

TIRITI O WAITANGI ASSESSMENT OF NZ UK FTA
**WHAT IT MEANS FOR MĀTAURANGA MĀORI,
WAI 262 & TE PAE TAWHITI**



**INTELLECTUAL
PROPERTY (IP)
CHAPTER IS THE
BIGGEST THREAT**

- **The Western system of intellectual property rights (IPRs) is incompatible with**
 - Māori values and world views, and
 - inter-generational and collective rights and responsibilities.
- **Wai 262 recognised trade agreements**
 - are based on the Western system
 - bring risks of exploitation and misappropriation of Māori names, knowledge, stories, symbols and culture
- **But the IP Chapter in the UK FTA (ch 17) has**
 - no recognition of Māori concepts, and
 - no protection for Tiriti rights.
- **The UK FTA actually guarantees stronger IPRs than other NZ FTAs, including CPTPP.**

NEW RISKS TO TE PAE TAWHITI & WAI 262

The Waitangi Tribunal in Wai 262 Ko Aotearoa Tenei said NZ should have a dual strategy:

- introduce a regime to protect mātauranga Māori and taonga works;
- advocate for minimum standards of protection in free trade agreements.

10 years later

- Te Pae Tawhiti is only slowly working its way towards step one,
- meanwhile the Crown signs more FTAs that override mātauranga Māori and taonga.

The lack of effective protections for Māori rights, interests, duties and responsibilities in the UK FTA could

- create more problems with addressing Wai 262 and
- have a chilling effect on the recommendations in Te Pae Tawhiti and
- make the Crown unwilling to implement them.



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A Section on Intellectual Property and Issues Related to Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions

- provides no protections,
- just lots of “maybe”s.

It promises a review to consider providing for Genetic Resources & Traditional Knowledge,

- which Māori can take part in,
- but the UK and NZ would have to agree, and
- the UK is unlikely ever to agree,
- so there may never be any outcome.



**UK IS
DETERMINED TO
PROTECT CORPORATE
IP RIGHTS**

The IP chapter reflects the **UK's determination to protect the IP rights** of its big corporations.

The **Māori Trade chapter (Art 26.2.10)** reinforces that:

- it says nothing in the chapter gives rise to obligations relating to IP, or
- that the UK recognises genetic resources, traditional knowledge and traditional cultural expressions are IP rights, or
- that examples of them protectable as IP, except as far as UK law currently recognizes them...

LIKE UK'S DENIAL OF NZ RIGHTS OVER MANUKA HONEY

Kaitiakitanga of Manuka as a taonga is integral to Māori as producers of Manuka Honey.

But in December 2021 the UK's IP Office denied NZ a trademark on Manuka Honey

- in a decision based on cultural ignorance and culturally inappropriate legal tests,
- agreeing with Australians' claim that they also produce manuka honey.

Nothing in the UK FTA will address that problem.

- Instead, the Intellectual Property chapter (ch 17) will lock in the UK's existing rules.

The Treaty of Waitangi Exception would be useless in this situation

- because the problem lies with the UK law and its application, not with actions of NZ

CONSERVATION OF BIOLOGICAL DIVERSITY

(ART 22.12)

In the Environment chapter, NZ and UK

“recognise the importance of respecting, protecting, preserving and maintaining knowledge, innovations, and practices of Māori in the case of New Zealand embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity”

but **the rest of the article on Conservation of Biological Diversity** doesn't deliver anything **concrete ...**

CONSERVATION OF BIOLOGICAL DIVERSITY

(ART 22.12)

The things UK/NZ “must” do are very specific, such as

- take “appropriate” actions to protect native wild flora and fauna,
- not trade in ivory,
- promote conservation of marine ecosystems,
- promote sustainable use of biodiversity in trade-related activities, in accordance with its law.

The UK and NZ “may” cooperate on access to genetic resources and fair and equitable benefit sharing consistent with conserving biodiversity.

But the UK insists in the Māori Trade chapter that genetic resources and traditional knowledge have nothing to do with its IP laws and does not require changes to them ...

and the review of the Intellectual Property chapter to deal with these matters **doesn't guarantee anything will change.**

The background of the entire image is a dense, repeating pattern of a yellow woven texture, resembling a traditional Maori korowai or a similar natural fiber weave. The pattern consists of interlocking rectangular shapes that create a three-dimensional, textured effect.

**NGĀ TOKI
WHAKARURURANGA**