countries shall cover the personal accommodation and transport costs of members of the Visiting Contingent.

3. Unless otherwise negotiated, the Government of Solomon Islands shall provide for members of the Visiting Contingent, free of charge, such premises (including facilities and administrative support) as may be necessary for the accommodation and the fulfilment of the functions of the Visiting Contingent.

4. Unless otherwise negotiated, the Visiting Contingent shall have the right to the use of water, electricity and other public utilities free of charge.

5. The Visiting Contingent may generate, transmit and distribute electricity for its own use free of charge and without being subject to regulation or licensing requirements.

6. Where members of the Visiting Contingent are required to use vehicles, vessels, aircraft, or other equipment of the Government of Solomon Islands, in carrying out their duties, the use of those vehicles, vessels, aircraft and equipment shall be provided free of charge.

Article 18

Communications and Postal Services

1. The Visiting Contingent shall have the authority to install and operate radio and satellite sending and receiving stations to make direct contact with the Assisting Countries.

2. The Visiting Contingent shall enjoy the right of unrestricted communications by radio, television, telephone or any other means and of establishing the necessary facilities for maintaining such communications within and between premises of the Visiting

Contingent, including the laying of cables and land lines and the establishment of fixed and mobile radio and satellite sending and receiving stations.

3. The Visiting Contingent may process and transport mail addressed to or sent from the Visiting Contingent or members of the Visiting Contingent. Solomon Islands shall not interfere with the mail of the Visiting Contingent.

Article 19

Health and Safety

1. Members of the Visiting Contingent who are medical, nursing or paramedic staff may treat members of the Visiting Contingent and other persons, including residents of Solomon Islands, as required without being subject to registration or licensing under the laws and regulations or orders of Solomon Islands.

2. The Government of Solomon Islands shall provide all practicable assistance to members of the Visiting Contingent in relation to health and safety issues that may arise.

3. The Visiting Contingent may take charge of, and repatriate, the body of a member of the Visiting Contingent who has died in Solomon Islands.

Article 20

Additional Matters

Any matter not covered by this Agreement shall be the subject of mutually acceptable arrangements made from time to time between the Parties.

Article 21

Supplemental Arrangements

Supplemental details for the carrying out of this Agreement shall be made as required between the Government of Solomon Islands and the Governments of the Assisting Countries.

Article 22

Consultations

Any matter arising under this Agreement with respect to its interpretation, application or implementation shall be settled by consultation or negotiation between the Parties and shall not be referred to any third party or tribunal for resolution.

Article 23

Variation and suspension

The Parties may agree to a variation or suspension of this Agreement or a part or parts thereof.

Article 24

Entry into Force and Duration

1. This Agreement shall be open for signature by Solomon Islands and the Assisting Countries.
2. Each Signatory shall notify the other in writing of the completion of the constitutional formalities by its laws for the entry into force of this Agreement. This Agreement shall enter into force on the date of the later of the two notifications by Solomon Islands, on one part, and any one of the Assisting Countries, on the other. The Agreement shall enter into force subsequently for each other Party on the date of notification by that Party. ^[1]
3. Unless otherwise mutually agreed by the Parties, this Agreement shall expire on the complete withdrawal of the Visiting Contingent from the Area of Operations.
4. Expiry of this Agreement shall not affect any liabilities, rights and obligations arising out of the Agreement, and any immunity relating to actions taking place during the period of the Agreement.
5. This Agreement shall prevail over any existing agreement as between any of the Parties to this Agreement to the extent necessary to give effect to this Agreement.

Article 25

Depository

Australia shall be the depository for this Agreement.

IN WITNESS WHEREOF the undersigned being duly authorised by their respective Governments have signed this Agreement.

DONE at Townsville this twenty-fourth day of July two thousand and three.

FOR SOLOMON ISLANDS

HE Mr Milner Tozaka
High Commissioner

FOR NEW ZEALAND

The Rt Hon Helen Clark

FOR AUSTRALIA

The Hon John Howard

Prime Minister

FOR FIJI

The Hon Laisenia Qarase

Prime Minister

FOR PAPUA NEW GUINEA

The Rt Hon Sir Michael Somare GCMG CH
Prime Minister

FOR TONGA

HRH Prince ‘Ulukalala Lavaka Ata
Prime Minister

FOR COOK ISLANDS

The Hon Dr Robert Woonton
Prime Minister

FOR KIRIBATI

HE the Hon Anote Tong
President

FOR PALAU

HE Tommy E Remengesau, Jr
President

FOR VANUATU

HE Edward Natapei
Prime Minister

FOR NAURU

HE The Hon Rene Harris
President

Prime Minister

FOR SAMOA

HE Leialataua Dr Kilifoti Eteuati
High Commissioner

**FOR FEDERATED STATES
OF MICRONESIA**

HE Joseph Urusemal

President

FOR NIUE

Hon Young Vivian

Premier

**FOR REPUBLIC OF THE
MARSHALL ISLANDS**

HE Kessai Note

President

FOR TUVALU

The Hon Mr Saufatu Sopoanga

Prime Minister

[\[1\]](#) Entered into force on 24 July 2003 following notification by Solomon Islands and Australia that constitutional formalities for entry into force had been completed.