

**Memorandum of Understanding between
Ngā Toki Whakarururanga Establishment Group and
The Ministry of Foreign Affairs and Trade
regarding the proposed Political Declaration between
New Zealand and the European Union**

1. Mediation Agreement between the Parties

This Memorandum of Understanding (MOU) reaffirms the commitments in the Mediation Agreement between the parties, being the Wai 2522 claimants (Ngā Toki Whakarururanga) and the Ministry of Foreign Affairs and Trade (MFAT) signed on 2 October 2020 (the “Mediation Agreement”).

2. Purpose

The purpose of this MOU is to guide the application of the Mediation Agreement for Ngā Toki Whakarururanga and MFAT’s Trade and Economic Group (along with other Māori rōpū and their representatives as appropriate) to work together to develop the text for a proposed Political Declaration on Indigenous Trade and Economic Cooperation between New Zealand and the European Union (EU). To that end, the parties:

- (a) reaffirm the Mediation Agreement’s overarching aspiration to develop a mana-enhancing relationship that gives effect to Te Tiriti o Waitangi/The Treaty of Waitangi, and establishes mutual respect and collaboration between the parties;
- (b) reaffirm their respective positions set out in the Mediation Agreement’s ‘Principles/kaupapa’ section, namely clause 2 for the claimants and clause 3 for the Crown.
- (c) will work together to develop, where appropriate with other Māori rōpū, the text and negotiation strategy for a proposed Political Declaration;
- (d) will work together to identify Māori rights and interests, and the means for their effective protection and promotion in relation to the proposed Political Declaration;
- (e) acknowledge that time is of the essence, and will work together on a draft Political Declaration at the earliest opportunity to enable the EU to undertake its internal and domestic consultation processes;
- (f) commit to exercising their best endeavours towards developing a draft Political Declaration, but recognise that achieving that outcome also depends on the views and positions of other parties, including perspectives from other Māori entities and international partners;

- (g) acknowledge that the proposed Political Declaration will not expand or depart from existing commitments already made domestically and through international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA);
- (h) acknowledge that the proposed Political Declaration drafting process will not depart from or operate in tension with domestic processes already underway in Aotearoa New Zealand, including to consider options for the UNDRIP's implementation; and
- (i) acknowledge that this MOU does not affect or add to the existing rights or obligations agreed between the parties in the Mediation Agreement.

3. Roles and Responsibilities

The role of Ngā Toki Whakarururanga is to provide expert and strategic direction on Māori rights, interests, duties and responsibilities¹ in relation to the proposed Political Declaration. More specific Ngā Toki Whakarururanga responsibilities regarding this proposed Political Declaration work include:

- (a) in conjunction with other Māori rōpū, work with MFAT to co-design a draft Political Declaration, and provide expert and strategic direction on Māori rights and interests on the proposed Political Declaration through each negotiation stage;
- (b) provide input on Māori rights, interests, duties and responsibilities, based on Kaupapa Māori and sourced in Te Tiriti o Waitangi/The Treaty of Waitangi and its principles and, from the perspective of Ngā Toki Whakarururanga, He Whakaputanga o Te Rangatiratanga o Nu Tireni, in developing the proposed Political Declaration;
- (c) monitor its expectations in relation to this MOU;
- (d) Ngā Toki Whakarururanga may, in conjunction with other Māori rōpū, engage directly with Indigenous Peoples from the EU on the proposed Political Declaration;
- (e) share information on the proposed Political Declaration with appropriate Māori rōpū and provide updates to Māori networks, except where precluded by the existing Confidentiality Agreement and Information Sharing Protocols. For avoidance of doubt, Ngā Toki Whakarururanga will consult with MFAT before sharing information externally; and

¹ For the purposes of this MOU, reference to Māori and Māori rights, interests, duties and responsibilities are also deemed to include reference to Moriori and Moriori rights, interests, duties and responsibilities.

- (f) Ngā Toki Whakarururanga is not prevented from making public statements related to Te Tiriti o Waitangi implications of the proposed Political Declaration.

