



## Submission to the select committee on the United Kingdom Free Trade Agreement Legislation Bill 17 August 2022

The Peace & International Justice Committee of the Justice & Peace Commission of the Catholic Diocese of Auckland undertakes advocacy and education for social justice on behalf of the Diocese.

Our submission is based on the recognition of the human dignity and right to protection of all members of society particularly the most vulnerable.

We wish to register our opposition to the Free Trade Agreement on the basis that it falls significantly short of its Tiriti o Waitangi obligations, leaving Māori open to future exploitation in key areas such as Intellectual Property and Digital Data, areas that include cultural and physical taonga and whakapapa, “the essence of Māori identity.”<sup>1</sup>

Despite the apparent provision for Māori to benefit from the deal, an examination of the relevant chapter in the main document makes it clear that there is no process for enforcing any of the provisions contained therein. It is also clear from the language of the chapter that despite being a signatory to Te Tiriti, the UK government wants to distance itself from any obligations in this regard.

A report of the Trade for All Advisory Board (MFAT) published in November 2019, states that Māori engagement with trade issues is essential because trade agreements can affect the ability of Māori organisations to control taonga and exercise tino rangatiratanga. The report recommends that “the Government should incorporate the protection and promotion of indigenous intellectual property into New Zealand’s trade agreements.”<sup>2</sup>

In late 2020 Nga Toki Whakarururanga (NTW) was set up, following mediation between the Crown and claimants from a Waitangi Tribunal inquiry into Māori involvement in trade negotiations. Newsroom summarized NTW’s subsequent assessment of the FTA negotiations this way:

“In A Tiriti Assessment of the FTA circulated to Parliament’s Foreign Affairs, Defence and Trade Committee, NTW said that the trade negotiations had been entirely controlled by the

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<sup>1</sup> Kelsey, Jane. <https://www.bilaterals.org/?nz-uk-fta-inclusive-trade-agenda>

<sup>2</sup> MFAT Report of the Trade of All Advisory Board: [www.tradeforalladvisoryboard.org.nz](http://www.tradeforalladvisoryboard.org.nz)

government. It alone had decided the negotiating mandate, what compromises to accept and the final text, with no role for Māori at the table separate from the Crown.

When NTW's technical advisors were provided with an edited version of the draft text in late 2021 its contents had to be kept secret which meant they could not consult with affected Māori outside the group. Most of the input from the advisors was too late to be effective and had minimal impact on the final FTA.

A reference group of Māori leaders had only discussed the Māori Trade Chapter (with little final effect) and not the risks from other chapters.

The NTW report also pointed out that the Treaty of Waitangi exception clause allowing the Crown to accord 'more favourable treatment' to Māori remained unchanged from previous FTAs, despite recommendations from the Waitangi Tribunal and the Government's Trade for All Advisory Board that more effective protections were needed.

In a recent statement to RNZ, NTW spokesperson Pita Tipene said the FTA had been a missed opportunity to set a new bar for honouring ti Tiriti o Waitangi. He added that "As far as Māori making economic gains, the figure we've seen, from research for te Taumata, is a \$13 million increase in GDP for a Māori asset base of \$68 billion."<sup>3</sup>

In its chapter dedicated to Māori Trade and Economic Cooperation, the Agreement acknowledges that ti Tiriti o Waitangi is a foundational document of constitutional importance (Article 26.2). The UK 'notes' that it was an original signatory to the Treaty but then distances itself from any ongoing obligations, with every subsequent reference to the Treaty confined to New Zealand.

The proposals within this chapter are only proposals – they are not enforceable. Cooperation is frequently mentioned. In Article 26.5 New Zealand and the UK "may facilitate" three cooperation activities: collaborating to enhance Māori-owned enterprises' ability to benefit from opportunities in the FTA, developing links between the UK and Māori-owned enterprises, which may include undertaking joint roadshows and continuing to support science, research and innovation as appropriate between the UK and Māori communities.

In a footnote the UK explicitly states that nothing in the chapter imposes an obligation on it to actually do anything. "For greater certainty the provisions of this chapter do not impose any legal or financial obligations requiring the Parties to explore, commence or conclude any individual cooperation activities."

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<sup>3</sup>Sachdeva, Sam. Govt must Step Back from UK Trade Deal over Treaty Concerns – Maori Group.  
<http://www.newsroom.co.nz/govt-must-step-back-from-uk-trade-deal-over-treaty-concerns-maori-group>

On July 26, 2022 Te Pati Māori co-leader and trade spokesperson Rawiri Waititi announced that te Pati Māori will oppose the United Kingdom Free Trade Agreement because it shut Māori out of negotiations and failed to protect Māori rights and interests. He described the trade deal as “yet another failed opportunity to reimagine trade policy”, adding that vague statements about how Māori would be better off was not partnership.<sup>4</sup>

## References

Kelsey, Jane. <https://www.bilaterals.org/?nz-uk-fta-inclusive-trade-agenda>

Māori Party <http://waateanew.com/2022/07/27/Māori-party-spurns-uk-fta>

MFAT Report of the Trade of All Advisory Board: [www.tradeforalladvisoryboard.org.nz](http://www.tradeforalladvisoryboard.org.nz)

Moana Maniapoto Article: Imagining an Even Better Deal for Māori: <http://e-tangata.co.nz/comment-and-analysis/imagining-an-even-better-deal-for-Māori/>

RNZ Business News: Dairy and Meat Exporters Thrilled, but Academic Criticises Deal: <https://www.rnz.co.nz/news/business/462511/fta-with-uk-dairy-and-meat>

Sachdeva, Sam. Govt must Step Back from UK Trade Deal over Treaty Concerns – Māori Group. <http://www.newsroom.co.nz/govt-must-step-back-from-uk-trade-deal-over-treaty-concerns-Māori-group>

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<sup>4</sup> Māori Party <http://waateanew.com/2022/07/27/Māori-party-spurns-uk-fta>