4. Process

1. The Ngā Toki Whakarururanga Co-Convenors and MFAT's Deputy Secretary Trade and Economic Group will maintain an ongoing dialogue on the proposed Political Declaration in their monthly meetings, or as either considers necessary or appropriate.
2. Ngā Toki Whakarururanga will provide Tiriti-based technical analysis on the proposed Political Declaration to MFAT in a timely manner.
3. MFAT will respond to that feedback and update Ngā Toki Whakarururanga on a regular and timely basis to enable Ngā Toki Whakarururanga to exercise meaningful and genuine influence over the proposed Political Declaration process.

Co-designing the proposed Political Declaration

4. Ngā Toki Whakarururanga will proactively prepare a draft Political Declaration that reflects this MOU's purpose and provide that text to MFAT and appropriate Māori rōpū.
5. Ngā Toki Whakarururanga will make its best endeavours to discuss this draft text with technical advisors from appropriate Māori rōpū and agree any amendments.
6. MFAT will ensure an ongoing interactive process with Ngā Toki Whakarururanga and appropriate Māori rōpū in developing the proposed Political Declaration to be presented to the EU.
7. MFAT will provide input and outline any elements or areas where the Crown may not agree with the proposed text. The parties will work together in a spirit of collaboration to reach consensus and agreement on the proposed Political Declaration text where possible.
8. MFAT does not have authority to exceed existing domestic and international commitments, and is unable to include text in the proposed Political Declaration that exceeds those existing commitments without Ministerial or Cabinet approval. Where MFAT considers that proposed text for the draft Political Declaration exceeds domestic and international commitments, it will advise Ngā Toki Whakarururanga and appropriate Māori rōpū.
9. The parties will work together in a spirit of collaboration and mutual respect, and appropriate Māori rōpū, to reach consensus and agreement on the proposed Political Declaration where possible. MFAT will then present this text to the EU for consideration at the earliest opportunity.

10. If the EU agrees to negotiate a Political Declaration with New Zealand, MFAT will, as outlined in clause 13.6.1(c) of the Mediation Agreement, undertake its best endeavours to facilitate targeted opportunities for Ngā Toki Whakarururanga, in conjunction with other Māori rōpū, to present to the EU negotiation team. Ngā Toki Whakarururanga will nominate its representative.

5. Information Sharing

1. MFAT will maintain an open and transparent approach with Ngā Toki Whakarururanga to develop the proposed Political Declaration. Where relevant MFAT will seek permission from other Māori rōpū to share any information received from them in relation to the Political Declaration with Ngā Toki Whakarururanga.
2. In the spirit of whanaungatanga, manaakitanga and kotahitanga, Ngā Toki Whakarururanga will maintain a flow of information with other Māori rōpū to ensure that they are fully informed of the analysis and direction provided to MFAT on the proposed Political Declaration, except where that is prevented by confidentiality requirements.
3. Ngā Toki Whakarururanga expects a reciprocal flow of information from those with whom it shares its analysis and direction. MFAT will request, but cannot compel, those entities to share their analysis and input with Ngā Toki Whakarururanga in return where necessary and on request.

6. No Surprises

1. To the extent possible, the parties will uphold a kaupapa of 'no surprises' with each other.
2. Where the Ngā Toki Whakarururanga Co-Convenors consider it necessary and appropriate to communicate directly with Ministers on the Political Declaration, they will share that communication with MFAT's Deputy Secretary Trade and Economic Group and appropriate Māori rōpū.

7. Resourcing

1. Recognising the special nature and purpose of this MOU, MFAT will provide one-off budget support for this Political Declaration work.
2. The Ngā Toki Whakarururanga Co-Convenors, Moana Maniapoto and Pita Tipene, shall be resourced [REDACTED] for their work.
3. The Ngā Toki Whakarururanga technical advisors for the purposes of this MOU, Maui Solomon and Jane Kelsey, shall be resourced [REDACTED] for their work.

4. For budgeting purposes Ngā Toki Whakarururanga will prepare for MFAT's consideration an estimate for the total hours it anticipates will be required for the proposed Political Declaration work (including work already completed).

8. Status of this MOU

While the parties will use their best endeavours to meet their commitments under this MOU, they do not intend for it to be legally binding.

Signed on [day month year]

Ngā Toki Whakarururanga

Moana Maniapoto (Co-Convenor)



Pita Tipene (Co-Convenor)

Ministry of Foreign Affairs and Trade

Vangelis Vitalis
(Deputy Secretary, Trade and Economic Group)


